



BENBROOK LIBRARY DISTRICT PURCHASING AND PROCEDURES MANUAL



1605 Mercedes St. , Benbrook, Texas 76126

TABLE OF CONTENTS

Introduction.	3
Purchasing Manual Rationale.	3
Role of the Purchasing Office.	6
The Procurement Cycle.	8
Purpose and Goals Purchasing.	9
Purchasing Ethics.	10
Benbrook Library District Purchasing Policy	11
Glossary of Important Purchasing Terms.	11
Procurement Planning and Competitive Procurement Options.	20
Competitive Sealed Bid - Competitive Sealed Bids – Invitation for Bids.	21
Request for Competitive Sealed Proposals (CSPs) – Request for Proposals (RFP).	23
Request for Qualifications (RFQ) – Government Code 2254.	25
Debriefing and Benbrook Library District Protest Policy.	28
Cooperative Purchasing.	29
Sole Source Purchases.	31
Contract Management	31
• Contract Management Framework.	31
• Contract Manager Role.	32
• Legal Elements of a Contract	32
• Seven (7) Fundamental Criteria for Contract Management	32
• Leadership Qualities for Contract Managers	33
Contract Administration	33
• Monitoring and Managing Vendor Performance	34
Leadership Qualities for Vendor Managers	35
Key Performance Indicators	36
Service Level Agreements	37
Addressing Performance Problems	38

TABLE OF CONTENTS (PAGE 2)

Exhibits 39

- Exhibit I - Benbrook Library District Purchasing Policy 41
- Exhibit II - Sole Source Affidavit 47
- Exhibit III – Sole Source Justification 48
- Exhibit IV - Purchasing Department Bid Folder Checklist 51

Introduction

Purchasing Manual Rationale

The goal of public procurement is to award timely and cost-effective contracts to qualified contractors, suppliers and service providers for the provision of goods and services to support government and public service operations in accordance with the principles and procedures specified in the procurement rules.

In order to achieve the goal of public procurement, it is important that every governmental entity, large and small, have a written manual describing its purchasing policies and procedures. It should be designed to assist entity's personnel in the purchasing of supplies and services. Rules and guidelines for those purchases consistent with relevant statutes, regulations and board policies are a vital part of the manual.

Overall, a good purchasing manual establishes rules for making purchases. It provides guidance to library district employees in requisitioning purchases and often is used to acquaint vendors and suppliers with the library's policies and procedures. Internally, the manual helps in training personnel in purchasing procedures. Finally, it promotes *consistency* in purchasing applications throughout the library district. Such a manual can either stand alone or be made a part of a financial and accounting manual."

The procedures described here enable the purchasing office to perform this task efficiently by providing written policies to govern purchasing procedures. The procedures that are followed by the Benbrook Library District are based in either local government law, local board policy or as a best business practice for the acquisition of goods and services. This manual is intended to provide knowledge and understanding of these laws, policies and procedures set forth by the Library Director (purchasing officer) and Board of Trustees.

These procedures are written in a manner that promotes fiscal responsibility to the taxpayers of the Benbrook Library District with the best interest of the library district in mind. As time goes on, processes and procedures may change. As such it is the responsibility of library district personnel to review procedures and processes to ensure practice is compliant with board policy.

This manual does not consist of all applicable rules, policies and procedures the district must follow for every circumstance but rather attempts to define the parameters for everyday purchasing operations through best practices.

Transparency, integrity, economy, openness, fairness, competition and accountability are some of the fundamental principles of public procurement. Transparency in public procurement is important. Information on the public procurement process must be made available to all public procurement stakeholders: contractors, suppliers, service providers, and the public at large, unless there are valid and legal reasons for keeping certain information confidential.

When a public procurement requirement is announced, electronically, through press release, the internet, and other venues, the announcement must include sufficient details for interested contractors, suppliers and service providers to determine if they are qualified to compete. The solicitation documents, particularly, must be available at a reasonable price, if not free of charge.

After reading the solicitation documents, interested contractors, suppliers and service providers should also be able to determine:

- the nature of the requirement and its scope
- the closing date for submission of offers or information
- the evaluation and selection criteria
- how and where offers should be submitted
- the number of copies to be submitted, and point of contact for additional information and response to queries (clarifications)
- the deadline for submission of queries
- the schedule of pre-bid meetings and site visits (if applicable), and any other pertinent details

Additionally, if there is a change to the solicitation documents, all stakeholders should be notified using the same publications that were used for the initial notification, so interested contractors, suppliers or service providers can take necessary and timely actions to comply with the change.

In public procurement, integrity is twofold. There is the integrity of the procurement process, and that of public procurement practitioners.

Integrity is essentially reliability. Bidders, and all other stakeholders, must be able to rely on any information disseminated by the procuring entity, formally or informally. The integrity of the procurement process assures confidence in the public procurement system. When solicitation documents are made publicly available, the information they contain must be dependable and free of ambiguities or bias.

When reviewing solicitation documents, prospective bidders should be able to determine if they are qualified to undertake the assignment. They also should be able to assess the need for association with other bidders and the type of association they would need to form given their qualifications and the requirements of the assignment.

Bidders should have a clear understanding of the requirement, and know how they will be evaluated. Evaluation and selection criteria must be clearly stated in the solicitation documents. These criteria should remain unchanged unless there is need to modify them. If modification is required, the solicitation documents should be amended, published and made available to all prospective bidders. Any changes in the offer submission date, should allow bidders sufficient time to adjust their offers accordingly to meet the new submission deadline.

Practitioners working within procuring entities, and other government officials involved in the public procurement process, must display personal and professional integrity. Ideally there shouldn't be any inconsistency between the two.

Public servants involved in the public procurement process should, at all times, be perceived as honest, trustworthy, responsible and reliable. They must always keep the purpose of the procurement requirement in mind, and strive to ensure that they responsibly manage public procurement as mandated by the public procurement rules.

Everyone associated with the public procurement process or directly responsible for facilitating the acquisition of goods and services with public funds, should strive to avoid fraud, waste and abuse of public resources; whether it is the result of over specifications of required goods, paying unreasonably high prices for substandard goods, collusion with other bidders, or other forms of unacceptable practices.

Public procurement requirements should be open to all qualified organizations and individuals. The public should also have access to information pertaining to public procurement requirements. Access to public procurement information is not absolute. Confidential and proprietary information belonging to organizations and individuals participating in process should not be available publicly, and the extent of their disclosure should be detailed in the procurement rules or other relevant regulation.

There are also procurement methods, such as restricted or selective bidding, that limit the availability of solicitation documents to only those firms meeting certain qualifications. The request for quotations (or shopping), and direct contracting (sole source) also present certain limitations on competition given that the request for offers is limited to a certain number and type of organizations or individuals.

Except for confidential defense procurements, the results of the public procurement process should be published and made available on relevant websites. In addition, public procurement information (except for confidential/proprietary information) should be open to all on a restricted access basis.

There are different interpretations of fairness in public procurement, so rather than define fairness as treating all bidders equally, it is better to mention how fairness is achieved in public procurement.

To achieve fairness in the public procurement process:

- Decision-making and actions must be unbiased, and no preferential treatment should ever be extended to individuals or organizations, because public procurement activities are undertaken with public funds.
- All offers must be considered on the basis of their compliance with the stipulations of the solicitation documents, and offers should not be rejected for reasons other than those specifically stated in the solicitation documents and the procurement rules.

- A contract should only be signed with the supplier, contractor or service provider whose offer is compliant and best responds to the objectives of the requirement in terms of technical capability and price.
- Suppliers, contractors or service providers should have the right to challenge the procurement process whenever they feel they were unfairly treated or that the procuring entity failed to carry out the procurement process in accordance with the public procurement rules. Such challenges must be based on the solicitation documents and/or the public procurement rules.

The Role of the Purchasing Officer

The role of purchasing is to help oversee the procurement process and, to a certain extent, the expenditures of the Library District. This requires the daily management of bid processes, reviewing purchases as they are made for compliance, studying trends on where funds are being spent to determine where more cost-effective contracts can save money and training individuals that have the authority to spend budgeted funds to do it correctly and effectively. Purchasing can also act as a vendor liaison when an end user has an issue with a vendor's performance, lack of delivery, etc. To remove purchasing from the process might create inappropriate, ineffective and potentially costly illegal purchases.

It is the goal of the Library's Purchasing Officer to assist in making purchases and receive goods as efficiently and expeditiously as possible.

It is the intent of this handbook to ensure that the Benbrook Library District is able to:

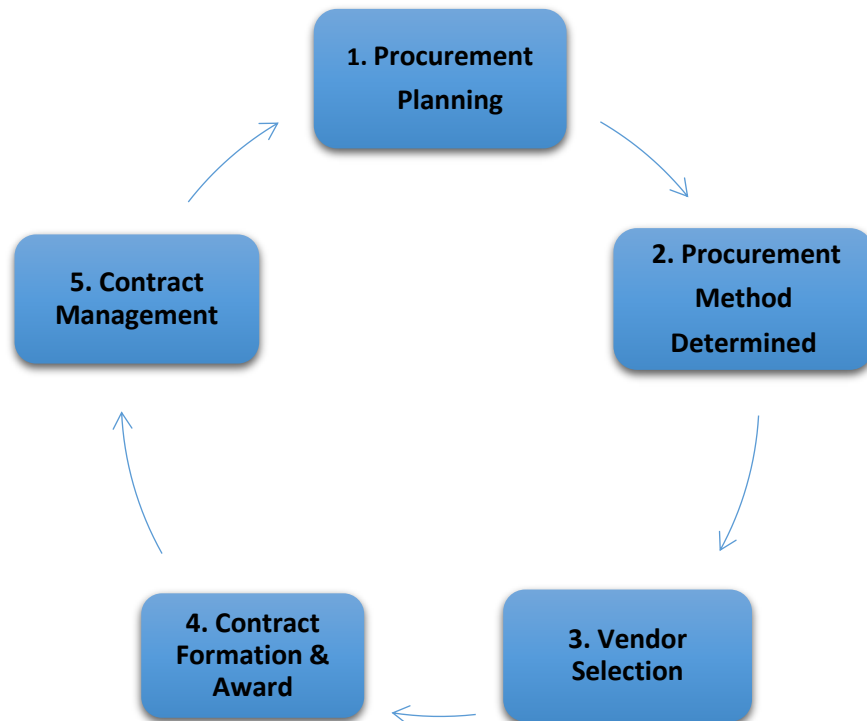
1. Comply with state purchasing laws and statutes, local government statutes, the Board of Trustees' policies, administrative procedures and sound business practices.
2. Provide quality products and services that meet the specifications and requirements of the Library District.
3. Obtain the most competitive prices for the products and services purchased utilizing procurement techniques that stimulate vendor competition.

It is the mission of the Purchasing Function to maintain an accurate process for acquiring goods and services which satisfy both internal and external needs of the Library District.

It is the responsibility of the Purchasing Function to provide fair and accurate purchasing guidelines and procedures and to take care of Library District obligations in an efficient and timely manner with minimal interference to library activities

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THE PROCUREMENT CYCLE



Before engaging in any public procurement activities, it is important to understand that there are common characteristics between all procurements and following each of the processes outlined below ensures that the procurement is conducted in a transparent and efficient manner

The Procurement Cycle identifies the five steps performed by public procurement professionals for every procurement.

The steps of the Procurement Cycle are summarized as follows:

1. **Procurement Planning:** Define the business need and establish the procurement objectives;
2. **Procurement Method Determination:** Identify the appropriate Procurement Method and, if applicable, issue a solicitation;
3. **Vendor Selection:** Fairly and objectively select the vendor that provides best value to the State;
4. **Contract Formation & Award:** Ensure that the awarded contract complies with applicable procurement law and contains provisions that achieve the procurement objectives; and
5. **Contract Management:** Administer and enforce the terms of the contract

Purpose and Goals of Purchasing

The overall purpose of the Benbrook Library District's purchasing program is to provide procedures and guidelines which will assist in obtaining the best value while procuring goods and services through utilizing best practices to ensure compliance with board policy, state laws and federal regulations.

One of the goals established in the development of this manual is to provide practical guidelines and easy to understand instructions in a manner which will allow all Library District staff to implement best practices.

The Benbrook Library District Purchasing Officer is responsible for the organization and administration of procurement/purchasing for the District in accordance with the authority delegated by the Board of Trustees. The goal of the purchasing officer is to provide at the time and place needed in the proper quantity and of the proper quality: all materials, supplies, tools, and services required for the Library District's operations at the lowest possible cost while maintaining a reputation for fairness and integrity.

Purchasing Overview

The purchasing function is a major management process supporting financial accountability in local governments. Purchasing has several links to overall accountability initiatives which include the:

- *Strategic Link.* The overall mission of purchasing is to use available fiscal resources to obtain the maximum product or service for the resources expended.

- *Operational Link.* Purchasing supports instructional delivery, administration, and other services. Performance and goal achievement throughout the Library District depend on its effectiveness.
- *Tactical Link.* The purchasing process influences day-to-day financial functions including budget management, accounting, and accurate financial reporting.

Purchasing in the *public sector environment* presents numerous challenges including:

- The requirement to comply with *numerous statutes, policies, legal interpretations, and procedures.* The complexity of these requirements demands not only knowledge of purchasing laws and standards but compliance in implementing a purchasing system that also meets user needs.
- The *dynamic and diverse nature* of the public library organizational environment. Library districts are complex organizations with diverse functions. Although information literacy is the heart of the organization, numerous other services—including research assistance and programming—support the overall mission of the Library District. This distinct organizational unit needs a procurement process that is responsive to their needs.
- The *competition among vendors* for a governmental entity’s business. The strong competition among vendors for government business may create pressure on Library District personnel for product selection, bid or proposal awards, and dispute resolution. Governmental entities should seek to foster both good vendor relations and strong competition but balance them with objective purchasing decisions.
- The *consistent oversight by interest groups.* Government purchasing is scrutinized by diverse groups including those from the public, the media, state and federal agencies, and auditors. Strict adherence to established guidelines and consistency in record keeping, documentation, and execution of procedures assists the library district in withstanding this scrutiny.
- There are many “*gray*” areas relating to purchasing methods and procedures. Complex and diverse needs create challenges for districts to determine the appropriate purchasing methods. Ever-changing legislative, executive, and judicial decisions at both the state and federal levels further complicate the procurement process.

Purchasing Ethics

The following code of ethics shall serve as a model for all Library District staff:

CODE OF ETHICS

- Avoid the intent and appearance of unethical or compromising practice in relationships, actions and communications.

- Demonstrate loyalty to the Library District by diligently following the lawful instructions, procedures and policies using reasonable care while exercising only the authority, which has been delegated to you.
- Refrain from any private business or professional activity that would create a conflict between personal interest and the interests of the District.
- Refrain from soliciting or accepting money, loans, credits, discounts, gifts, entertainment, favors or services from present or potential vendors.
- Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and government regulations.
- Promote positive supplier relationships through courtesy and impartiality.
- Know and obey the letter and the spirit of laws governing the purchasing function and remain alert to the legal ramifications of all purchasing decisions.
- Ensure that all segments of society have the opportunity to participate in governmental contracts.
- Enhance the stature of the purchasing profession by improving technical knowledge and adhering to the highest ethical standards.

Benbrook Library District Purchasing Policy

This section provides only details for purchasing dollar thresholds. For the complete Library District Purchasing Policy, please see Exhibit 1.

Purchases - (Up to \$5,000)

Purchases up to \$5,000 may be made in the most expeditious manner possible in order to meet the needs of the Library District. Although encouraged to utilize awarded vendors, new vendors may be entered as needed.

The Library Director has the authorization to make spot purchases up to \$5,000 without receiving Board approval. A spot purchase is a one-time purchase occasioned by a small requirement, an unusual circumstance, or to take advantage of a favorable market condition (ex: going out of business sale).

Purchases \$5,001 to \$49,999

If not using a District Awarded Vendor or Cooperative Contract, purchases \$5,001 to \$49,999 shall require three written quotes. Should a vendor submit a verbal quote, it cannot be awarded to purchase until a written quote is on file with the Library Director. This does not guarantee the purchase will be able to be made if the District spends over \$50,000 in the aggregate for the entire fiscal year in that category. Category spending is maintained by the Purchasing Officer. A purchase order may not be processed until written documentation of the quotes is provided. If

three quotes cannot be secured, there must be evidence that a valid attempt was made to secure the required number of quotes.

Glossary of Important Purchasing Terms

This glossary has been reproduced, in most part, from the Council of State Governments publication, State and Local Governmental Purchasing.

ACKNOWLEDGMENT - A form used by a vendor to advise a purchaser that an order has been received, and usually implying acceptance.

AGENCY - (1) An administrative division of a government. (2) A relationship between two parties by which one, the agent, is authorized to perform or transact certain business for the other, the principal; also, the office of the agent.

AGENT - A person authorized by a superior, i.e., principal, to act for him. In public purchasing, this designation is usually incorporated into statute/ordinance law. See "Purchasing Agent."

APPROPRIATION - Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

AS IS - A term indicating that goods offered for sale are without warranty or guarantee, and that the purchaser takes the goods at his own risk without recourse against the seller for the condition or performance of the goods.

AUTHORIZED PRICE LIST - A price list of the products and/or services covered in a contract which contains minimum essential information needed by users for placing orders.

AWARD - The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder.

BEST INTERESTS OF THE (STATE, COUNTY, MUNICIPALITY) - The rationale granting a purchasing official discretion in taking action most advantageous to the jurisdiction when it is impossible to delineate adequately a specific response by law or regulation. Case law affirms this discretion.

BID - The executed document submitted by a Bidder in response to an Invitation for Bids, a Request for Quotation or a multi-step bidding procedure.

BID-Award File - A file divided into commodity and item sections listing those solicited for individual bids, what each response was, and other information. The bid-award file is used to compare past bids for award patterns that might reveal collusive agreements or to make other comparisons of data.

BID OPENING - The formal process through which bids are opened and the contents revealed for the first time to the jurisdiction, other bidders and usually, to the public. See "Public Bid Opening."

BID SECURITY - A guarantee, in the form of a bond or deposit, that the bidder, if awarded a contract, will accept the contract as bid, otherwise the bidder (in the case of a deposit) or his/her guarantor (in the case of a bond) will be liable for the amount of the bond or deposit. See "Bid Bond," "Bid Deposit."

BIDDER - Any person submitting a competitive bid in response to a solicitation. See "Bid," "Proposal," "Proposer."

BIDDERS LIST - A list maintained by the purchasing office setting out the names and addresses of suppliers of various goods and services from whom bids, proposals, and quotations can be solicited. See "Pre-Qualification of Bidder," "Qualified Bidder."

BOILER PLATE - Colloquial designation for standard terms and conditions, usually preprinted, incorporated in an Invitation for Bids, Request for Proposals, or a contract or purchase order. See "General Provisions."

BRAND NAME OR EQUAL SPECIFICATION - A specification that cites brand names, model numbers, or other identifications as representing quality and performance called for, and inviting bids on comparable items or products of any manufacturer.

BRAND NAME SPECIFICATION - A specification that cites the brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

BREACH OF CONTRACT - A failure without legal excuse to perform any promise which forms a whole or part of a contract. See "Forfeiture of Deposit or Bond."

BUYER - An industrial purchasing designation connoting limited scope and authority as a purchaser. Commonly but improperly used in public purchase.

BUYER'S MARKET - Market conditions in which goods can easily be secured and economic forces of business end to cause goods to be priced at the purchaser's estimate of value.

CASH DISCOUNT - A discount from the purchase price allowed by the seller to the purchaser when payment is made within a designated period. A cash discount should not be considered as a factor for an award since it is predicated on future and uncertain action.

CENTRALIZED PURCHASING - A system of purchasing in which authority, responsibility, and control of activities is concentrated in one administrative unit.

CERTIFICATE OF COMPLIANCE - A supplier's certification that the supplies or services in question meet certain specified requirements.

CERTIFICATE OF NON-Collusion - A statement signed by a bidder and submitted with his bid affirming that his bid is made freely, independently and without consultation with any other bidder.

CHANGE ORDER - A written order signed by the Procurement Officer, directing the contractor to make changes which the Changes clause of the contract authorizes the Procurement Officer to order without consent of the contractor.

CODE OF ETHICS - Written guidelines within which judgments and considerations of professional ethics and behavior should be made for all elected, appointed and classified employees of a jurisdiction.

COLLUSION - A secret agreement or cooperation between two or more persons to accomplish a fraudulent, deceitful, or unlawful purpose.

COLLUSIVE BIDDING - The response to bid invitations by two or more vendors who have secretly agreed to circumvent laws and rules regarding independent and competitive bidding.
COMMODITY - An article of trade, a movable article of value, something that is bought or sold; any movable or tangible thing that is produced or used as the subject of barter or sale.

COMPETITION - The process by which two or more vendors vie to secure the business of a purchaser by offering the most favorable terms as to price, quality, delivery and/or service.

COMPETITIVE BIDDING - The submissions of prices by individuals or firms competing for a contract, privilege, or right to supply merchandise or services.

COMPETITIVE QUOTATIONS - The customary, and usually prescribed, method for making purchases involving dollar amounts less than that for which competitive sealed bidding is required. Such competition is often called for by law, with the transactions designated as "informal bidding," or "small purchases."⁹

COMPETITIVE SEALED PROPOSALS - A term used by the ABA Model Procurement Code for competitive negotiation as a source selection.

CONFIDENTIAL INFORMATION - (1) Any information which is available to an employee only because of the employee's status as a public employee and is not a matter of public knowledge or available on request. (2) Information, such as trade secrets and test data, which may be kept confidential in the purchasing process.

CONFLICT OF INTEREST - A situation where the personal interests of a contractor, public official or classified employee are, or appear to be, at odds with the best interests of the jurisdiction.

CONSIDERATION - Acts, promises, or things of value exchanged by two parties that validates a contract between them.

CONSPICUOUSLY - Written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate should have noticed.

CONTRACT - (1) A deliberate verbal or written agreement between two or more competent persons to perform or not to perform a specific act or acts. Also, an "Agreement." (2) All types of [government] agreements, regardless of what they may be called, for the procurement or disposal of supplies, services, or construction.

CONTRACT ADMINISTRATION - The management of various facts of contracts to assure that the contractor's total performance is in accordance with the contractual commitments and obligations to the purchaser are fulfilled. In governments, this management may include responsibility delegated by the central purchasing authority to using agencies.

CONTRACTOR - Any person having a contract with a governmental body.

CONVENIENCE TERMINATION CLAUSE - A contract clause which permits the government to terminate, at its own discretion, the performance of work in whole or in part, and to make settlement of the vendor's claims in accordance with appropriate regulations and applicable contractual conditions.

COOPERATIVE PURCHASING - (1) The combining of requirements of two or more political entities to obtain the advantages of volume purchases, reduction in administrative expenses, or other public benefits. (2) Procurement conducted by, or on behalf of, more than one Public Procurement Unit, or by a Public Procurement Unit with an External Procurement Activity.

DEBARMENT - A shutting out or exclusion (through due process) for cause, as a bidder from a list of qualified prospective bidders.

DECENTRALIZED PURCHASING - A system of purchasing in which there is a (varying) degree of delegation of authority, responsibility, and control of purchasing activities to the several Using Agencies. Delegation does not relieve the Central Purchasing Authority from accountability.

DEFAULT - Failure by a party to a contract to comply with contractual requirements; contractor failure to perform.

DESIGN SPECIFICATIONS - A type or manner of writing a purchase description characterized by detail as to how the product is to be manufactured or work is to be performed; generic specification. Appropriate for a unique product or custom work.

DIRECTIVES - Laws, rules and regulations, policy and procedures which affect the conduct of a contract and are cited by reference in the solicitation for the guidance of bidder/offerors.

DISCOUNT - An allowance or deduction from a normal or list price extended by a seller to a buyer to make the net price more competitive.

DISCOUNT SCHEDULE - A list of discounts applying to varying quantities of goods, or applicable to differing classifications of purchasers.

DISPUTE - A difference between a contractor and a jurisdiction over performance or other elements of a contract calling for appropriate administrative action with the intent of achieving a remedial result.

EMERGENCY PURCHASE - A purchase made without following normal purchasing procedures in order to obtain goods or services to meet an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk.

EQUIPMENT - Personal property of a durable nature which retains its identity throughout its useful life.

EVALUATION COMMITTEE - A committee which advises and assists the purchasing office in evaluation and award, usually employed in high tech and purchase of services transactions.

EVALUATION OF BID - The process of examining a bid after opening to determine the bidder's responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful bidder.

FISCAL YEAR - A period of 12 consecutive months selected as a basis for annual financial report.

FORMAL ADVERTISING - The placement of a notice in a newspaper or other publication according to legal requirement to inform the public that the government is requesting bids on a specific purchase it intends to make.

FORMAL BID OR OFFER - A bid which must be submitted in a sealed envelope and in conformance with a prescribed format, to be opened at a specified time.

INITIAL PRICE - Outlay of money necessary to buy something. Initial price is a proper determinant for award only when the products or services offered, and to be furnished, are essentially identical irrespective of which bidder or offeror receives the award.

INVITATION FOR BIDS (IFB) - (1) The solicitation document used for competitive sealed bidding, the customary method used by state and local governments for the purchase of equipment, materials, supplies, and construction. (2) All documents, whether attached or incorporated by reference, utilized for soliciting bids.

LATE BID PROPOSAL - A bid or proposal received at the place specified in the solicitation after the time designated for all bids or proposals to be received.

LOWEST (RESPONSIVE AND) RESPONSIBLE BIDDER - Originally, the bidder submitting the lowest initial price and capable of performing the proposed contract. Under modern purchasing concepts, often construed as generally the same as the "lowest responsive and responsible bidder," or the bidder who submits the "lowest and best bid," or the "most advantageous bid, price, and other factors considered." For clarity and accuracy, the recommended provision for determining award is the "responsive and responsible bidder whose bid is most economical for the purpose intended, according to criteria set forth in the solicitation."

MULTIPLE AWARD - The award of contracts to two or more bidders for the same or essentially similar items. Appropriate only in situations where the award of a single contract would be impossible or impractical and awards are limited to the least number of suppliers necessary for a workable contract.

NONRESPONSIVE BID - A bid that does not conform to the essential requirements of the invitation for Bids; nonconforming bid; unresponsive bid.

OFFER - the act of one person that gives another person the legal power to create a contract to which both of them are parties; to perform such an act.

OPTION TO RENEW - A contract clause that allows a party to elect to re-institute the contract for an additional term; in public contracting, where competitive bidding is a required exercise of the option must rest solely with the purchaser.

PERFORMANCE SPECIFICATIONS - Where the goods and/or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability and recommended practices.

PRE-Bid Conference - A meeting scheduled in a solicitation for the purpose of providing clarification as needed. Substantive questions raised at a pre-bid conference are answered in writing and may modify the solicitation. In some jurisdictions, the conference may be mandatory at the discretion of the Purchasing Manager.

PREFERENCE - An advantage in consideration for award of a contract granted to a bidder by reason of the bidder's residence, business location, origin of product offered, business

classification (e.g., small business), or other reason; generally inconsistent with impartiality in awarding public contracts.

PROCUREMENT - The procedures for obtaining goods or services, including all activities from the planning steps and preparation and processing of a requisition, through receipt and acceptance of delivery and processing of a final invoice for payment. The acts of preparing specifications, evaluating bids or proposals, making awards, and administering contracts are involved; in some contexts property management is implied.

PROFESSIONAL SERVICES - Infrequent, technical, and/or unique functions performed by independent contractors whose occupation is the rendering of such services. While not limited to licentiates, the services are considered "professional," and the contract may run to partnerships, firms, or corporations as well as individuals. Examples of professional services include medicine and the medical arts, architectural and engineering services, management and systems consultation, research, and the performing arts.

PROPOSAL - The executed document submitted by an offeror in response to a Request for Proposal [and the basis for subsequent negotiation].

PROPOSAL EVALUATION CRITERIA - Factors, usually weighted, relating to management capability, technical capability, manner of meeting performance requirements, price and other importance considerations used to evaluate which proposer in a competitive negotiation has made the most advantageous offer.

PUBLIC BID OPENING - The process of opening and reading bids, conducted at the time and place specified in the Invitation for Bids and/or the advertisement, and in the presence of anyone who wishes to attend.

PURCHASE ORDER - A purchaser's document to formalize a purchase transaction with a vendor. The purchase order should contain statements as to the quantity, description, and price of the goods or services orders; applicable terms as to payment; discounts, date of performance, and transportation; and other factors or suitable references pertinent to the purchase and its execution by the vendor. Acceptance of a purchase order constitutes a contract.

PURCHASING CYCLE - The full cycle of activities carried out by a purchasing department in the acquisition of goods and services.

PURCHASING ETHICS - Moral Concepts and Practices Based On The Principle That The public interest is paramount, applicable to the personnel of the purchasing department and all other persons involved in the purchasing process, particularly with respect to the expenditure of government funds and relationships between public employees and sellers.

QUALITY ASSURANCE - A planned and systematic series of actions designed to provide adequate confidence that a product purchased or to be purchased will perform satisfactorily in service.

QUALITY CONTROL - Practices and procedures necessary to ensure appropriate quality and performance of goods produced or received.

QUOTATION - A statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective purchaser, usually for purchases below the amount requiring formal bidding; the stating of the current price of a commodity, or the price so stated.

REQUEST FOR PROPOSAL (RFP) - (1) All documents, whether attached or incorporated by reference, utilized for soliciting (competitive) proposals. The RFP procedure permits negotiation of proposals and prices as distinguished from competitive bidding and an Invitation for Bids. (2) The solicitation document used in the competitive negotiation process. The procedure allows changes to be made after proposals are opened and contemplates that the nature of the proposals and/or prices offered will be negotiated prior to award.

REQUISITION - An internal document by which a using agency requests the purchasing department to initiate procurement. May also be a form used for obtaining supplies from a storeroom or warehouse.

RESPONSIBLE BIDDER OR OFFERER - A person who has the capability in all respects to perform in full the contract requirements, and the integrity and reliability which will assure good faith performance.

RESPONSIVE BIDDER - (1) a person who has submitted a bid which conforms in all material respects to the Invitation for Bids. (2) One whose bid conforms in all material respects to the terms and conditions, the specifications and other requirements of the IFB.

SOLE-SOURCE PROCUREMENT - An award for a commodity or service to the only know capable supplier, occasioned by the unique nature of the requirement, the supplier, or market conditions. (Senate Bill Number 623)

SPECIFICATION - A description of what the purchaser seeks to buy, and consequently, what bidder must be responsive to in order to be considered for award of a contract. A specification may be a description of the physical or functional characteristics, or the nature of, a supply of service. It may include a description of any requirements for inspecting, testing, or preparing a supply or service item for delivery. A purchase description.

SPOT PURCHASE - A one-time purchase occasioned by a small requirement, an unusual circumstance, or to take advantage of a favorable market condition.

SUPPLIES - (1) Customarily, items that are consumed or expended in the course of being used, as distinguished from equipment and materials; but in some purchasing terminology, all items except construction and services. (2) All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

TABULATION OF BIDS - A recording of bidders and abstract of their bids listing items offered, prices, deliveries, etc., in response to a specific solicitation, made for purposes of comparison and recordkeeping; an abstract.

TERMS AND CONDITIONS - A general reference applied to the provisions under which bids must be submitted and which are applicable to most purchase contracts.

VENDOR FILE - The accumulated record maintained by the central purchasing authority of information relevant to a bidder's or contractor's business relationship with the jurisdiction, including application for inclusion on the bidders list, record of performance under contracts, pertinent correspondence, and the results of any inquiries or analyses made for specific purposes.

WARRANTY - A representation of utility, condition, and durability made by a bidder or offeror for a product offered.

Procurement Planning and Competitive Procurement Options

When planning a procurement process, the following things need to be considered:

- Begin with the desired outcome in mind
- Consider the use of market research
- Ensure appropriate budget allocation for each requirement
- Determine need for technical assistance to develop technical specifications
- Look for ways to consolidate/package similar requirements
- Set realistic contract award dates based on relevant procurement methods

Three options for competitive procurement are available to the Library District: (1) Competitive Sealed Bids or Invitation for Bids, (2) Competitive Sealed Proposals or Requests for Proposals, and (3) Competitive Quotes. This section will be devoted to a thorough explanation of each option and the elements involved.

A. Competitive Sealed Bids – Invitation for Bids

An Invitation for Bids (IFB) procurement method may be chosen when (1) Requirements are known and can be clearly and specifically stated, (2) the award is based primarily on price (which can include total cost of ownership), and (3) a competitive market is available for the service or commodity.

The purpose and intent for competitive bidding is to help local governments secure the best work and materials at the lowest practical prices by stimulating competition. If an entity advertises purchases needs relating to large expenditures, purchasing in large quantities will probably result in lower costs either per unit item or in the aggregate.

The competitive sealed bid is a formal procurement process which notice of the time by when and place where the bids will be received and opened shall be published in the county in which the Library District is located, once a week for at least two weeks before the deadline for receiving the bids. The invitation must provide:

- A description of the goods or services for which the solicitation is being issued
- Deadline specifying date and time bids must be received by entity
- Address where bid documents may be viewed or picked
- Address where bids are to be delivered

The purpose and intent for competitive bidding is to help local governments secure the best work and materials at the lowest practical prices by stimulating competition. If an entity advertises purchases needs relating to large expenditures, purchasing in large quantities will probably result in lower costs either per unit item or in the aggregate.

Competitive Sealed Bids must be publicly opened and read aloud. After the bids have been opened and read aloud, no discussion or negotiation with any participating vendors is permitted.

The competitive bidding process requires that evaluation of the bids and subsequent award(s) be made solely upon bid specifications, and terms and conditions contained in the request for bids document, and according to prices offered by vendors and pertinent factors that many affect contract performance. No substantive changes are permitted to the bid forms, conditions and specifications. Upon arrival of the advertised deadline, all bid prices submitted will be read aloud. Any bid received after the submittal deadline cannot be accepted for consideration.

Policies and procedures:

- ❖ Should guide and clarify the procurement process, e.g., how to handle irregularities.
- ❖ Should define preference programs, if any, based on legislation, e.g., sustainability.
 - Any preference programs applicable to the procurement must be stated in the IFB.
- ❖ Should promote entity goals, e.g., greenhouse gas emissions, disadvantaged business enterprise (DBE).
- ❖ Must reflect requirements by federal, state, and local law, e.g., grant funding, advertising of the solicitation to promote or create competition or to comply with threshold requirements.
- ❖ Must preserve the integrity of the bidding process, e.g., treating all bidders with impartiality, securing bids until the opening, protecting confidential information. n Must define “late” and determine how the delivered bid is handled, e.g., time-stamp, return without opening, retain, accept.

An IFB should detail in a clear and organized manner, the entity's requirements and instruct potential bidders how to prepare and submit a bid response. Parts of the IFB may become a part of the contract document.

The IFB details the conditions, procedures, and requirements for the procurement of the commodity and should be easily understood by the bidders. The IFB should be a professional looking document of consistent style and format. The entity should develop a standard format for IFBs that groups like information into sections or parts.

Recommended sections include:

- ❖ Instructions to Bidders
- ❖ Scope of Work and Specifications
- ❖ General Terms and Conditions
- ❖ Special Terms and Conditions
- ❖ Required Forms
- ❖ Contract Documents

Instructions to Bidders should provide, at a minimum:

- ❖ Details for bid submission
 - Due date and time for bid responses
 - Whether an electronic signature will be accepted as the authorized signature
 - Method of submission, e.g., electronic bid through lockbox or other secured system, sealed bid
 - Physical location, if applicable, for delivery of bid response
 - Explicit statement that late bids will not be considered for award
- ❖ Location, date, and time of any pre-bid meetings
- ❖ Point of contact for questions related to the IFB
- ❖ Bidder eligibility requirements n Details of the bid opening, e.g., public or private, time, location

General Terms and Conditions are included or referenced in each IFB, usually without modification, and may include:

- ❖ Definitions
- ❖ Payment terms
- ❖ Governing law
- ❖ Protest policy
- ❖ Warranty requirements n Clauses that apply to the bid process as well as post award performance
- ❖ Insurance
- ❖ Indemnification

Special Terms and Conditions differ from the General Terms and Conditions, are specific to each IFB, and may address:

- ❖ Delivery location
- ❖ Payment terms
- ❖ Bond requirements n Entity preference programs applicable to the IFB
- ❖ Supplier qualification requirements
- ❖ Contract term
- ❖ Cost or pricing escalation/de-escalation clauses
- ❖ Insurance requirements, if not included in the General Terms and Conditions
- ❖ Compliance with entity policies or regulations

Scope of Work and Specifications include specific clauses and detail:

- ❖ Needs and desired outcomes n Performance requirements
- ❖ Design requirements
 - Technical requirements

Elements of the Competitive Bid Documents:

- Newspaper Advertisement
- Notice to Bidders
- Standard Terms and Conditions
- Evaluative Criteria
- Specifications
 - Scope and Intent
 - Definitions and Applicable documents
 - Quality Assurance
- Price Form/Response Sheet
- Criminal Background Check and Felony Conviction Notice
- Non-Resident Bidder's Certification
- Non-Collusion Statement
- Conflict of Interest Questionnaire
- Compliance with HB 1295

Examples of required forms may include:

- ❖ Bidder Information
- ❖ Schedule of Bid Items
- ❖ Bidder Certification/Signature
- ❖ Bid bond
- ❖ References

Only the forms necessary for determining bid responsiveness and bidder responsibility should be included in the IFB to minimize the documents needed for bid submission. Additional forms that are required only of the successful supplier may be completed after the bids have been received.

The IFB must detail the entity's process for awarding the contract such as whether the award is all-or-none or multiple and state the entity's selection criteria, e.g., lowest price, required delivery date, and total cost. The IFB may include required timelines and milestones with related liquidated damages and incentives.

Once the bids are opened, the procurement professional must evaluate the bids received against the requirements stated in the IFB to determine if each bid is responsive, the bidder responsible, and ensure that the procurement process is followed through recommendation and notice of award.

Evaluation of a bid is accomplished through a checklist that confirms whether the requirements stated in the IFB have been met. A responsive bid fulfills the requirements stated in the IFB, for example:

- ❖ Acknowledgement of understanding the scope of work
- ❖ Delivery terms
- ❖ Warranty documentation
- ❖ Required forms and signatures
 - Signature by an authorized representative of the company
 - Items not provided may be deemed an informality or may render the bid non-responsive
- ❖ Acceptance of the entity's terms and conditions
- ❖ Acknowledgement of changes to the solicitation

A bid that does not meet the requirements stated in the IFB should be deemed non-responsive and is not eligible for award. Notify bidders of the nonresponsive determination. Bids determined to be responsive are then evaluated for bidder responsibility and price. A responsible bidder is defined as "a business entity or individual who has the financial and technical capacity to perform the requirements of the solicitation and subsequent contract."

The purpose and intent for competitive bidding is to help local governments secure the best work and materials at the lowest practical prices by stimulating competition. If an entity advertises purchases needs relating to large expenditures, purchasing in large quantities will probably result in lower costs either per unit item or in the aggregate.

B. Request for Competitive Sealed Proposals (CSPs) – Request for Proposals (RFP)

The use of a Request for Proposals (RFP) shall be determined by a responsible purchasing authority who determines that the use of competitive sealed bidding is either not practicable or not advantageous to the district (for construction services use of this method must be determined by the board of trustees before the advertisement for proposals).

Terms and conditions are identical as those for competitive bidding except any reference to bids or proposers should be changed or interpreted as offers or offerors. Additionally,

anything addressing the finality of the offer needs to be disregarded because proposals are negotiable.

To eliminate unfair advantage, vendors that develop or draft specifications, requirements, statements of work, and requests for competitive sealed proposals are excluded from competing in such procurement.

The use of (CSPs) does not require a public reading of the monetary amounts proposed. Only the names of the respondents to the solicitation request must be read aloud, except for construction services, which requires the public reading of the amounts proposed by each respondent. The use of a RFP allows for negotiations and discussions to be held with as many respondents as desired. Negotiation and discussion are optional and not required. If negotiations are conducted, each vendor involved in negotiations should be required to submit a “Best and Final Offer” (BAFO) subsequent to the negotiations. The BAFO should be required for submittal no later than seventy-two (72) hours after notification is sent to the vendors. A shorter time frame may need to be required to meet the timeline for contract award. An offeror is not required to change anything from its original offer in a BAFO. It may simply state that it stands on its original offer.

Five key Elements in an RFP Review

- **Introduction** – This section should be used to introduce your entity and government services you provide and provide details of the reason(s) why the RFP is being issued. In this section, it should be stated what your entity is trying to achieve by this RFP process and approximately by when. Key dates must be included, especially the deadline for submitting responses to the solicitation.
- **Project scope and requirements** – This section will probably require the most time for preparation. Defining the detailed scope of work requires collaboration with many internal/end users, which can be a lengthy process in itself.
- **Process** – Ensure that your RFP document clearly explains how each activity will work through from sending out the RFPP to awarding the contract. Potential offerors need to be able to manage the many requirements of a particular RFP process.
- **Timelines** – Be very clear about how long the process may take and provide timelines for the entire process. Be certain that sufficient time is allowed for the submissions due date. Potential offerors do not need to feel rushed because the time frame for submission is not in accordance with the time requirements for completion of their response.
- **Pricing** – Pricing will be the main component in the RFP review process and will usually always have the highest evaluation weight assigned to it on a scoring matrix. Provide a pricing template in a structural format which states exactly how to present pricing and cost data. It should be set up in a manner that allows price offers can be compared from several respondents side by side.

NOTE: There have been cases when price was not the most heavily weighted criteria component. In these cases, ability to deliver the service and perform the required tasks carry a higher level of importance than the cost.

Negotiation

It should be remembered that any number of items may be negotiable besides price, although price is generally the most frequently negotiated item.

Do's of Negotiation

- Be well prepared and have a plan with goals
- Identify each point to be negotiated
- Establish parameters of discussion for each point
- Identify important issues first
- Try to settle one point before moving to the next one
- Be prepared to discuss alternatives
- Avoid being argumentative
- Be patient and stay away from quick deals
- Be ethical and fair
- Control the negotiation session

Don't's of Negotiation

- Underestimate the ability of the vendor
- Disclose the specific contents of other proposals
- Negotiate areas beyond the scope of the RFP
- Make a concession without obtaining a concession
- Accept the first no
- Be unreasonable or unfair
- Negotiate to the point that the price is no longer fair and reasonable

C. Request for Qualifications (RFQ) – Government Code 2254:

A Request for Qualifications (RFQ) usually refers to the pre-qualification stage of the procurement process. Final Selection is based on the perceived ability of the submitting firms to best achieve the most desired outcome.

A Request for Qualifications is a two-step process used to procure professional services. The services for which this process must be used are: (1) certified public accountant, (2) an architect, (3) a landscape architect, (4) a land surveyor, (5) a physician, including a surgeon, (6) an optometrist, (7) a professional engineer, (8) a state certified or state licensed real estate appraiser.

Section 2254.003 of the Government Code states:

(a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids, but shall make the selective award:

- (1) on the basis of demonstrated competence and qualifications to perform the services; and
- (2) for a fair and reasonable price.

The Step-by-Step RFQ Process

A. Define the Objective

Preparation is the key to a successful procurement process. It is important to prepare the RFQ document so that it solicits the precise information you need to make a decision. In order to do so, first define exactly what you are asking for. Providing detailed information in the RFQ document will not only solicit better and more accurate responses from the proponents, but it will make it easier for the selection committee to make an informed decision regarding which respondents should be short-listed.

B. Target Audience

Explain who your target audience is. State what professional service you are looking to fill. It may be an architect, engineer, research consultant, etc.

- 1) A brief statement about your organization:
Describe your organization, its history and any relevant projects.
- 2) A brief project background: Introduce the project here. You may go into further detail in another section of the RFQ, but it is always a good idea to introduce the project upfront in order to attract the interest of the potential respondents.

C. Draft the RFQ Document

Once the requirements are fully defined, the RFQ document may be drafted and the evaluation criteria may be determined. Be sure that the RFQ provides enough information to allow proponents to understand the nature of the opportunity, as well as the information and qualifications that your organization is looking for. The RFQ should also explain the pre-qualification process, including key terms and conditions, the anticipated schedule for the pre-qualification process, as well as the evaluation criteria.

D. Issue the RFQ Document

When the RFQ is ready for distribution, advertise as required and provide notification to individuals, companies, firms, etc. which you want to include in the process.

E. Evaluate and Select

Once the organization receives the proposals on the specified due date, they are passed to the evaluation committee for assessment. Make sure that the criteria are relevant to your needs. For example, if certain skills are critical to the success of the project, be sure to rate those required skills as a strong priority. Also be sure to clearly define the evaluation criteria

in the RFQ and to stick to the specified criteria when evaluating the responses. Remember that pricing has not been received at this point.

Oral Presentations

As part of the evaluation process, you may opt to have selected firms make an oral presentation to the evaluation team. These evaluations can be scored separately from the written responses and have the scores added to the original scores.

Guidelines for Oral Presentations

- Let firms know the arrangements and rules
- Provide agenda to firms
- Questions, content, participants
- Time limits and transitions
- Room set up
- Allow time for scoring and discussions between and/or after interviews
- Allow time for breaks

Presentation Format Recommendations

- Time - an hour is usually sufficient
 - 5 min. setup
 - 30 min. presentation
 - 15 min. questions and answers
 - 10 min. closeout
- Conduct all interviews the same day
- Have same evaluation team at all interviews (mandatory)
- Complete evaluation before adjournment.
- Media – provide guidelines on what you will allow
 - Boards and/or computer/projector are commonly used
 - Handouts – slides, food?
- Number of Presenters - Three to five usually sufficient (Principal, Project Manager, key Project team members).

F. Rank the Respondents

Rank the respondents according to the point totals received in the evaluation process.

Evaluation Criteria may include some of the following:

- Years of experience in the field
- Experience with the type of project specified in the RFQ
- Proven capacity to deliver the project requirements on time and on budget
- Sample written reports or other required materials for the position
- Awards
- Three professional references

G. Negotiations and Contract Award

Once the respondents have been ranked, begin price negotiations with the top ranked company/firm. Hopefully an agreement can be reached and a contract awarded. However, if no agreement on price can be reached, then formally terminate the negotiations by issuing written notification to the company/firm. It must be remembered that when you break off discussions with a vendor, you may not go back and approach that vendor at a later date and time. The written notification is final.

Proceed to the second ranked vendor and conduct the same process as with the first vendor. Hopefully an agreement can be reached, but if that is not the case, then discussions with that vendor must be formally and permanently terminated.

- Termination of negotiations is formal.
- You can't go back.
- The price from the 2nd ranked firm may be more.
- Notify and debrief unsuccessful firms

Debriefing: With every competitive procurement comes the possibility of an aggrieved vendor that was not the successful respondent. If a vendor expresses displeasure with the decision of your entity, a protest becomes a strong possibility. In order to prevent a formal protest being filed, have a procedure for conducting a debriefing with the aggrieved vendor.

The existence of a well-written reasonable debriefing procedure will re-enforce the idea that the entire RFP process was done properly. It will also convince some disgruntled vendors to seek more information before talking to their lawyers. A publicized and open debriefing process permits you to find out which vendors are really, really angry and gives you an opportunity to defuse the situation.

Debriefing:

1. Communicates a sense of fairness and appreciation to offerors who have made sizeable investments of time and resources in preparing bids or proposals for your program.
2. It may avoid a protest by convincing s disappointed offeror that your agency's decision was carefully made, factually well supported, and the best one for your agency/entity.
3. Remember, that in a debriefing session, only the aggrieved vendor's, bid or proposal may be discussed. No reference to another bid/proposal may be made.
3. Of most importance, it can help offerors improve their future proposals, which is a difficult advantage to them and to your agency.

Benbrook Library District Protest Policy

1. Protest must be made in writing within 5 working days after the protesting party knows, or *should have known*, of the occurrence of the action that is protested.
2. Protest should state
 - Statute or regulatory provision believed to be violated.
 - Description of the entity actions that caused the alleged violation.
 - A precise statement of relevant facts.
 - Any issues or facts that the protesting party contends must be resolved.
 - Statement of the argument and authorities that the protesting party offers in support of the protest
 - The Board of Trustees President of the Benbrook Library District will provide a written determination. The written determination is final

Other Purchasing Options

- A. **Cooperative Purchasing** allows a group of buyers with a common interest to pool their buying power in order to negotiate more favorable pricing on goods and services.

Cooperatives, also known as group purchasing organizations or purchasing consortia are set up to aggregate purchasing volume from many different companies and increase the purchasing power from each individual.

The use of purchasing cooperatives by local governments is authorized by Texas Local Government Code, Chapter 271, Subchapter F – Cooperative Purchasing Program, which states:

Sec. 271.101. DEFINITIONS. In this subchapter:

(1) "Local cooperative organization" means an organization of governments established to provide local governments access to contracts with vendors for the purchase of materials, supplies, services, or equipment.

(2) "Local government" means a county, municipality, special district, school district, junior college district, regional planning commission, or other political subdivision of the state.

Sec. 271.102. COOPERATIVE PURCHASING PROGRAM PARTICIPATION. (a) A local government may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state.

(b) A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative organization stating that the signing local government will:

(1) designate a person to act under the direction of, and on behalf of, that local government in all matters relating to the program;

(2) make payments to another participating local government or a local cooperative organization or directly to a vendor under a contract made under this subchapter, as provided in the agreement between the participating local governments or between a local government and a local cooperative organization; and

(3) be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery, to the extent provided in the agreement between the participating local governments or between a local government and a local cooperative organization.

(c) A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

Purchasing cooperatives have all been basically built upon a common set of core values and principles:

- Voluntary and Open Membership
- Members Economic Participation
- Autonomy and Independence
- Education, Training, and Information for Members
- Concern for Clientele

Cooperative purchasing can be an important element of any governmental entity's procurement strategy by providing purchasing professionals with the opportunity to be proactive. It allows member organizations aggregate volume of specific commodities, and in doing so achieve better pricing than they could have on their own.

Cooperatives can deliver significant time efficiencies in terms of contract development. By allowing the contract management and administrative functions to be provided by the cooperative, the costs associated with these time consuming tasks can be significantly reduced, if not completely avoided.

Membership in a purchasing cooperative offers the following benefits:

- **Strength in numbers:** the sheer volume of purchasing power aggregated by the size of the cooperative provides each individual member with economies of scale that they would not have been able to achieve on their own.
- **Superior pricing:** a purchasing cooperative is general able to negotiate lower prices for goods and services than any of the single members might be able to achieve. In addition to upfront pricing discounts, many cooperatives provide lower costs in other ways, such as rebates for certain products, or patronage discounts.
- **Best Practices:** a cooperative provides access to the combined knowledge of all of the cooperative's members can tap in to identify best practices and efficient methods to reduce total cost and extend efficiencies. The broader base of experience also lends itself

to the development of RFPs for the products and services that are most relevant and essential to the membership.

- **Strategic value and time savings:** many procurement professionals, especially those of smaller entities, simply don't have the time or the resources to research new product categories, issue competitive solicitations and/or negotiate pricing. A tremendous amount of time can be saved, because the procurements and contract management processes are handled and managed by the cooperative. Quite often, procurement professional are provided more time to establish and develop the important collaborative relationships that are so important to a successful operation.
- **Spend analysis and quality contracts:** many cooperatives conduct a spend analysis across the membership to identify goods and services as well as suppliers that are the most meaningful in particular contracting areas. This should and often does result in a supplier portfolio that includes many of the suppliers most committed to meeting the specialized needs and delivery requirements of members.

Conclusion

Cooperative purchasing is a time tested model that can make a significant contribution to its members' bottom lines by lowering costs, reducing redundancy and freeing up valuable resources for reallocation to other strategic initiatives. The time and process efficiencies, knowledge, and expertise available through a cooperative can be priceless. Ultimately, governmental entities should utilize a cooperative(s) that will act as a reliable business partner in helping to support its mission and achieve its fundamental procurement goals.

B. **Sole Source Purchase** (Also referred to as single source procurement) is a non-competitive method that should only be used under specific circumstances. Sole source procurement occurs when the procuring entity intends to acquire goods or services from Only one source (sole provider). This method should undergo a strict approval process before being used. The circumstances which call for this method are:

- An item for which competition is precluded because of the existence of a patent, copyright, secret process or monopoly
- A film, manuscript, or book
- A utility service, including electricity, gas, or water
- A captive replacement part or component for equipment
- The continuation of work that cannot be reproduced by another supplier
- The advantages of using a certain supplier are abundantly clear

When making a Sole Source purchase:

- Provide the Sole Source affidavit form to the vendor so that the vendor can complete the form.
- Make sure that the authorized company official signs the form.
- Make sure the signature of the company official is notarized.

Contract Management/Administration

Subsequent to the procurement and contract award phase, is the contract management phase of which contract administration is a vital component.

Contract Management

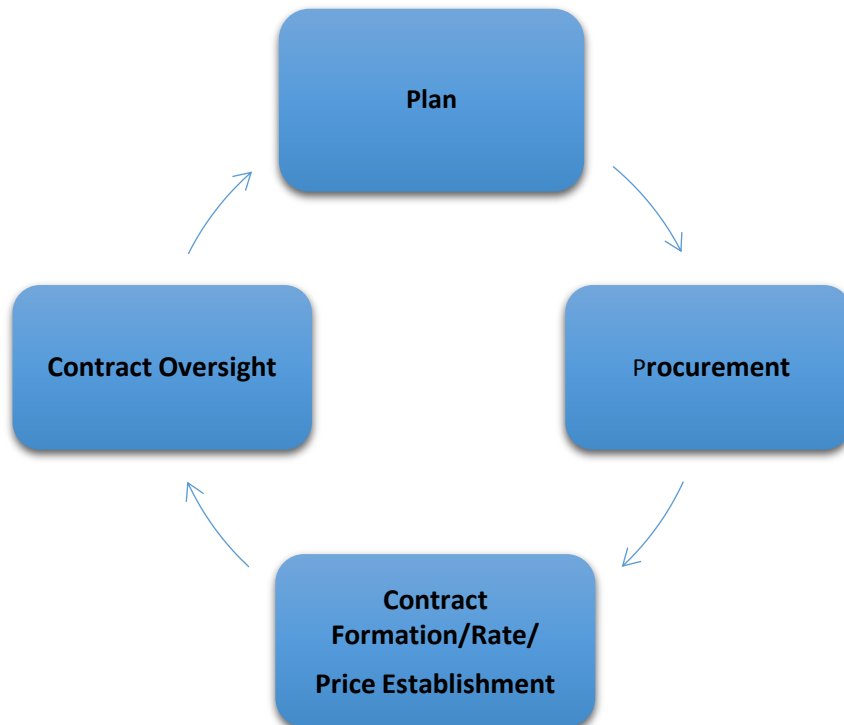
Contract Management – The process of systematically and efficiently managing contract creation, execution, and analysis for the purpose of maximizing financial and operational performances and minimizing risks.

Contract Management – The entire contracting process from planning through contract administration

A good contract manager ensures:

- The contract requirements are satisfied
- The goods and services are delivered in a timely manner
- The agency's financial interests are protected

CONTRACT MANAGEMENT FRAMEWORK



The Four Elements of the Contract Management Framework

1. **Plan** – Identify contracting objectives and strategy
2. **Procurement** – Fairly and objectively select the most qualified contractors
3. **Contract Formation/Rate/Price Establishment** – Ensure the contract contains provisions that hold the contractor accountable for producing desired results, include all relevant terms and conditions as well as establish processes that are cost-effective and aligned with the cost of providing the goods and services.
4. **Contract Oversight** – Monitor and enforce the terms of the contract

Contract Manager Role

Oversees each step of the contracting/procurement process

- Participate in developing the solicitation and writing the draft documents
- Point of contact for disseminating the instructions regarding the work to the contractor
- Receive and respond to communications between the agency and the contractor
- Monitor the contractor's progress and performance to ensure goods and services conform to contract requirements
- Inspect and approve the final product/services through formal acceptance/receipt process.
- Perform contract closeout process

Legal Elements of a contract:

- Offer - The respondent's reply to the entity's solicitation. The manifestation of willingness to enter into a bargain.
- Acceptance -
- Legal Purpose – The contract must be for a legal purpose
- Mutuality of Obligation – Parties agree on the essential terms of the contract. "Meeting of the minds."
- Certainty of Subject Matter – The reason you are entering into the contract must be stated and the terms to which each party is subject to must be clearly defined and specific.
- Consideration – The cause or motive to enter into a contract is called consideration. In order to get something, each party must be willing to give up something
- Competent Parties: Parties must be of legal age and without mental disabilities

Seven (7) Fundamental Criteria for Contract Management

1. **Creation:** Contracts do have to be created in the first place and managed; and they may need to be changed as negotiations progress.
2. **Negotiation:** To ensure that the best possible contract is available to both parties.
3. **Adherence:** To the contracts and all of its sections, terms and aims.

4. **Service Level Agreements:** (SLA) and Key Performance Indicators (KPI) are set to manage the day-to-day performance of the vendor.
5. **Managing Changes:** that may be required as the relationship changes and problems arise.
6. **Documenting:** Any changes that may have been agreed upon by both parties.
7. **Analyzing:** The benefits that accrue or may be available from the contract.

Types of information that should be included in a contract management plan:

- Background. A brief summary of the procurement process that led to the contract.
- Details of the contracting parties. This should also include contact information for both parties (that is, the agency and the supplier) and details of who is authorized to issue and respond to notices and initiate contract variations.
- Details of major stakeholders. Include the stakeholders' reason for interest in this contract. Document the nature of any intra-agency relationships.
- Contract details summary. A summary of information contained in the contract.
- Contract management strategy. Include the desired objective and methods or procedures to be followed and references to and location of any useful source documents.
- Document register. Provides an up-to-date list of all relevant documents (including purpose, current version/amendment status, location and synopsis).

Leadership Qualities for Contract Managers

Whenever leadership is required, whether at a small immediate level, or in a large and complex situation, some qualities and skills tend to be universal. What varies is how well-developed these need to be, and how crucial they are to success. The most important qualities are as follows:

1. A vision of the outcomes, and a style that conveys that vision so others can grasp it
2. Strong communication abilities to create understanding and clarity
3. Emotional intelligence to read situations, and strength to take a stand as needed
4. Ability to connect and work with a range of people, professions, styles and cultures
5. A sense of deadlines and project timelines, priorities and workloads
6. An ability to gain buy-in from others - internally, externally and globally
7. Good negotiating skills, for overall work agreements, and for day-to-day issues
8. Planning skills and the ability to articulate the plan and steps to others
9. Problem-solving skills, and the ability to engage others in the process
10. Capacity for dealing with change, and flexibility to adapt and help others to adapt

If the contract manager does not see or place value on skilled leadership and its importance in the business process and relationship, then he or she will not see the value and positive effects that well-prepared leadership can have in managing vendors.

Contract Administration

Contract Administration – A process that begins from when the contract is awarded to when the work is completed and accepted or the contract is terminated; payment has been made; and disputes have been completely resolved.

The goal of contract administration is to ensure the contract is satisfactorily performed and the responsibilities of both parties are properly discharged.

The major objectives of contract administration can be summed up as: **A fair and reasonable price for a high quality on-time scope of work.**

Effective contract administration minimizes or eliminates problems and potential claims and disputes. The goal of contract administration is to ensure the contract is satisfactorily performed and the responsibilities of both parties are properly discharged. A good contract manager ensures that the contract requirements are satisfied, that the goods and services are delivered in a timely manner, and that the financial interests of the agency are protected.

While vendor performance management may be relatively easy to define, in real life situations, it is very difficult to maintain. It requires real time information about the vendor's performance, formal procedures, and a profitable two-way communication between the vendor and the purchaser.

Monitoring and Managing Vendor Performance

Vendor Performance Monitoring – measuring, analyzing and managing a supplier's ability to comply with, and preferably exceed their contractual obligations

Vendor Performance Management – monitoring and analyzing the reliability, quality and performance of a governmental entity's vendors.

Why Measure and Monitor a Vendor's Performance

1. Assist entities to reduce internal transaction costs associated with government
2. Contribute to effective risk management
3. Contribute towards the development of strategic relationships with vendors
4. Assist in developing vendor capability
5. Improve supplier and purchaser performance

Sound vendor performance monitoring and managing strategies offer the following opportunities:

1. Assist entities in reducing internal cost associated with procurement.
2. Contribute to effective risk management.
3. Contribute toward the development of strategic relationships with suppliers.
4. Assist in developing vendor capability.
5. Assist in the development of supply chain management strategies.
6. Improve vendor and purchaser performance.

Contract/Vendor monitoring may be viewed as:

1. A preventive function
2. An opportunity to determine the contractor's need for technical assistance
3. A valuable source of information concerning the effectiveness and quality of services being provided.

Components, Considerations, and Challenges of Contract Monitoring and Management

The four main components of Contract Monitoring and Performance are:

1. Establishing and utilizing a contract performance monitoring system.
2. Arranging for appropriate pre-shipment compliance.
3. Managing provisions to protect goods during transit.
4. Managing supplier payments.

The purchaser is responsible for these components, while the supplier is responsible for producing and delivering the goods or services in compliance with the contract requirements.

The Main Considerations of Contract Monitoring and Performance are:

1. Performance monitoring, including pre-shipment compliance, helps provide evidence of product quality prior to shipment and payment.
2. Performance monitoring identifies supplier problems at an early stage, allowing the purchaser an opportunity to mitigate the impact of any problems that may surface.
3. Appropriate transport provisions can protect the product during shipment.
4. Effectively managing payments can promote supplier performance.
5. Product specifications
6. Delivery requirements and appropriate terms and conditions from the bidding documents.
7. Expected Outputs
 - a. Contract performance monitoring scorecard.
 - b. Improved supplier performance.
 - c. On-time delivery of goods or services per the contract requirements.

The basic components of a performance monitoring system include:

1. Formal procurement records and key performance indicators. Supplier commitment to meet the contractual requirements that form the basis for the performance indicators.
2. Procedures for addressing performance problems and contract disputes.
3. Pre-shipment compliance plan.
4. Procedures for monitoring commodity transport.

Effective supplier performance monitoring and management requires the contract manager to:

- Regularly check the supplier's progress to ensure that contractual obligations are being met
- Conduct regular random inspections of the supplied goods and/or services during the contract period to ensure that they meet specification and are of a suitable standard

- Check that all conditions and clauses in the contract are acted upon; the contract manager should be aware of any breaches of contract and be prepared to take action (after seeking legal advice) if any non-conformance with the contract occurs
- Advise the supplier in writing if dissatisfied with any aspect of performance under the contract
- Act immediately if a problem occurs and involve senior representatives of both the procurer and supplier to solve any identified problems as soon as appropriate
- Develop effective mechanisms for obtaining feedback from stakeholders about the procurement
- Keep adequate, written records of all dealings with the supplier and of the administration of the contract (e.g. file notes of inspections, telephone conversations, records of meetings and documented invoice processing)

Leadership Qualities for Vendor Managers

Not all vendor management roles require highly developed leadership skills, especially where strong, prescriptive and high-level contracts are in place, or the job is more checking delivery than shaping it. However, it sometimes may inaccurately appear that leadership is not required, when in fact there is a definite need for leadership, but just not obvious what difference it can make.

Whenever leadership is required, whether at a small immediate level, or in a large and complex situation, some qualities and skills tend to be universal. What varies is how well-developed these need to be, and how crucial they are to success. These are just a few:

1. A vision of the outcomes, and a style that conveys that vision so others can grasp it
2. Strong communication abilities to create understanding and clarity
3. Emotional intelligence to read situations, and strength to take a stand as needed
4. A sense of deadlines and project timelines, priorities and workloads
5. An ability to gain buy-in from others – internally and externally
6. Good negotiating skills, for overall work agreements, and for day-to-day issues
7. Planning skills and the ability to articulate the plan and steps to others
8. Problem-solving skills, and the ability to engage others in the process
9. Capacity for dealing with change, and flexibility to adapt and help others to adapt

What the right leadership can produce in the process of vendor management

Leadership is not a standalone behavior or set of skills. It is not something one “does”, like create or review a proposal. It is complex, variable, and integral to a given situation, the players, the process, and where the power lies. So, what is it that the right leadership can do?

1. Drive initiatives, shape vendor actions and priorities, take corrective action
2. Create business relationships around performance, delivery, quality, innovation, and value, rather than just compliance and driving via the authority of the contract.

3. Solve problems more collaboratively, thus exploring a wider range of options than either party could put forward alone. For example, the vendor may have a depth of experience from similar situations in other industries with other clients.
4. Reinforce company values, ethics and culture. This is important if a vendor is interacting directly with customers, either through sales or support. But even so, the culture and style presented at the customer interface may be different from the internal culture.
5. Anticipate and manage risks and costs, and decide best courses of action.

Establish Key Performance Indicators

The term Key Performance Indicators (KPI) is defined as: A type of performance measurement that allows the governmental entity to determine how well a vendor is performing and should act as a compass to determine if the vendor is fulfilling its contractual obligations.

Characteristics of a good KPI:

- **Completeness** - All significant aspects of the goods/services should be included in the measurement of performance.
- **Clarity** – The agency and the vendor should have the same understanding of the performance measures used.
- **Measurability** – Performance requirements should be expressed in measurable terms.
- **Focus** – Specifications should be focused on the agency's procurement objectives (outputs and outcomes).

Key performance indicators are used to track and evaluate the supplier's performance in complying with the contract requirements. For performance indicators to be effective, they need to be SMART:

1. **Specific**
2. **Measurable**
3. **Attainable**
4. **Relevant**
5. **Time based**

A range of performance indicators can be developed to monitor a supplier's performance, and the exact indicators used will vary according to the commodity, the level of risk associated with contract failure by the supplier, and the value of the procurement. The specific information needed to develop performance indicators is drawn from the procurement record files discussed above. For most high-value RH commodity procurements, performance indicators should be developed that track compliance with the following categories:

- Technical specifications.
- Timeliness of deliveries.
- Labeling and packaging requirements.
- Shelf-life requirements.
- Contract terms and conditions.

Use Service Level Agreements

Service Level Agreement (SLA) - A document describing the level of service expected by a customer from a supplier, laying out the metrics by which that service is measured and the remedies or penalties, if any, should the agreed-upon levels not be achieved.

A Good Service Level Agreement:

1. Pulls together information on all of the contracted services and their agreed-upon expected reliability into a single document.
2. Ensures both sides have the same understanding of the requirements.
3. Should include components in two areas:
 - a. Services
 - 1) Specifics of services
 - 2) Conditions of availability
 - 3) Cost/Service tradeoffs
 - b. Management
 - 1) Definitions of measurement standards and methods
 - 2) Reporting process
 - 3) Contents and frequency
 - 4) Dispute resolution process
 - 5) Indemnification clause
 - 6) Mechanism for updating the agreement as required

The metrics that define levels of service should aim to guarantee:

- **A description of the service being provided** – maintenance of areas such as network connectivity, domain name servers, dynamic host configuration protocol servers.
- **Reliability** – when the service is available (percentage uptime) and the limits outages are expected to stay within.
- **Responsiveness** – the punctuality of services to be performed in response to requests and scheduled service dates.
- **Procedure for reporting problems** - who to contact, how problems are reported, procedure for escalation, and what other steps are taken to resolve the problem.
- **Monitoring and reporting service level** – who will monitor performance and what data will be collected?
- **Consequences for not meeting service obligations** – may include credit or reimbursement to agency or enabling the customer to terminate the relationship.

Addressing Performance Problems

If a performance problem is identified, it is in the purchaser's interest to take prompt action, since early intervention can often prevent a problem from becoming worse and developing into a legal dispute or jeopardizing the project. The purchaser should take the following steps when a performance problem has been identified:

1. *Review the procurement record files to identify each party's rights and obligations.*

The contract will identify the remedial rights available to the purchaser and the responsibilities of the supplier. Before contacting the supplier, the purchaser should be clearly aware of the applicable contract conditions that allow for corrective measures to be taken under the contract. The purchaser should also review the conditions causing the

problem and be sure that the purchaser has not contributed to the problem in any significant way.

2. *Formally notify the supplier that performance is not in compliance with contract requirements.* This notification should be in writing and should include the following information:

- *Identification of the problem:* The problem should be clearly identified so there is no possibility of misunderstanding the situation on the supplier's part.
- *Identification of the corrective actions to be taken:*
The purchaser should ensure that any corrective action requested is within the bounds of its remedial rights under the contract. If necessary, the purchaser should seek legal advice to review the corrective action request.
- *Identification of the time frame allowed to the supplier to address corrective action:*
The purchaser should provide the supplier with a specific time frame for the supplier to investigate and provide its recommended remedy to correct the problem.
- *Identification of the consequences of failure to correct the performance problem:*
The purchaser should notify the supplier of the specific financial or contractual consequences of not addressing and correcting the performance issue. A copy of the notification should be placed in the procurement record.

Sometimes vendor management is simply seeing what needs to be done, who is involved, then applying the techniques. In other cases, especially with difficult situations or confrontations, qualities such as emotional intelligence, resilience, confidence and robustness are crucial. These deeply embedded attributes may have limited capacity to be developed, and require intensive and careful mentoring. All of these can play a vital role in a successful vendor management experience.

Exhibit I

BENBROOK LIBRARY DISTRICT PURCHASING POLICY

Procurement Procedures

1.0 Glossary of Purchasing Terms

- 1.1 Ad Hoc – “or this special purpose.”
- 1.2 Award – The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder.
- 1.3 Best Value – The selection of a product or contractor based upon an analysis of all factors involved; price, quality, delivery/performance schedule, reputation, past performance, contract terms, and any other factors deemed important by the Library of Board of directors.
- 1.4 Bid – The executed document submitted by a bidder in response to an Invitation for Bids, a Request for Proposals, a Request for Quotes or a multi-step bidding procedure.
- 1.5 Bidder - Any person or entity submitting a competitive response to a solicitation.
- 1.6 Centralized Purchasing – A system of purchasing in which authority, responsibility, and control of activities is concentrated in one administrative unit.
- 1.7 Collusion – A secret agreement or cooperation between two or more persons to accomplish a fraudulent, deceitful, or unlawful purpose.
- 1.8 Commodity - An article of trade, a movable article of value, something that is bought or sold; any movable or tangible thing that is produced or used as the subject of barter or sale.
- 1.9 Competition – The process by which two or more vendors vie to secure the business of a purchaser by offering the most favorable terms as to price, quality, delivery and/or service.
- 1.10 Contract - an agreement, usually in writing, between two or more persons which creates an obligation to do or not to do a particular thing and is enforceable by law.
- 1.11 Contractor – Any person or entity having a contract with a governmental body.
- 1.12 Evaluation of Bid – The process of examining a bid after opening to determine the bidder’s responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful bidder.
- 1.13 Formal Advertising – The placement of a notice in a newspaper or other publication according to legal requirements to inform the public that the government is requesting bids on a specific purchase it intends to make.
- 1.14 Invitation for Bids – (1) The solicitation document used for competitive sealed bidding, the customary method used by state and local governments for the purchase of equipment, materials, supplies, and construction. (2) All documents, whether attached or incorporated by reference, utilized for soliciting bids.

- 1.15 Nonresponsive Bid – A bid that does not conform to the essential requirements of the invitation for bids; nonconforming bid; unresponsive bid.
- 1.16 Procurement – (1) The procedures for obtaining goods or services, including all activities from the planning steps and preparation and processing of a requisition, through receipt and acceptance of delivery and processing of a final invoice for payment. (2) The acts of preparing specifications, evaluating bids or proposals, making awards and administering contracts are involved; in some contexts, property management is implied.
- 1.17 Request for Proposal – (1) All documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals. The RFP procedure permits negotiation or proposals and prices as distinguished from competitive bidding and an invitation for bids. (2) The solicitation document used in the competitive negotiation process. The procedure allows changes to be made after proposals are opened and contemplates the nature of the proposals and/or prices offered will be negotiated prior to award.
- 1.18 Sole Source Procurement – An award for a commodity or service to the only known capable supplier, occasioned by the unique nature of the requirement, the supplier, or market conditions.
- 1.19 Specification – An explicit description of the characteristics of a commodity or service furnished with a solicitation upon which a purchase order or contract is to be based.
- 1.20 Tabulation of Bids – A recording of bidders and abstract of their bids listing offered, prices, deliveries, etc., in response to a specific solicitation, made for purposes of comparison and recordkeeping; an abstract.

2.0 Procurement Philosophy

- 2.1 Procurements will be made to the greatest extent possible and within the established legal framework from vendors and contractors operating within the geographical boundary of the Library District and no violation of purchasing statutes and guidelines will be the result
- 2.2 The goal of all procurements will be to obtain the best value for the Library.
- 2.3 To the greatest extent feasible, procurements will be made on a competitive basis
 - 2.3.1 Competitive Sealed Bids
 - 2.3.2 Request for Proposals
 - 2.3.3 Request for Quotes
- 2.4 Exemptions:
 - 2.4.1 Sole Source Purchases – Selected purchases may be exempt from competitive procurement if they meet established criteria for a sole source purchase. Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of:
 - 2.4.1.1 A patent;
 - 2.4.1.2 Copyright;
 - 2.4.1.3 Secret process;

2.4.1.4 A monopoly.

2.4.2 A utility services, including electricity, water, gas, and trash pick-up, etc., which may be available from only one source, are also exempt from this procedure.

3.0 Recurring Services

3.1 Trade Services, - Plumbing carpentry, electrical, janitorial and other general maintenance services, estimated at less than \$5,000 per occurrence may be obtained by the Library Director through arrangement with local contractors on an ad hoc basis.

3.2 On annual basis, concurrent with budget development, all trades and professional contractors will be evaluated for quality of work and reasonableness of prices. Comparisons may be made with prices charged by similar providers.

4.0 Purchasing Contracts

4.1 The purchase of goods and services except contracts for the purchase of vehicle fuel or produce, valued at \$50,000 or more in the aggregate, for each 12-month period shall be made by the method that provides the best value to the Library District. The purchase shall be made by one of the following formal competitive solicitation methods:

- (1) Competitive Sealed Bid (IFB),
- (2) Request for Proposals (RFP),
- (3) Interlocal Contract (Includes purchases from an approved purchasing cooperative).

4.2 Procurements less than \$5,000

4.2.1 Procurement of products or services estimated at a maximum of \$5,000 may be accomplished by the Library Director based upon verbal solicitation, when he/she determines that specifications for the product or service are self-evident, and a written solicitation is unnecessary. A properly executed purchase order shall serve as documentation of the vendor's offered pricing.

4.2.2 The Library Director shall use discretion as to whether he/she feels a written quotation may be proper for a purchase under \$5,000.

4.3 Procurements Greater Than \$5,000

4.3.1 A competitive solicitation shall be required for all purchases in excess of \$5,000.

4.3.2 For purchases in excess of \$5,000, the following thresholds shall be in effect:

4.3.2.1 For purchases of \$5,001 – \$49,999, a minimum of three (3) vendors shall be offered the opportunity to submit a written competitive quote. The Library Director shall maintain in the purchasing files, evidence that valid attempts were made to

receive pricing from a minimum of three (3) vendors in case three quotes are not received.

4.3.2.2 Except contracts for the purchase of vehicle fuel or produce, valued at \$50,000 or more in the aggregate, for each 12-month period shall be made by the method that provides the best value to the Library District. The purchase shall be made by one of the following formal competitive solicitation methods: (1) Competitive Sealed Bid (IFB), (2) Request for Proposals (RFP), (3) Interlocal Agreement (Includes purchases from an approved purchasing cooperative).

4.3.2.3 For purchase of a designated Professional Service in excess of \$50,000, a Request for Qualifications shall be utilized as provided for in Government Code Chapter 2254, Subchapter A.

- 4.4 Sequential or component purchasing is strictly forbidden in an effort to avoid purchasing threshold amounts and competitive bidding requirements.
- 4.5 Request for Information - The Library Director may request information from prospective bidders, which might assist in writing specifications for a bid and/or arriving at an estimate of cost for a specific project.
- 4.6 Emergency Situations – The Library Director may seek informal estimates in order to arrive at projections of product or work performance costs and delivery/ performance schedules.
- 4.7 Formal Advertisement– In accordance with local government codes, a notice of the time by when and place where the bids or proposals or responses to a request for qualifications will be published in the county where the Library is located, once a week for two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications.
- 4.8 Contracts
- 4.8.1 Contract Form – A vendor or contractor’s written bid or proposed may become the contractual document. It therefore should contain all of the essential elements of the product or service.
- 4.8.2 Contract Payment Types – Payment associated with procurements will generally be based on a firm fixed price payment arrangement. However, due to the type of work to be performed, other payment types such as firm fixed price with escalator, progress payment, or time and material payment methods may need to be utilized. A payment method other than the firm fixed rate method will require approval from the Board of Trustees when the project will exceed \$5,000.
- 4.8.3 Texas House Bill 1295 amended the Government Code to prohibit a governmental entity (Library District) from entering into a contract that requires an action or vote by the entity’s governing body or has a value of at least \$1 million, unless the person/vendor submits a disclosure of interested parties at the time the vendor submits the signed contract to the entity.

The Form 1295 Certificate of Interested Parties form is completed on the Texas Ethics Commission website at www.ethics.state.tx.us

Intergovernmental contracts do not have to comply with HB 1295. The vendor should have completed the form 1295 Certificate of Interested Parties with the governmental agency.

It is the policy of the Benbrook Library District for all contracts with a value of \$5,000 and above to require action or vote by the Board of Trustees. Contracts with a value between \$0 to \$5,000 may be entered into by the Library Director with a notice to the Board of Trustees and an opportunity for discussion, in which case a Form 1295 is not required with the Vendor. Contracts with a value below \$5,000 may be entered into by the Library Director consistent with the approved annual budget of the library, in which case, a Form 1295 is not required with the vendor.

Steps to assure compliance with HB 1295

1. Once the contract or purchase has been approved by the Library District Board of Trustees, it is the responsibility of the Library Director or his/her designee to contract the vendor and assure that they comply with HB 1295.
2. The vendor must sign on into the Texas Ethics Commission website to complete the Form 1295 Certificate of Interested Parties for the approved contract or purchase. The vendor will then print the Certificate of Interested parties and have it notarized.
3. The vendor must then submit the notarized Form 1295 Certificate of Interested Parties to the Library Director or his/her designee.
4. The Library Director or designee will then sign on to the Texas Ethics Commission website and acknowledge the Certificate of Interested parties form.
5. A copy must be printed and attached to the contract.
6. A Form 1295 cannot be hand written. It must be completed electronically through the Texas Ethics Commission website application.

The District cannot proceed with any contract or purchase that is covered by HB 1295 until there is a certified, notarized and acknowledged Certification

- 4.7 The Board hereby establishes a goal of soliciting a minimum of three potential respondents to any formal competitive procurement at any dollar level.

5.0 Professional Services – Exemption from competitive requirements: In accordance with Government Code 2254 Subchapter A, the following services may not be secured or contracted through competitive procurement processes. The following professional services must be secured through the Request for Qualifications method: (1) Certified Public Accountant, (2) Architect, (3) Landscape Architect, (4) Land Surveyor, (5) Physician, including a Surgeon, (6) Optometrist, (7) Professional Engineer, (8) State Certified or State Licensed Real Estate Appraiser, or (8) Registered Nurse.

6.0 Contracted and Consulting Services - Professions not listed in section 5.0 as Professional Services should be considered Contracted Services and are subject to state and federal bidding laws. In order to secure consulting services in unlicensed areas such as professional development, musical instrument instruction, choreography instruction or other services which are not considered professional services as defined by state law may be competitively procured. A competitive quote may also be utilized if the amount is under the threshold amount for competitive bidding.

7.0 Authority – The Library Director is the authorized procurement officer for the Library District. In his/her absence, the President of the Library District Board of Trustees shall act as procurement officer, and may delegate that responsibility to any member of the Board or library staff.

THIS SPACE INTENTIONALLY LEFT BLANK

EXHIBIT II

SOLE SOURCE AFFIDAVIT

Before me, the undersigned official, on this day, personally appeared _____
a person known to me to be the person whose signature appears below, whom after being duly sworn
upon his oath deposed and said:

1. My name is _____, I am over 18, have never been convicted of a crime
and being competent to make affidavit.

2. I am an authorized representative of the following company or firm:

3. The above named company or firm is the sole source of the following item(s), and no other company
or firm in the United States of America sales or distributes the product(s) listed Below:

4. Competition in providing the above named item(s) or product is precluded by the existence of a
patent, copyright, secret process, or monopoly.

5. There is no other like item(s) or product(s) available for purchase that would serve the same purpose
or function and there is only one price for the above named item(s) or product(s) because of exclusive
distribution or marketing rights.

Signature of Authorized Official

Title of Authorized Signature

Affidavit will be valid for three (3) years from date subscribed and sworn.

SUBSCRIBED AND SWORN to before me on this _____ day of _____, _____.

(seal)

Notary Public Signature

Print Name: _____

My Commission Expires: _____

Company: _____

Address: _____

City, State, and Zip: _____

Telephone Number: _____ Fax: _____

Contact Person: _____

Exhibit III

SOLE SOURCE JUSTIFICATION AND REVIEW – CHECKLIST

1. Vendor Recommended for Award

- Vendor Name _____
- Contact Name _____
- Phone No. _____
- Fax No. _____

2. Description of good(s) or service(s) – Overall Value: \$

Goods – provide complete description, manufacturer names, model no., etc.

Services – provide complete scope of work the product will allow the district to perform.

3. Type Sole Source – please select one (all noted correspond to T.E.C. 44.031, (j):

- Existence of patents, copyrights
- Secret processes
- Material monopolies
- Film, manuscript, or book
- Utility services including water, gas, and electricity
- Captive replacement part or component for equipment

4. Obtained Sole Source Affidavit from Vendor Yes No

Can the goods or services be sold through distribution of another venue? Yes No

5. Requestor Department Sole Source Justification

Why is it necessary for this product to be used and what makes it unique?

Exhibit IV

Benbrook Library District

**Purchasing Department
Bid Folder Checklist**

BID NO:				
BID TITLE:				
1ST AD:				
2ND AD:				
ADDENDUM:	No. 1	No. 2	No.3	No. 4
DATE ISSUED:				
Item #	Description		Complete	Date
1.	Advertisement Request sent to Newspaper			
2.	Physical Folder created for document retention			
3.	Procurement File Checklist, Bid Receipt Log, Procurement File Selection Dividers, Pre-Bid Conference Sign In Sheet and Opening Attendance Checklist are created			
4.	Advertisement Affidavit placed in Bid Folder			
5.	Base Bid File (kept in purchasing – Original Bid Document Including Specifications and Supplemental Conditions			
6.	Copy of Addendum(s) Placed in Bid Folder			
7.	Bidders’ List			
8.	Original Vendor Bid and Envelope Received at Bid Opening - Successful Bidder Only.			
a.	Contract Information – Successful Bidder Only			
9.	Original Vendor Bids and Envelopes Received at Bid Opening – All Other Bidders			
10.	Pricing Tabulation			
11.	Evaluation Documentation – Evaluation Forms, Evaluation Tabulation, Evaluation Meeting Notes, Evaluation Instructions			
12.	Miscellaneous Documents, Miscellaneous Notes, Vendor Correspondence, W-9, etc.			
13.	Executive Summary, Recommended/Award/Renewal, Vendor List, Evaluation Tabulation (Board Version) and Necessary Attachments			
14.	Award Letters and (Renewals-sent 90 Days in advance			
15.	1295 Forms			
16.	Board Approval	Agenda item #		