



Freeport Economic Development Corporation Purchasing Policy

Approved
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Section 1: Purchasing Policies, Objectives, and Ethics

A. Purchasing Policy

The procedures listed below provide an outline of the overall purchasing process.

It is the policy of the EDC to assure fair competitive access to governmental procurement by responsible vendors/contractors and to conduct business activities in such a manner as to foster public confidence in the integrity of the EDC.

Therefore, regardless of the expenditure it is the policy of the EDC to garner competition that produces the highest quality goods at the lowest possible price regardless of whether the item or service is subject to bid.

B. Purchasing Objectives

These policies are intended to:

- Ensure that the EDC acquires, stores, disburses, utilizes and disposes of goods and services uniformly and economically
- Provide the EDC with quality products and services at the best possible price
- Ensure that the EDC abides by the EDC's By-Laws and its adopted annual budget
- Encourage participation of small and minority businesses, women's business enterprises, and labor surplus area firms.

C. Purchasing Ethics

The EDC wants to promote and protect its governmental integrity. The purpose of this section is to provide guidance to all EDC employees involved in the procurement process so that they may conduct themselves in a manner that is compatible with the best interest of the EDC. The employees of the EDC responsible for purchasing shall:

- Purchase the proper goods or services to address the EDC's needs
- Get the best possible price for goods or services
- Have goods or services available when and where the EDC needs it
- Assure a continuing supply of needed goods and services
- Guard against misappropriation of EDC funds
- Facilitate cooperation with other governmental units
- Maximize competition from responsible bidders
- Safeguard public funds and receive the best value for the public dollar
- Never use public spending to enrich elected officials or EDC employees
- Never make purchases for personal use in the EDC's name

- Ensure all procurement transactions will be conducted in a manner providing full and open competition:
 - No unreasonable requirements are placed on firms in order for them to qualify.
 - No unnecessary experience or excessive bonding required.
 - Noncompetitive pricing practices between firms or between affiliated companies is disallowed.
 - Noncompetitive contracts are disallowed except for when there is an approved exception.
 - No organizational conflicts of interest.
 - If a “brand name” product is specified, an equal or like product is acceptable.
 - A vendor that intends to respond to the Request for Proposals, Request for Qualifications and/or Invitation for Bid may not participate in the development or drafting of specifications, requirements, statements of work, or invitations for bids or requests for proposals, including, but not limited to, the development of the scoring criteria, the final selection of firms to be contacted, or the scoring of proposals.
- Ensure all procurement transactions shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.
- Ensure all procurement transactions shall identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals
- If a prequalified list when acquiring goods or services is used, the EDC will ensure the list is updated regularly, provides enough qualified sources to ensure maximum open and free competition.
- Ensure all procurement transactions must conform to applicable local, state, and federal laws and regulations.

Perception is Everything. Even if a procurement decision is sound, the method determination should be documented and will be open to public inspection. If a decision is perceived to be less than fair to all competitors, then the perception becomes the reality to the unsuccessful bidders. And, if the opinion is that the EDC has “favorite companies we always do business with”, our job is to set the record straight with all who may have this complaint. It is important that awards are made based on competition and/or best value for the EDC, that the reason(s) for those awards are documented and defensible, and that a decision is based on fact and in the best interest of the EDC.

D. Participating in Procurements with Family or Friends

It shall be a breach of ethics for any employee of the EDC to participate directly or indirectly in procurement for the EDC when the employee knows that:

- The employee or any member of the employee’s immediate family has a financial interest pertaining to the procurement.
- A business or organization in which the employee, or any member of the employee’s immediate family, has a financial interest pertaining to the procurement; or
- Any other person, business or organization with which the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

E. Gratuities

It shall be a violation of EDC employment to offer, give or agree to give any employee of the EDC , or for any employee of the EDC to solicit, demand, accept or agree to accept from another person, a gratuity

or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity EDC in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or sub-contract, or to any solicitation or proposal therefore pending before the EDC of Freeport.

F. Kickbacks

It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a vendor/subcontractor under a contract to the prime vendor/contractor or higher tier subcontractor for any contract for the EDC of Freeport, or any person associated therewith, as an inducement for the award of a sub-contract or order.

G. Confidential Information

It shall be a violation of EDC policy for any employee of the EDC of Freeport knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.

H. Purchase of Materials, Equipment, And Supplies for Personal Use

No employee may purchase EDC property for his/her own personal use unless it is purchased through the EDC's public auction or through the sealed bid procedures of the EDC. This includes new and used equipment, materials or supplies.

I. Private Purchases Through EDC Facilities

No employee may use the purchasing power of the EDC to make a private purchase. In addition, employees should not have private purchases sent to the EDC to be paid for by the employee.

J. Tax Exempt Status

The EDC is exempt from Federal, State, and Local taxes except in certain prescribed cases. An exemption certificate is available from the EDC offices and will be furnished to any of the EDC's suppliers upon request. Employees making purchases for the EDC out of personal funds will not be reimbursed for sales tax paid.

K. Tax Exempt Status for Purchase of Personal Property

Employees may not use the EDC's tax-exempt status for purchases of personal property. Anyone avoiding payment of sales tax by using this exemption may be liable for prosecution under Texas Penal Code, Chapter 39.

L. Definitions

The following definitions are intended to assist you in understanding the language used throughout this manual. When using this manual, if you find a word or words that you may not clearly understand and if it is not defined in this section, please do not hesitate to contact someone in Finance for clarification and/or interpretation.

Appropriated – The EDC Board appropriates funds through the adoption of the annual budget and subsequent amendments. Appropriated funds are funds that are able to be used for the purchase of

goods and services, another way of saying this would be to say funds are budgeted and authorized for the intended purchase.

Capital equipment – Property with a useful life of at least two years and a purchase cost of at least \$5,000.

Check Request – Prescribed stamp/form for requesting payment to a vendor for purchase.

Contract - An agreement between the EDC and a Supplier to furnish supplies and/or services over a designated period of time, during which purchases are made of the commodity specified.

Contractor - The successful vendor(s) awarded a contract by the EDC.

Encumbrance - The process wherein the EDC reserves funds for the purchase of supplies, goods, services, and equipment in one budgetary-accounting period, and pays for the purchase in another budgetary-accounting period.

Expedite – When the purchasing process is accelerated through normal procedures in order to prevent work stoppage or loss of government's money.

Goods - A generic term that includes all types of property to be purchased by the EDC; equipment, supplies, materials, components and repair parts.

Personal Services - Services provided to the EDC personally by a particular individual. Any contribution of machinery and equipment compared to total cost must be substantially less than the contribution of wages.

Planning Services - Services primarily intended to guide the EDC to ensure the orderly and coordinated development of land areas.

Professional Services – services as defined by state law: accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; professional nursing; or services provided in connection with the professional employment or practice of a person who is licensed or registered as: a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.

Purchase - An act that includes the acquisition of goods or services, to include the act of leasing personal or real property. Separate, sequential, and component purchases shall be treated as a single purchase.

Purchasing - The act, function, and responsibility for the acquisition of goods and services.

Purchase order - A formal, binding, legal agreement issued by the EDC's Purchasing Coordinator. A purchase order is requested by a departmental requisition that details the merchandise or services required. When accepted by a vendor without qualifications within a specified time period, the agreement becomes a contract. A Purchase Order grants the vendor the authority to deliver the goods or services and invoice for the same. It is the EDC's commitment to accept the goods or services and pay for them at the agreed price.

Services - A generic term to include all work or labor performed for the EDC on an independent contractor basis, including maintenance, construction, manual, clerical or professional services.

Vendor - A generic term applied to individuals and companies alike, who provide goods and services to the EDC.

Section 2: Purchasing Process

A. Delegation of Purchasing Authority

The EDC Director as authorized by the EDC Board of the EDC of has the authority to procure materials and services for the EDC that are within the guidelines set-forth by this procurement policy. An EDC Contract is always required when an on-site service is to be rendered to the EDC. Retroactive (after the fact) contracts are not acceptable. Only the EDC Board, the EDC Director are vested with authority to contract for the EDC. The EDC Director may approve the purchase of goods or services that have been budgeted and are valued at up to \$10,000, without prior approval of the EDC Board.

No contract or purchase order will be binding upon the EDC unless authorized by the EDC Board or EDC Director, as applicable, and unless the EDC Director and/or Finance Director certifies that there is to the credit of the EDC office or department a sufficient appropriation and unencumbered balance to pay for the goods and/or services for which the contract or purchase order is to be issued. The EDC's purchase of goods and services shall be made according to a requisition from the EDC Director. Any EDC personnel who authorizes or attempts to authorize a purchase order without proper approvals will be subject to disciplinary action.

The Finance Department is designated as the Purchasing Office for the EDC within certain limitations. The primary responsibility of the Purchasing Office is to procure the best goods and services in a timely manner at the lowest possible cost to the EDC and to ensure that purchasing is conducted with strict adherence to applicable federal, state and local laws as well as this manual. This purpose is accomplished through updating of purchasing data, training/education of personnel and responsiveness to new techniques. The Finance Department will coordinate purchasing activities with the user department. The Finance Officer will conduct random internal audits of departmental purchasing.

B. Total Dollar Limits/Approval Requirements

The purchasing limits stated herein assume that prior to purchase or request to purchase, the EDC Director and/or their designee has verified sufficient funds are available in the budget line item affected. This is verified through the purchase order (encumbrance) process approved by the EDC Director and/or their designee. Purchase orders may be issued before purchase of goods or services.

The EDC is not required to formally bid services, goods, and the purchase of other items. EDC may use purchase orders to encumber funds for any contracts.

C. Purchases of Less Than \$10,000

The EDC Director has the authority to approve purchases up to 10,000. A purchase order may be used to encumber funds and track the contract.

D. Purchases of \$10,000.01

The EDC Board shall approve purchases over \$10,000.01. A purchase order may be used to encumber funds and track the contract.

E. General Purchasing Provisions**General Rules Applicable to All Contracts**

- a. Each Department Head is responsible for:
 - Coordinating with the Finance Department to establish and maintain a list of vendors
 - Establishing clear, nonrestrictive bid specifications
 - Receiving and inspecting all deliveries to ensure that the goods and/or services comply with the bid or proposal specifications.
- b. The EDC Secretary is responsible for maintaining bids or proposals and related information according to the EDC's Records Management Program. Unless otherwise specified by state law, records related to bids or proposals (including purchase orders, invitations to bid, and bid tally sheets) are public records.
- c. The Department Head shall charge a purchase to the appropriate account number regardless if the account contains available budgeted funds. Overrun line items shall require a budget amendment.

F. Prompt Payment Act

Texas Government Code, Chapter 2251, commonly known as the Texas Prompt Payment Act, generally requires that the EDC pay bills not later than 30 days after the goods and services are received, or the date the invoice is received, whichever is later. EDC shall submit to the Finance Office any bill or invoice within 15 calendar days of receipt.

G. Contracts

All contracts will be reviewed before payment is made by the EDC Director and the Finance Officer. This is to ensure payments are being made in accordance with the contract.