

PURCHASING POLICY

RULES

AND

REGULATIONS



CITY OF CONROE

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City of Conroe

Purchasing Policy

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CITY OF CONROE
PURCHASING POLICY
RULES AND REGULATIONS

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INTRODUCTION

STATEMENT OF PURCHASING POLICY:

The Texas State Legislature has adopted Chapter 252 of the Texas Local Government Code, more commonly known as Purchasing and Contracting Authority of Municipalities, and Chapter 271, which contains authorization for cooperative purchasing as well as an alternate process for Public Works bidding. It shall be the policy of the City of Conroe, to fully comply in all respects with the rules, regulations and procedures of the appropriate governing authorities.

The City of Conroe Purchasing Department, as well as elected officials, department heads, and staff, pledge to discharge their duties in a manner that will provide, to all responsible vendors and contractors, an equitable and competitive access to the City's procurement process. Further, the Purchasing Department will be conducted in a manner that will promote public confidence in the integrity of the City of Conroe procurement organization.

PUBLIC PURCHASING:

Purchasing is one of the key functions in the success of any local government. The primary objective is to ensure the availability of equipment and materials as needed by the requesting department. This manual will outline the methods of procurement and the duties and responsibilities of the Purchasing Agent and Departments. The City of Conroe may purchase supplies, equipment, materials, and contracted services, where costs do not exceed \$50,000.00 without a formal, competitive, sealed bid. Much of what is written in this manual is governed by statutory requirements of either state or federal origin.

PUBLIC PURCHASING GOALS:

- ❑ Purchase the proper goods and services to suit the City's needs.
- ❑ Procure the best possible price for the goods or services required.
- ❑ Goods and services are available when and where they are needed.

PUBLIC PURCHASING MUST ASSURE THAT:

- ❑ Responsible bidders are given a fair opportunity to compete for the City's business.
- ❑ Public funds are safeguarded to ensure the best value is received for the public dollar.
- ❑ Guard against misappropriation of City funds.
- ❑ Public spending is not used to confer favors to anyone.

VALUE OF CENTRALIZED/DECENTRALIZED PURCHASING:

- ❑ It allows for the consolidation of smaller purchases by individual departments into larger volume purchases for the entire City, for greater cost savings
- ❑ The business community has a direct link to City procurement.
- ❑ Centralized knowledge and expertise places the purchasing function on a professional footing and inspires public confidence in the actions of the City.
- ❑ It does not remove the variety of choice on small purchases departments may wish to retain on items such as office supplies.

DEFINITIONS:

- ❑ Emergency purchases are made to meet a critical, unforeseen need of the City. The City's ability to serve the public would be impaired if purchases are not made immediately.
- ❑ Sole Source purchases are goods and services available from only one supplier; there may be just one vendor because of patents and copyrights, or simply because the vendor is the only one who supplies the goods and services.
- ❑ Services is the furnishing of skilled or unskilled labor or professional work. Examples are mowing and janitorial services.
- ❑ The Requisition is a request for a purchase to be made. It is the first step taken after the need for goods and services is recognized and meets the dollar amount criteria. This process must include a system of authorizations and safeguards to ensure that ethical purchasing procedures are followed.
- ❑ The Purchase Order constitutes a contract for the delivery of the goods or services in accordance with the terms of the agreement. This constitutes a legal document, and it usually contains the terms, quantity, delivery and price.
- ❑ A gift means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest.

SECTION I

**CITY OF CONROE PURCHASING
ETHICAL REQUIREMENTS RELATING TO
MUNICIPAL PROCUREMENTS**

PROCUREMENT REQUIREMENTS AND ETHICAL STANDARDS:

Chapter 176 of the Local Government Code states the ethics law that requires certain local government officials to disclose employment and business relationships with vendors who conduct business with local government entities. Please refer to Appendix B for review of Local Government Code 176.

*This Code of Ethics is taken in part from the
"Standard Financial Management System for Texas Cities and Counties
Model Purchasing Manual. "
And The
2012 Texas Municipal Procurement Laws Made Easy
[Link To Texas Procurement Laws Manual](#)*

SECTION II

THE REQUISITION PROCESS

GENERAL INFORMATION:

Purchasing procedures that are made with the intention of avoiding the competitive bidding requirements are in violation of State Law: (Purchasing and Contracting Authority of Municipalities Chapter 252.001). The following is a partial list of unacceptable practices:

- ❑ **COMPONENT PURCHASES:** Purchasing an item that, as a whole, would have normally been competitively bid, in a series of component purchases.
- ❑ **SEPARATE PURCHASES:** Purchasing an item in a series of separate purchases that would normally have been purchased in one purchase.
- ❑ **SEQUENTIAL PURCHASES:** Purchases made over a period of time that in normal purchasing practices would have been made as one purchase.

Any commitment to acquire goods or services without department approval and an authorized purchase order is prohibited. Anyone authorizing an expenditure of funds for goods or services prior to securing an approved purchase order may be held personally responsible for the payment.

DEPARTMENTAL PURCHASING RESPONSIBILITIES:

Departments should be cognizant of budget balances and refrain from forwarding requisitions to the Purchasing Department that would require expenditures in excess of those balances. The requisitioning department will have the ultimate responsibility for any purchases made that exceed their budget balance.

Departments should plan purchases in order to keep "rush" and "emergency" requisitions to a minimum. The City rarely enjoys any economic benefits from rush and emergency purchases. In most cases, prices for commodities and services are at a premium when there is not proper time allowed for the Purchasing Department to explore sources, options, and alternatives. The City of Conroe Purchasing Department is committed to expediting all purchase requisitions within a reasonable time frame.

To provide the Purchasing Department ample time to process purchase requests, departments should:

- Allow a one week turn around on all purchases requested that will exceed \$3,000.00 but are less than \$50,000.00. Delivery times may vary, determined by availability.

- Allow a four to eight-week turn around on purchases exceeding \$50,000.00. Delivery times will vary, determined by equipment availability.

To assure that all City employees responsible for making departmental requests for purchases have read and understand the purchasing procedures of the City of Conroe, departments shall have a signed "Purchase Authorization Form" for each authorized employee. That authorization form shall be forwarded to the Purchasing Department.

Departments should review all purchase requests to assure they are descriptive and specific but do not prevent competitive bidding of comparable items.

The default receiving point will be the warehouse at the Service Center. Should a department desire a different receiving point, that department will be responsible for receiving its own commodities and services. The department should make the Purchasing Department aware of a shortage, late delivery, damaged merchandise, or any other problem relating to the vendor's performance and, if requested, follow-up with a written explanation of the situation.

HUB REQUIREMENTS:

HISTORICALLY UNDERUTILIZED BUSINESS REQUIREMENTS (HUB)

A HUB is defined as a business formed for the purpose of making a profit in which at least 51 percent of the business is owned, operated, and controlled by one or more persons who are economically disadvantaged and who have been historically underutilized because of their identification as members of certain ethnic groups. Eligible entities must have their principal place of business and permanent business office located in Texas where the majority of the HUB owner(s) make the decisions, control the daily operations of the organization, and participate in the business. The qualifying owners must be residents of the State of Texas.

Informal written quotations must be solicited from at least two registered HUB vendors located within Montgomery County for any expenditure of municipal funds which exceeds \$3,000.00 but is less than \$50,000.00

GRANT FUND PURCHASES

When making purchases with grant funds the City's purchasing policy does not prevail. Most grants are heavily regulated by specific policies and operational procedures. It is important to know which purchasing rules and policies to follow and how to clarify and resolve any conflicts within those rules and policies.

Local Governments are permitted to use their own purchasing policies and procedures as long as those policies are substantially similar to the federal standards. If there are areas of deficiency in the City policies, then the federal policies and procedures must take precedence.

All Grant Fund purchases will be competitively bid and contracts that are based on cost plus a percentage of cost will not be used for grant procurement. The City will review all selected Contractors against the Excluded Parties List System (www.sam.gov) and any vendor found on the Excluded Parties List will not be eligible for the award of grant funded projects.

If the goods and services are only available from a sole supplier a letter from the manufacturer is required stating that that they do not distribute their product through distributors and any attempt to obtain bids would result in only one company being able to meet our specifications and needs.

Once these expenditures are purchased from federal funds the grant number shall be included on all paper work i.e.: requisition, purchase order, receiving documents, vendors invoice and capital asset forms.

REQUISITIONS (GENERAL):

Requisitioning is the formal request by a department for a purchase to be made after a need is recognized. Purchases of goods or services \$3,000.00 and over will *require* requisitions. The requisition form with the appropriate department head's signature will be forwarded to the Purchasing Department for processing and approval. After the City Administrator has electronically approved the requisition, a purchase order will then be issued. The goods or services can then be ordered only after the purchase order process is complete.

If necessary, requisitions for services will include an accompanying memo from the requesting department that provides additional details regarding the required service and specifications. Requisitions should fully describe to the Purchasing Department what to buy, when it is required, where the product is to be delivered, or what service is to be performed.

COMPLETING THE REQUISITION FORM:

Requests for the procurement of supplies, materials, equipment, repairs, and services will be forwarded to the Purchasing Department on a requisition, either by sending the requisition via fax, email or inter-office mail. Upon receipt of the requisition, the Purchasing Department will prioritize the requisition based on delivery requirements then take appropriate action.

It is the intention of the Purchasing Department to process all requests within a reasonable amount of time. If a request is to be held (i.e., vendor quotations, etc.) and cannot be processed within a reasonable time, the department will be notified.

REQUISITION INFORMATION:

The following information should be provided by the using department on each computer-generated requisition form:

- Department
- Date requested
- Date required (delivery date)
- Ship to code
- Recommended vendor & code
- Date approved by department director
- Comments (If vendor is new, provide: name, address, phone, contact person)
- Specific purpose
- Detailed description of item
- Quantity
- Unit of measure
- Unit cost (*If Not Known, Put a "Not to Exceed Amount"*)
- Department
- Amount of purchase
- Department head signature

SECTION III

STANDARD PURCHASE ORDERS

GENERAL INFORMATION:

Purchases requiring a requisition will be converted to a purchase order after the Purchasing Department approves the request. Approval will be based on the requisition containing the appropriate signatures and the request meeting the purchasing requirements outlined in this policy.

The Purchasing Department will print a purchase order from the computer-generated requisition.

STANDARD PURCHASE ORDERS:

- ❑ One copy of the purchase order is attached to the department's requisition and retained by the Finance Department.
- ❑ The requesting department will receive a copy from the Purchasing Department for its records or for use as a receiving document.
- ❑ Original invoices must be signed by the department, validated by the Purchasing Department, and then forwarded to the Finance Department for payment.

CONTRACT / BLANKET PURCHASE ORDERS:

Annual Contract/Blanket purchase orders are agreements with vendors that allow frequent or small purchases by departments without continuously repeating the bidding process. Blanket Purchase Orders can also control pricing. Examples are copier leases, mowing services or ammunition purchases for the fiscal year.

PURCHASE ORDERS FOR TRAVEL TRAINING, SEMINARS, ETC.:

Competitive quotes are not required for expenses incurred in connection with training, seminars, memberships, subscriptions, travel, foods, or books less than \$50,000.00.

DOLLAR THRESHOLDS FOR PURCHASES:

The following schedule of dollar thresholds will determine the appropriate action that needs to be taken to complete the purchase. Information needed from a quote include: business name, contact person, price, date, warranty information, delivery, physical address and phone number. In all cases, an attempt will be made to obtain three quotes.

\$1.00 TO 499.99

- Oral Quotes. Each department will be responsible for associated paper work.

\$500.00 TO \$2,999.99

- Quotations may be solicited by telephone and documented. Each department shall be responsible for their purchases and associated paper work.

\$3,000.00 TO \$49,999.99

- Formal written quotations or proposals will be sought by the Purchasing Department with documentation recorded by the Purchasing Department, in some cases assistance will be required by the requesting department in obtaining quotes and developing technical specifications.

PURCHASES EXCEEDING \$50,000.00

- Solicitation will be conducted by the formal, sealed, bid process, which is governed by statute. All purchases for materials and/or services in excess of \$50,000.00 must have the formal approval of City Council.

SECTION IV

RECEIVING MATERIALS

GENERAL INFORMATION:

When receiving ordered goods at a location other than the Warehouse, the user will conduct an initial inspection of the merchandise to determine its condition. The user will compare the goods received against the product specifications. Once the user has determined that the article(s) received are to the purchase order specifications and undamaged, the shipping ticket, or any other receiving documents, should be signed and returned to the Purchasing Department.

If freight is visibly damaged, receiving personnel should instruct the freight line driver /UPS to note the damage on the freight bill and sign it. Forward the freight bill/shipping ticket to the Purchasing Department.

All boxes and packing materials should be kept in the event of visible or concealed damage to freight shipments.

All materials and equipment not received or not in compliance with the specifications should be documented and reported to the Purchasing Department as soon as possible so that the vendor can be notified and instructed as to corrective action.

Damaged supplies, equipment, or materials should not be returned to the freight line or the vendor unless specifically requested by the vendor to do so.

Departments should contact the vendor, or the Purchasing Department, if materials and/or services are not received or performed by the due date. If the department contacts the vendor directly, they then should apprise the Purchasing Department of the situation.

Departments shall pay particular attention to the delivery ticket and how it matches the City's receiving copy. The employee receiving the materials must verify that all items were shipped as stated on the delivery ticket, then sign, IN INK, his/her full signature, printing same if illegible.

INCOMPLETE/PARTIAL ORDERS:

In the event an order is incomplete, the department should make an inquiry for scheduled shipment of the remaining order, or contact the Purchasing Department to make that inquiry.

Authorization for payment of a partial order is accomplished by signing the delivery ticket indicating the purchase order number, date, vendor and items received along with the original invoice.

SECTION V

PROCUREMENT OF PROFESSIONAL SERVICES

The "Professional Services Procurement Act" will govern the procurement of professional services.

All requests for professional services will be pre-approved by the City Administrator by memo for any amount. City Council is required to approve any contract for a professional service that will exceed \$50,000.00.

Though competitive bids/quotes are not required, it will be the policy of the City of Conroe to procure, in all cases, professional services through a request for qualifications (RFQ) if the total fee for the professional service is expected to exceed \$50,000 for any project. Once the most qualified candidate is determined by a committee of at least three people and the Department Director, the department will then solicit proposals and negotiate fees.

SECTION VI

COMPETITIVE BIDS/PROPOSALS

GENERAL INFORMATION:

The term "Competitive Bidding" will be used in this manual, and is generally used in public purchasing, when the bidding process employed requires approval of a governing body such as City Council. Methods include Formal Bids, Request for Proposals or Request for Qualifications all of which will be determined by the Purchasing Department.

Competitive bidding allows available vendors to compete with each other to provide goods and/or services. In the case of local governments, the bidding process has two additional purposes. The first purpose of competitive bidding is to ensure that public monies are spent properly and legally, and that the best possible value is received. The second purpose is to give qualified and responsible vendors a fair and equitable opportunity to do business with the City.

The employment of a standard and a consistent bidding process provides the public with an assurance that their tax dollars are being spent properly.

With a few exceptions, competitive bidding of expenditures in excess of \$50,000.00 will be accomplished by the following:

- A requisition should be signed by the department director and submitted to the Purchasing Director to request the item or service.
- The Purchasing Director will contact the City Secretary and advertise the Request for Bids or Proposals.
- After specifications are developed, a "Notice to Bid" of the proposed purchase will be published.

Vendor volume in excess of \$50,000.00 is subject to review during audit. Cumulative expenditures for the budget year by vendor are reviewed for compliance with our competitive bidding practices.

BID / PROPOSAL EXCEPTIONS:

Before the award of a contract that requires an expenditure of more than \$50,000 the city must comply with the requirements of Local Government Code Chapter 252 for competitive sealed bidding or competitive sealed proposal requirements unless an exception to such requirements is authorized. Local Government Code § 252.022 contains the principle exceptions to these requirements. The exceptions to bidding include, but are not limited to:

- a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to

preserve the property of the municipality. If the City seeks FEMA reimbursement, quotes and/or bids are required.

- a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- a procurement for personal, professional, or planning services;
- a procurement for work that is performed and paid for by the day as the work progress;
- a purchase of land or right-of-way; and
- a procurement of items that are available from only one source.

Vendor volume in excess of \$50,000.00 is subject to review during audit. Cumulative expenditures for the budget year by vendor are reviewed for compliance with our competitive bidding practices.

EMERGENCY PURCHASES:

An emergency situation is commonly described as an unforeseen situation, which adversely and unduly affects the life, health, or convenience of the citizens of City of Conroe, or circumstances that would cause a loss to the City (such as, but not limited to, an inordinate amount of down time). If an emergency arises during normal working hours, the affected department director, or his/her authorized representative shall:

- ❑ Notify the Purchasing Department of the situation and possible cost, if known.
- ❑ Submit a requisition on that working day or, at the latest, the next working day, to the Purchasing Department noting the reason for the emergency.
- ❑ Document the circumstance of the emergency.

If an emergency should arise after regular hours, the department director or his/her authorized representative may proceed with the emergency acquisition. On the next regular day of business, a confirming requisition, invoice and properly completed receiving report (including a brief explanation of the purchase) will be sent to the Purchasing Department. The Purchasing Department will then assign a purchase order number and forward that number to the appropriate vendor.

SOLE SOURCE PURCHASES:

A sole source vendor implies that there is only one person or company that can provide the equipment needed and that any attempt to obtain bids would only result in one company being able to meet the required specifications.

These tests should be met:

- ✓ The company is the manufacturer.
- ✓ The company does not sell through distributors.
- ✓ Patents in force require the items to be proprietary to the manufacturer.
- ✓ Specifications cannot be relaxed to allow other companies to bid competitively.

A purchase or contract that is subject to City Council award on the basis of competitive bidding may not be awarded under the sole source exception to competitive bidding unless the recommendation for the award is accompanied by the Purchasing Agent's written statement of the reasons why the exception is applicable to the purchase.

A City Council agenda item for action on a sole source purchase or contract must include the words "sole source award". City Council action on a sole source purchase or contract must be separate from all other actions. A sole source purchase or contract may not be included on the consent agenda.

DISASTER RELATED PURCHASES:

A disaster is the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause. The existence of a local state of disaster is established by the Mayor through the issuance of a proclamation as provided by Texas Government Code § 418.108. A disaster declaration expires seven days after issuance of the proclamation unless it is renewed or extended. A declaration of local disaster may not be continued or renewed for a period of more than seven days without the consent of the City Council.

During a local state of disaster the Purchasing Department shall cooperate with the Emergency Management Coordinator to insure that the procurement process is coordinated with emergency operations. The Purchasing Department may suspend or modify normal purchasing procedures as necessary to rapidly secure equipment, goods and services that are required or suitable to respond to the emergency. The modifications to normal procedure shall be the least which are deemed necessary by the Purchasing Department in order to meet the demands of the emergency, but may specifically include the suspension of the notice and publication requirements of Texas Local Government Code § 252.041 applicable to procurements of more than \$50,000 that are subject to requirements for competitive sealed bidding or proposals.

Suspension of the notice and publication requirements for procurements in excess of \$50,000 does not eliminate the requirement to obtain competitive pricing unless the procurement is necessary to time sensitive emergency work that makes it clearly impractical to obtain informal bids. Where emergency demands make even informal bidding impractical a short-term non-competitive contract for site-specific emergency work may be warranted, however, the contract term should not exceed the time necessary to obtain competitive pricing on the basis of informal bids. Ordinarily non-competitive contracts may not be awarded more than 72 hours after the commencement of the state of disaster. If possible the Purchasing Department will contact at least three eligible vendors to obtain informal bids on procurements to which the competitive sealed bidding or proposal process would ordinarily apply. Informal bids may be obtained by phone, fax, email, or face to face solicitation. Informal bids need not be in writing, however, verbal offers will be immediately recorded by the Purchasing Department and a record of all informal bids will be maintained.

Contracts that are based on cost plus a percentage of cost shall not be used for the procurement of emergency work. Contractors listed on the Excluded Parties List System (www.sam.gov) will not be eligible for the award of emergency work.

The suspension of normal purchasing procedures during a local state of disaster does not authorize procurements by persons other than Purchasing Department staff. Unless authorized in advance by the City Administrator, all procurements over \$3,000.00 shall be processed by the Purchasing Department to insure compliance with this policy.

The Purchasing Department shall reinstate normal purchasing procedures as quickly as possible following the declaration of a local state of disaster. The suspension of normal purchasing procedures automatically terminates 7 days following the declaration of a disaster unless authority to continue the suspension is specifically granted by the Mayor or City Council in any proclamation, resolution or ordinance authorizing the continuation of the local state of emergency for a period of time beyond 7 days.

BONDING:

Bids may be subjected to bonding requirements, per local government statutes. This is done to protect the City if the bidder attempts to withdraw after his bid is accepted.

COMPETITIVE BIDDING NOTICE:

A notice of a proposed purchase must be published two times, at least seven days apart, in a newspaper of general circulation in the County. The first day of publication should be *14* days before the date of the bid opening. The notice must include:

- ❑ The specifications describing the item to be purchased or a statement of where the specifications may be obtained.
- ❑ The time and place for receiving and opening bids and the name and position of the City official or employee to whom the bids are to be sent.

RECEIVING BID PROPOSALS:

All bids and proposals will be received by the City Secretary's Office on or before the time and date requested on the bid notice.

Bids received after the official bid opening time and/or date will be returned unopened to the bidder with a letter from the Purchasing Department notifying the bidder that the submitted bid/proposal was received subsequent to the due date and time.

On occasion, bids and proposals that are not clearly marked may be inadvertently opened. If this situation occurs, the bid will be re-sealed in front of a witness, and the occasion will be documented.

OPENING BID PROPOSALS:

Bids and/or proposals will be opened at the specified time (or shortly thereafter) and on the date specified in the notice. The date specified in the notice may be extended if circumstances warrant. Preliminary tabulation will be provided to the public when appropriate.

AWARDING A CONTRACT:

The Purchasing Department will evaluate all bids and provide a tabulation of the bid results. The department requesting the purchase will make their recommendation to the City Administrator to be placed on the City Council's agenda for approval. The Purchasing Department, after Council's approval, will supply the vendor with a purchase order and contracts as required.

Should a Contractor or Professional Services provider request a change in contract price, approvals shall be made prior to the beginning of the work covered by the proposed change. Such change will be authorized by a written change order prepared and approved by the Purchasing Department in consultation with the Department Director, followed by the consent of the City Administrator and/or City Council.

If two responsible bidders both submit the lowest and best bid, the City Council should award the bid according the best value to the City of Conroe.

SECTION VII

SPECIFICATIONS

GENERAL INFORMATION:

All well-written specifications are the product of a concentrated group effort and are worth preserving. They represent the fruits of lengthy deliberation and study combined with past experience. They are essential to any efficient purchasing program.

Specifications are a concise description of a good or service that the vendor must meet in order to be considered for the award. Specifications may include requirements for testing, inspection, preparation, or installation. Specifications are the total description of the purchase.

SPECIFICATION PURPOSE:

Good specifications have four major characteristics:

- **They set the minimum acceptability of the goods or services.** The term minimum acceptability is key. The vendor must know the minimum standard to determine what to provide. Too high a standard may mean tax dollars will be wasted. Too low a standard and the goods or services will not meet the expectations of the user.
- **They should promote competitive bidding.** A maximum number of responsible vendors should be able to bid on the specifications. Restrictive specifications decrease competition.
- **They should contain provisions for reasonable tests and inspections for acceptability of the goods or services.** The methods and timing of tests and inspections must be indicated in the specification. Whenever possible, tests should refer to nationally recognized practices and standards.
- **They should provide for an equitable award to the lowest responsible bidder.**

PREPARATION OF THE SPECIFICATIONS:

The user department along with help from the Purchasing Department should prepare the specifications. The final acceptance of the specifications rests with the Purchasing Department. This ensures proper quality control and avoids the proliferations of conflicting specifications in different departments of the City.

OBTAINING SPECIFICATIONS:

Existing specifications may be obtained from other local governments or the State Purchasing and General Services Division, Specifications and Inspections Section.

SPECIFICATION TYPES:

There are a number of types of specifications that are commonly used. The names may vary because of the source describing them. A single specification may be a combination of two or more of these types, especially the first two listed below. The following are the most commonly used terms:

- ❑ **Design Specifications:** These specifications give detailed descriptions of a good or service, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients, plus all other details needed for the provider to produce an item of minimum acceptability. Design specifications are usually required for construction projects, custom-produced items, and for many services.
- ❑ **Performance Specifications:** These specifications are used when 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.
- ❑ **Combination Specifications:** These specifications contain elements of both design and performance specifications. Some features of each are included to allow a vendor to use ingenuity to meet the performance needs of the City and also to require certain necessary design characteristics. These are probably the most common type of specification.
- ❑ **Brand-Name Specifications:** These list a product or service by brand name, model, and other identifying specifics to limit the bidding to a single preferred product. Since this type of specification discourages competition, it should not be used unless the item is the only one that will satisfy the City's requirement. This type of specification is used for purchasing replacement parts where only the brand name item will work.
- ❑ **Brand-Name or Equal Specifications:** These are similar to brand name specifications, except that products equal to the characteristics of the named brand are specified as acceptable.
- ❑ **Qualified Products List Specifications:** Specifications that are identified by manufacturers' names and model numbers and are the only items that are acceptable. These are used when quality is such a critical factor, and testing so lengthy, or expensive, that the City wants to stay with proven products.
- ❑ **Standard Specifications:** A single specification for one or more goods or services that have the same general purpose and are ordered on a recurring basis is a standard specification. The same specification is used each time an order is placed or bids are advertised. Examples are office supplies, paper, janitorial supplies and copier service contracts. Standardized specifications will usually be more complete and detailed than one-time specifications.

SAMPLE SPECIFICATION FORMAT:

Scope and Intent

- Scope: Explain title and summarize the application.
- Intent: State use of the item and using department.

Definitions and Applicable Documents

- Definitions: Define technical and critical terms where necessary.
- Applicable Documents: List and reference all documents referred to in this specification, including title, edition or issue number, the year of publication, and publisher or originating organization. If necessary, state where the document(s) can be located.

Requirements

- Performance Requirements and Characteristics: List all functional needs and performance requirements. Include work-related needs that the item must achieve.
- Design Features and Requirements: List all design requirements, including materials, manufacturing standards and directions, dimensions, physical characteristics of all kinds, and workmanship standards.
- Other Requirements: List any requirements not covered in the first sections.

Quality Assurance

- Test Requirements: List any testing requirements; include certifications, inspections, laboratory sampling, and other quality control requirements.
- Remedies and Penalties: List all remedies available to the government for non-compliance with specifications. Detail penalties to the provider for failure to perform or comply.

SECTION VIII

COPIER OR FAX SECURITY REQUIREMENT

OVERVIEW:

Departments should be aware when leasing or renting copier equipment of the eminent threat of data security breach. Since 2002 almost all copier equipment manufactured contains a computer hard drive whereby all information that is copied, scanned or faxed from these copiers is stored on a hard drive. Any copier (rented or purchased) must not leave the premises until the hard drives has been removed and given to the IT Department. This should be performed by the copier company or lease company. This should cover both termination of the contract or equipment being swapped/upgraded. All Police Department copiers must not leave the premises without either a 3 pass DOD wipe being performed on the drives or the drives destroyed or a certain for of encryption.

To ensure that all City employees responsible for making departmental purchases for leased copier equipment and to protect the security of confidential information the following guidelines have been established:

EXISTING LEASE OR RENTAL

- Prior to the end of the lease; consult the vendor regarding the purchase of the hard drive or;
- Contact vendor to see if Immediate Image Overwrite (IIO) or On Demand Image Overwrite (ODIO) software can be purchased and added to copier

NEW LEASE OR RENTAL

- Inquire if Immediate Image overwrite (IIO) or On Demand Image Overwrite (ODIO) software can be purchased or;
- Add an addendum to the contract to have the vendor erase the hard drive upon termination of lease or;
- Inquire of the vendor as to the option that the hard drive can be purchased upon termination of lease.

SECTION IX

PROCUREMENT CARD USE

OVERVIEW:

This policy provides an overview of the procurement card program as well as the range of related procedures and forms associated with the program. The purpose of the purchasing card program is to establish a more efficient, cost-effective method of purchasing. The program was designed as an alternative to the traditional purchasing process for supplies, materials and travel. The purchasing card can be used with any supplier that accepts the designated bank card as a form of payment. It should be noted, however, that users shall conform to City of Conroe purchasing policy as well as state purchasing laws when using the purchasing card program.

CARDHOLDER RESPONSIBILITIES:

Inappropriate procurement card use can result in significant losses for an organization, so the designation of their use is a serious matter. Users are expected to use these cards with the highest sense of ethics. The following rules apply to users of city purchasing cards:

- Do not use procurement cards for personal transactions.
- Do not use procurement cards for purchases on Internet auction sites, even if the purchases are intended for city use.
- Do not share the card information with any other person.
- Only use a procurement card to purchase items for which your department is responsible for payment.
- Do not receive cash back for procurement card credit transactions; all credits must be processed through the purchasing card.
- Employees utilizing a City purchasing card should make every effort to obtain a sales tax exemption form prior to making a purchase to avoid paying sales tax.
- Do not split charges into smaller amounts in order to stay within the purchasing restrictions of your purchasing card.
- When using the procurement card to pay for business related meals, you must provide documentation detailing the purpose of the meeting and the names of all individuals participating.
- Promptly forward monthly account statements with attached receipts to the procurement card manager following guidelines shown in procurement card usage while traveling section.
- Promptly report transaction discrepancies or a lost procurement card to the processing bank and also the procurement card manager (PCM).
- Improper use of purchasing cards will result in revocation of one's card and possible additional disciplinary action up to and including termination and or criminal prosecution.
- Obtain a receipt for all transactions.

PROCUREMENT CARD MANAGER RESPONSIBILITIES:

The procurement card program is managed by the procurement card manager (PCM) in the Finance Department. This position is responsible for a payment method that may cover large amounts of City expenditures; for that reason, this is a highly responsible position. The following rules apply to the PCM:

- Carefully review, based on necessity, department director authorized procurement card users prior to authorizing card issuances to them.
- Order procurement cards for approved users per the designated bank card requirements.
- Departments shall monitor the results of disputed transaction charges to ensure that the city does not pay for items for which it is not responsible.
- Departments shall monitor card usage to ensure that cards are being used appropriately and under the guidelines of this policy.
- Ensure that procurement cards used by departing or transferring employees are properly cancelled upon notification by Human Resources or associated department directors or their appointee.
- Maintain complete list or have access to online information thru Smart Data On Line of cardholders, their limits and any other details specific to their card assignment.
- Maintain day to day administration of the procurement card program.
- Report procurement card misuse to the Assistant City Administrator/CFO, City Administrator, Mayor and Council or police authorities, as necessary.

PROCUREMENT CARD USAGE WHILE TRAVELING:

- The procurement card should not be used for meals if a per diem has been or will be paid as part of any travel or training advance or reimbursement. Nor shall any other expenses be duplicated in conjunction with any other type of city disbursement.
- If meals are paid for with a procurement card, a per diem will not be allowed for that event.

MONTHLY STATEMENT RECONCILIATION:

This procedure must be used by City employees to reconcile the monthly procurement card statement.

1. A procurement card account memo statement will be received each month (for each individual card) according to the billing cycle assigned by the bank card supplier. Receipt may be via U.S. postal service, email or online PDF.
2. The memo statements will be directed to the PCM who will date stamp the statements and forward them to the appropriate departments for processing. The processed statements will be due back to the PCM by the date indicated on them.
3. Compare the line items on the statement to your receipts.
4. If any receipts are missing, contact the supplier and attempt to obtain a replacement receipt.

RECONCILIATION CONTINUED:

5. If any receipts are still missing, list them individually on a *Procurement Card Missing Receipt* form (Attachment A), obtained from the Procurement Card Manager (PCM). Complete the form as indicated. The cardholder will sign the form to certify that the expenditures with missing receipts were legitimate business expenses, and also obtain the signature of the department director.
6. Repetitive loss of receipts by a cardholder will result in loss of procurement card privileges.
7. Once the statement has been reconciled, a purchase order/packet will be initiated following standard purchasing/accounting procedures.
8. The statement, corresponding receipts and purchasing/accounting paperwork will be forwarded to the PCM for review.
9. After review, the statements and corresponding paperwork will be forwarded to accounts payable for processing.

AUTHORIZATION REQUIREMENTS:

This process dictates the necessary authorization for each level of cardholder.

1. Employee cardholder statements will be approved by their department director.
2. Department director statements will be approved by the City Administrator.
3. The City Administrator will obtain approval from the Mayor for purchases made by credit card for City business and paid for with City funds.

OTHER CREDIT CARDS:

This refers to other bank issued, department store issued and/or any other type credit cards.

1. No credit cards of any type shall be applied for, or accepted, without the written consent of the Assistant City Administrator/CFO.

SECTION X

PURCHASING AUTHORIZATION FORM

A Purchasing Authorization Form must be signed by the department director for each person having authority to approve purchases for his/her department. This form will be kept on file in the Purchasing Department.

The Purchasing Authorization Form indicates that the person having the authority to approve purchases for their department has read and understood the Purchasing Rules & Regulations Policy and will abide by the guidelines, restrictions, and duties enumerated therein.

See Appendix "A"

APPENDIX A

PURCHASE AUTHORIZATION FORM

*I have been authorized to approve requests for purchases for the _____
Department(s), budget number(s) _____
up to \$49,999.99.*

In connection with that authorization, I certify that I have read and understand the Purchasing Rules and Regulations Policy and will abide by the guidelines, restrictions, and duties enumerated therein.

NAME: _____ *(Please Type)*

(Signature)

DATE: _____

APPROVAL _____
(Department Director)

APPENDIX B

LOCAL GOVERNMENT CODE 176 AFTER H.B. 23

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 176. DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION

Section 176.001. DEFINITIONS. In this chapter:

- (1) "**Agent**" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee.
- (1-a) "**Business relationship**" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:
 - (A) A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
 - (B) A transaction conducted at a price and subject to terms available to the public; or
 - (C) A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.
- (1-b) "**Charter school**" means an open-enrollment charter school operating under Subchapter D, Chapter 12, Education Code.
- (1-c) "**Commission**" means the Texas Ethics Commission.
- (1-d) "**Contract**" means a written agreement for the sale or purchase of real property, goods, or services.
- (2) "**Family member**" means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

- (2-a) "**Family relationship**" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Subchapter B, Chapter 573, Government Code.
- (2-b) "**Gift**" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.
- (2-c) "**Goods**" means personal property.
- (2-d) "**Investment income**" means dividends, capital gains, or interest income generated from:
- (A) a personal or business:
 - (i) checking or savings account;
 - (ii) share draft or share account; or
 - (iii) other similar account;
 - (B) a personal or business investment; or
 - (C) a personal or business loan.
- (3) "**Local governmental entity**" means a county, municipality, school district, charter school, junior college district, water district created under Subchapter B, Chapter 49, Water Code, or other political subdivision of this state or a local government corporation, board, commission, district, or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality, or the governing body of a municipality. The term does not include an association, corporation, or organization of governmental entities organized to provide to its members education, assistance, products, or services or to represent its members before the legislative, administrative, or judicial branches of the state or federal government.
- (4) "**Local government officer**" means:
- (A) a member of the governing body of a local governmental entity;

- (B) a director, superintendent, administrator, president, or other person designated as the executive officer of a local governmental entity; or
 - (C) an agent of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor.
- (5) "**Records administrator**" means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under this chapter and perform related functions.
 - (6) "**Services**" means skilled or unskilled labor or professional services, as defined by Section 2254.002, Government Code.
 - (7) "**Vendor**" means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Section 1, Effective June 18, 2005.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Section 1, Effective May 25, 2007.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B.23), Section 1, Effective September 1, 2015.

Section 176.002. APPLICABILITY TO VENDORS AND OTHER PERSONS.

- (a) This chapter applies to a person who is:
 - (1) a vendor; or
 - (2) a local government officer of a local governmental entity.
- (b) A person is not subject to the disclosure requirements of this chapter if the person is:
 - (1) a state, a political subdivision of a state, the federal government, or a foreign government; or

- (2) an employee or agent of an entity described by Subdivision (1), acting in the employee's or agent's official capacity.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Section 1, Effective June 18, 2005.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Section 2, Effective May 25, 2007.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 2, Effective September 1, 2015.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 3, Effective September 1, 2015.

Section 176.003. CONFLICTS DISCLOSURE STATEMENT REQUIRED.

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:
- (1) the vendor enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the vendor; and
 - (2) the vendor:
 - (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor;
 - (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor; or

(C) has a family relationship with the local government officer.

(a-1) A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

- (1) a political contribution as defined by Title 15, Election Code; or
- (2) food accepted as a guest.

(a-2) A local government officer is not required to file a conflicts disclosure statement under Subsection (a) if the local governmental entity or vendor described by that subsection is an administrative agency created under Section 791.013, Government Code.

(b) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).

(c) **Repealed** by Acts 2015, 84th Leg., R.S., Ch. 989, Section 9(1), Effective September 1, 2015.

(d) **Repealed** by Acts 2015, 84th Leg., R.S., Ch. 989, Section 9(1), Effective September 1, 2015.

(e) The commission shall adopt the conflicts disclosure statement for local government officers for use under this section. The conflicts disclosure statement must include:

(1) a requirement that each local government officer disclose:

(A) an employment or other business relationship described by Subsection (a) (2) (A), including the nature and extent of the relationship; and

(B) gifts accepted by the local government officer and any family member of the officer from a vendor during the 12-month period described by Subsection (a) (2) (B) if the aggregate value of the gifts accepted by the officer or a family member from that vendor exceeds \$100;

(2) an acknowledgment from the local government officer that:

- (A) the disclosure applies to each family member of the officer; and
 - (B) the statement covers the 12-month period described by Subsection (a) (2) (B); and
- (3) the signature of the local government officer acknowledging that the statement is made under oath under penalty of perjury.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Section 1, Effective June 18, 2005.

Amended by: Acts 2007, 80th Leg., R.S., Ch.226 (H.B. 1491), Section 3, Effective May 25, 2007.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 4, Effective September 1, 2015.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 5, Effective September 1, 2015.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 9(1), Effective September 1, 2015.

Section 176.004.

Section 176.005.

Section 176.006. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER PERSONS; QUESTIONNAIRE.

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a) (2) (A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a) (2) (B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
- (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.
- (b) The commission shall adopt a conflict of interest questionnaire for use under this section that requires disclosure of a vendor's business and family relationships with a local governmental entity.
- (c) The questionnaire adopted under Subsection (b) must require, for the local governmental entity with respect to which the questionnaire is filed, that the vendor filing the questionnaire:
 - (1) describe each employment or business and family relationship the vendor has with each local government officer of the local governmental entity;
 - (2) identify each employment or business relationship described by Subdivision (1) with respect to which the local government officer receives, or is likely to receive, taxable income, other than investment income, from the vendor;
 - (3) identify each employment or business relationship described by Subdivision (1) with respect to which the vendor receives, or is likely to receive, taxable income, other than investment income, that:
 - (A) is received from, or at the direction of, a local government officer of the local governmental entity; and

- (B) is not received from the local governmental entity;
and
- (4) describe each employment or business relationship with a corporation or other business entity with respect to which a local government officer of the local governmental entity:
 - (A) serves as an officer or director; or
 - (B) holds an ownership interest of one percent or more.
- (d) A vendor shall file an updated completed questionnaire with the appropriate records administrator not later than the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in the questionnaire incomplete or inaccurate.
- (e) A person who is both a local government officer and a vendor of a local governmental entity is required to file the questionnaire required by Subsection (a) (1) only if the person:
 - (1) enters or seeks to enter into a contract with the local governmental entity; or
 - (2) is an agent of a person who enters or seeks to enter into a contract with the local governmental entity.
- (f) **Repealed** by Acts 2015, 84th Leg., R.S., Ch. 989, Section 9(3), Effective September 1, 2015.
- (g) **Repealed** by Acts 2015, 84th Leg., R.S., Ch. 989, Section 9(3), Effective September 1, 2015.
- (h) **Repealed** by Acts 2015, 84th Leg., R.S., Ch. 989, Section 9(3), Effective September 1, 2015.
- (i) The validity of a contract between a vendor and a local governmental entity is not affected solely because the vendor fails to comply with this section.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Section 1, Effective June 18, 2005.

Amended by: Acts 2007, 80th Leg., R.S., Ch.226 (H.B. 1491), Section 6, Effective May 25, 2007.

Amended by: Acts 2007, 80th Leg., R.S., Ch.226 (H.B. 1491), Section 9, Effective May 25, 2007.

Amended by: Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Section 15.005, Effective September 1, 2009.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 6, Effective September 1, 2015.

Amended by: Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 9(3), Effective September 1, 2015.

Section 176.0065. MAINTENANCE OF RECORDS. A records administrator shall:

- (1) maintain a list of local government officers of the local governmental entity and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire under Section 176.006; and
- (2) maintain the statements and questionnaires that are required to be filed under this chapter in accordance with the local governmental entity's records retention schedule.

Added by Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Section 8, Effective May 25, 2007.

Re-designated and amended from Local Government Code, Section 176.011 by Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 7, Effective September 1, 2015.

Section 176.007.

Section 176.008. ELECTRONIC FILING. The requirements of this chapter, including signature requirements, may be satisfied by electronic filing in a form approved by the commission.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Section 1, Effective June 18, 2005.

Section 176.009. POSTING ON INTERNET.

- (a) A local governmental entity that maintains an Internet website shall provide access to the statements and to questionnaires required to be filed under this chapter on that website. This subsection does not require a local governmental entity to maintain an Internet website.
- (b) **Repealed** by Acts 2013, 83rd Leg., R.S., Ch. 847, Section 3(b), Effective January 1, 2014.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Section 1, Effective June 18, 2005.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 226 (H.B. 1491), Section 7, Effective May 25, 2007.

Amended by: Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Section 76, Effective September 1, 2011.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 847 (H.B. 195), Section 3(b), Effective January 1, 2014.

Section 176.010. REQUIREMENTS CUMULATIVE. The requirements of this chapter are in addition to any other disclosure required by law.

Added by Acts 2005, 79th Leg., Ch. 1014 (H.B. 914), Section 1, Effective June 18, 2005.

Section 176.011.

Section 176.012. APPLICATION OF PUBLIC INFORMATION LAW. This chapter does not require a local governmental entity to disclose any information that is excepted from disclosure by Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 226 (H.B.1491), Section 8, Effective May 25, 2007.

Section 176.013. ENFORCEMENT.

- (a) A local government officer commits an offense under this chapter if the officer:
 - (1) is required to file a conflicts disclosure statement under Section 176.003; and
 - (2) knowingly fails to file the required conflicts disclosure statement with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.
- (b) A vendor commits an offense under this chapter if the vendor:
 - (1) is required to file a conflict of interest questionnaire under Section 176.006; and
 - (2) either:
 - (A) knowingly fails to file the required questionnaire with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the vendor becomes aware of the facts that require the filing of the questionnaire; or

- (B) knowingly fails to file an updated questionnaire with the appropriate records administrator not later than 5 p.m. on the seventh business day after the date on which the vendor becomes aware of an event that would make a statement in a questionnaire previously filed by the vendor incomplete or inaccurate.
- (c) An offense under this chapter is:
- (1) a Class C misdemeanor if the contract amount is less than \$1 million or if there is no contract amount for the contract;
 - (2) a Class B misdemeanor if the contract amount is at least \$1 million but less than \$5 million; or
 - (3) a Class A misdemeanor if the contract amount is at least \$5 million.
- (d) A local governmental entity may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under this chapter.
- (e) The governing body of a local governmental entity may, at its discretion, declare a contract void if the governing body determines that a vendor failed to file a conflict of interest questionnaire required by Section 176.006.
- (f) It is an exception to the application of Subsection (a) that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after the date the officer received notice from the local governmental entity of the alleged violation.
- (g) It is an exception to the application of Subsection (b) that the vendor filed the required questionnaire not later than the seventh business day after the date the vendor received notice from the local governmental entity of the alleged violation.

Added by Acts 2015, 84th Leg., R.S., Ch. 989 (H.B. 23), Section 8, Effective September 1, 2015