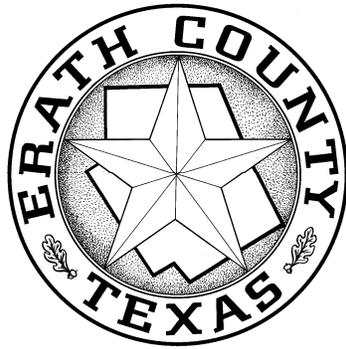


# Erath County



# Purchasing Manual

Revised December 2019

## INTRODUCTION

This manual contains the authorized procedures for purchasing by County officials and employees. The Erath County Commissioners' Court promulgates these procedures, and only the Commissioners' Court shall approve the contents of this manual.

County purchasing procedures are governed by Texas statutes; and these statutes, including interpretations of them made by Texas courts, are the ultimate authority on the validity of purchasing procedures. Because the procedures described in this manual are based on state law, this manual, in many instances, contains language taken directly from statutes, and paraphrases of and broad generalizations about Texas statutory law have been included where appropriate to assist in applying the law in routine situations. This manual cannot address every situation; and when an unusual situation occurs or a difficult legal or factual problem arises, the exact statutory language must be reviewed and analyzed. In every situation, the final authority for county purchasing procedures is the law itself.

This manual is for the use of Erath County employees and officials and is designed to assist them in complying with the laws governing county purchasing procedures. This manual does not create any rights of individuals or entities enforceable against Erath County.

## STATEMENT OF GENERAL POLICY

It is the policy of Erath County that all purchasing shall be conducted strictly on the basis of economic and business merit. This policy is intended to promote the interest of the citizens of Erath County.

To avoid violation of or the appearance of violation of the policies in this manual, county employees and officials are to refrain from the following:

Soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions. Generally, edible goods with a value of \$50.00 or less are acceptable if shared with the entire staff unless it appears to influence a purchasing decision.

It is important to remember that county purchasing operates in full view of the public. In order to assure an open purchasing process and economy in purchasing, the Commissioners Court has determined that competitive bidding will be used as much as possible in the purchase of goods and services for the County.

Erath County intends to maintain a cost-effective purchasing system conforming to good management practices. To be successful, the system must be backed by proper attitudes and cooperation of not only every department head and official, but also every supervisor and employee of Erath County. The establishment and maintenance of a good purchasing system is possible only through cooperative effort.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. Prior planning and the timely submission of requisitions are essential to expedite the purchasing process and to assure that the process is orderly and lawful.

## PURCHASING AUTHORITY AND GENERAL GUIDELINES

Authority to review and approve County purchases in regards to compliance with law, adequate budget and proper accounting resides in the County Auditor's Office. Individual departments are responsible for making purchases of supplies, materials, repairs and maintenance and capital equipment according to their budget. When required, competitive bids shall be supervised by the County Auditor, County Attorney and Commissioner's Court in accordance with the purchase contract. (Code, Chapter 262.011(e)). Competitive bidding is generally required on all purchases of \$50,000 or more.

General guidelines for purchasing and utilization of this manual are as follows:

- (1) Determine whether the county is required to make the purchase by competitive bidding. Generally, competitive bidding is required on any purchase likely to equal or exceed \$50,000. Unless a bid contract for the goods or services already exists, the items required to be purchased through competitive bidding will be purchased as described under the section labeled – Competitive Bidding. Questions regarding the necessity of competitive bidding should be answered by the County Auditor or County Attorney.
- (2) Other Purchases -- Special procedures are available for and applicable to the purchase of particular goods and services, summarized as follows:
  - (a) Unbudgeted Capital Expenditures -- purchases not authorized in a Department's current budget must be authorized through a budget amendment by the Commissioners' Court.
  - (b) Blanket Purchase Orders -- acquisition of goods or services on an "as needed" basis may be authorized in appropriate instances by a blanket purchase order.
  - (c) High Technology and Insurance -- as an alternative to competitive bidding, in the case of high technology items and insurance, competitive proposals from vendors may be solicited by the county when, in the judgment of the Commissioners' Court, this procedure is preferable.
  - (d) Professional and Personal Services -- Professional and Personal Services are exempted from Competitive bidding, in which case they may be obtained through Requests for Qualifications.
  - (e) Emergency Purchases -- items otherwise required to be competitively bid may be exempt from the competitive bidding process by the Commissioners' Court if (1) a prompt purchase is required, due to a public calamity, to meet a necessity of the citizens or preserve public property,  
(2) the purchase is necessary to preserve the public health or safety of a county residents, or (3) the purchase is required due to unforeseen damage to public property.
  - (f) Work in Progress -- this may be exempted by the Commissioners' Court and paid for by the day, after it is performed.
  - (g) Land and Right-of Way Acquisition -- this may be exempted by the Commissioners' Court.
  - (h) Sole Source Items -- an item available from only one source may be purchased without competitive bidding, with the approval of the Commissioners' Court.

## REQUISITIONS

### A. Necessity of Requisition

A Requisition is required for all purchases (Local Gov. Code Section 113.901).

The purpose is twofold: (1) to inform the County Auditor of the needs of the requesting department; and (2) to identify correctly and clearly the material requested. Requisitions must be prepared well in advance to enable the County Auditor review the request and issue a PO.

Requisitions are actually the initial request for a Purchase Order and are not a quote from a Vendor. The Requisitions purpose is to place a reservation on the budget to help prevent over spending a budgeted item. Once the Requisition is approved and converted to a Purchase Order the reservation is released and the budget is encumbered for the total amount of the expense.

### B. Preparation of Requisition

Each department may designate an individual or individuals who will have access to an electronic requisition system. Training for the requisition process will be provided to each department. A purchase requisition will pass through the system to the County Auditor. The County Auditor will maintain a list of authorized personnel whom have the authority to make purchases. Individuals may still phone in their requests any time they do not have access to a computer or for those that prefer that method of obtaining a requisition prior to making their purchase.

A requisition must contain the following information for proper processing:

**DEPARTMENT & DATE.** Give the name of the Department; date the requisition is forwarded and the date on which the item is needed.

**VENDOR.** (a) If the item is to be acquired under an existing bid contract, the vendor awarded the contract must be identified. (b) If the item is not under contract, vendor designation is requested and include address.

**WORKER'S COMPENSATION INSURANCE.** If vendor is doing work inside a county building or on County Property, proof of Worker's Compensation Insurance must be obtained BEFORE ANY WORK IS PERFORMED.

**QUANTITY REQUIRED.** State the number required. In addition to the number, where needed also provide the unit measure such as "dozen", "gallon", "each", etc.

**DESCRIPTIONS AND SPECIFICATIONS.** Describe the item needed clearly. Provide size, color, type, grade, etc. Departments must also provide detailed and technical specifications when needed. When necessary, write descriptive information on the comments section in the requisition.

**ESTIMATED COST.** (a) If the item is covered by a bid contract, insert the contract price on a per unit basis. (b) If not subject to an existing contract, provide and estimated price.

**FUND/DEPARTMENT NUMBER AND BUDGET LINE ITEM.** Identify, according to the County budget, the fund/department number from the department making the purchase.

Designate, according to the County budget, the department's budget line item against which the purchase should be charged.

**CERTIFICATION.** The Department Head or authorized person must forward this requisition to the County Auditor.

### **OFFICE SUPPLY ORDERS**

Office supplies are currently purchased via individual departments and these purchases fall under the same acquisition procedures as all other purchases.

Authorized personnel will place orders for office supplies, which will be forwarded to the County Auditor, via the system, to review the order and verify funds. Delivery will be made to the Ordering Department. The Departments must verify all goods received and notify Accounting. All signed invoices are to be submitted to the Audit Department.

### **PURCHASE OF EQUIPMENT, MATERIALS, AND SUPPLIES**

#### **A. Responsibilities of the County Auditor and Requesting Departments**

This section of the procedure manual outlines the responsibilities of the county departments when making a purchase request through the County Auditor. It should be used as a guide to help departments do their part in purchasing.

##### (1) County Auditor's responsibilities are to:

- (a) **Obtain information** from the departments through the requisition process and issue a purchase order to the department if the requested purchase complies with law, is within budget and is properly accounted for.
- (b) Aid and cooperate with all departments of the County to meet their equipment and supply needs.

##### (2) Requesting Departments' responsibilities are to:

- (a) Make requests early enough to allow sufficient time for the verification process to be properly performed.
- (b) Supply detailed specifications of items requested.
- (c) Inform the County Auditor or Commissioners' Court of all unusual purchasing requirements.
- (d) Take no actions that might be viewed as obligating or committing the County, except in an emergency.
- (e) Make no commitments regarding commodities or services in the name of the County. Such commitments will be VOID unless they are made by the Commissioners' Court, or other agents of the Commissioners' Court.

- (f) An opportunity to engage in a beneficial financial transaction or obtain a bargain does not constitute an “emergency”.

**B. Purchasing Procedures**

- (1) Capital Purchases: If the requisition is for the purchase of a capital item (\$5,000.00 or more) one of the following alternative procedures should be followed:
  - (a) If an Unbudgeted capital expenditure, See pg. 9.
  - (b) If the capital expenditure is budgeted and the item is \$50,000 or more it must be competitively bid, as described on pg. 7.
  - (c) If a budgeted capital expenditure of less than \$50,000 the item may be acquired as follows:
- (2) Requisition: Complete a requisition as described in Section III, B, and forward a copy to the County Auditor.
- (3) Preparation of Purchase Order: Audit will convert the requisition into a purchase order document. If funds are unavailable or the purchase is not in compliance with the Local Government Code, the County Auditor will return the requisition to the department.

**BIDDING PROCESS AND PROCEDURES**

**A. Bid Procedures for Budgeted Items – Purchase over \$50,000.00**

Requesting Department’s Responsibilities

- (1) Submit a requisition to the County Auditor far enough in advance of the desired purchase date to allow time for the formal bidding process.
- (2) Be present at the meeting of the Commissioners’ Court during which the bid specifications are discussed.
- (3) Review bid specifications to determine adequacy in light of general requirements and to insure that they are not unduly restrictive.
- (4) Prepare final bid specifications for Commissioners’ Court approval.
- (5) Prepare agenda request.
- (6) Following approval by Commissioners’ Court, mail bid specifications to vendors.

**A. General Bidding Information**

The Commissioners Court, through the County Judge’s Office will insure publication of the legally required notice. No specifications are to be written with the intent to exclude a possible bidder. Competitive bidding can be let on either a lump sum or a unit price basis. If unit price bids are

solicited, the needed quantities of each item are to be estimated in the requisition based on the best available information. The successful bidder's compensation, however, will be based on the actual quantities supplied, furnished or constructed.

Bids shall be supervised by the County Auditor, County Attorney and Commissioner's Court where applicable in accordance with the purchase contract. (Code, Chapter 262.011(e)).

**B. Bid Opening**

Following receipt of bids by the Commissioner's Court or County Judge, bids will be publicly opened in the Commissioner's Court. Anyone may attend. All sealed bids will be opened on the assigned day at the designated time. Bids will be read aloud and recorded on a bid tabulation sheet. The Commissioner's Court will furnish copies of the bids to requesting department.

**C. Bid Recommendations**

After examining copies of all the bids, the requesting Department will send a written recommendation for bid award at least seven days prior to the deadline for Commissioners' Court agenda. The Commissioner's Court will verify recommendation to the lowest bid received. Any recommendation to award to other than the low bidder will be presented to the County Judge for resolution prior to submission to Court.

After certification of recommendations the County Judge will obtain an agenda setting, notify the Department and forward the bid recommendation; along with a bid summary, to the Commissioners' Court.

A contract may not be awarded to a bidder, who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is notified by the department of the proposed award and offered an opportunity to appear before the Court and present evidence concerning the lower bidder's responsibility.

**D. Bid Award**

Bids will be awarded to the lowest and best responsible bidder. In addition to the price, the Commissioners' Court will consider:

- (1) The quality of the product;
- (2) The adaptability of the product to the intended use; and
- (3) The ability, experience, efficiency integrity, and financial responsibility of the bidder.

When the county receives only one bid, the bid may be accepted if the Commissioners' Court determines the price is fair and reasonable. If the price is not fair and reasonable, the bid is rejected.

If two or more responsible bidders submit identical bids, the bid award will be made by drawing lots or as directed by the County Judge.

**E. Bid Bonds**

A vendor awarded a contract may be required to post bond. If it is required, the department will include the requirement in the bid advertisement. A performance bond is required for all contracts in excess of \$100,000 (LGC 262.032). The performance bond amount that will be required shall not be less than 5% of the total contract price.

**F. Acquisition of Item After Bid Award**

Following award of the bid contract by the Commissioners Court, a purchase order will be entered in the system and the successful Vendor will be notified.

**G. Change Order**

A change order may be required when it becomes necessary to make changes after performance of the contract has commenced. The Commissioner's Court is authorized to approve increases or decreases to the original contract price of \$5,000 or less. The original contract price may not be increased by more than 25%. All change orders requiring increases or decreases to the contract price involving more than \$5,000 must be approved by the Commissioners' Court.

Any major alterations of the plans or specifications must be submitted to the Commissioners' Court for approval.

**SPECIAL PURCHASES**

**A. Unbudgeted Capital Purchases**

If the needed capital item was not included as part of the County Budget, the following procedures should be followed in order to obtain budgetary authorization:

- (1) The requesting department must fill out an electronic requisition form and document the justification for the item.
- (2) The requesting department shall include in the memo a cost estimate justifying the need and a statement of whether there are available departmental funds that may be used for this purchase.
- (3) The requesting department must fill out a line item amendment form and submit to the County Auditor.
- (4) The County Auditor will then present the request to the Court. The Commissioners' Court will approve or decline the request. If approved, normal purchasing procedures apply.

After the Commissioners' Court has granted budget authorization, the item will be competitively bid if over \$50,000.

## **B. Acquisition under a Blanket Purchase Order**

### **(1) Authorization of Blanket Purchase Order**

A Blanket Purchase Order authorizes a County department to obtain up to a specified amount of material (services or supplies) on a continuing-basis from a vendor. Such Purchase Orders are authorized only by the County Auditor in appropriate circumstances, i.e., parts for vehicle maintenance, or small equipment, small parts. Any department foreseeing a definite and regular need for items not available routinely should consider contacting the County Auditor to investigate obtaining a Blanket Purchase Order for such items.

Blanket Purchase Orders anticipated to exceed \$50,000 during the course of a year must be competitively bid, as described in Section V. No Blanket Purchase Order may exceed budgeted funds for such purchases by the Department. Blanket Purchase Orders determined case by case.

### **(2) Procedure for Acquisition under Blanket Purchase Order**

- (a) The department will pick-up or receive items during the course of a calendar month according to the terms of the contract.
- (b) The department will retain receipts and/or delivery tickets for all items picked up or delivered during the month.
- (c) At the end of each week, the department will attach signed receipts/delivery tickets to the department's copy of the Blanket Purchase Order and forward them to the Auditor's office.
- (d) The Auditor's office shall enter into the computer information concerning the items received.
- (e) At the beginning of each month, a new request will be initiated by the individual departments and approved to be set up by the County Auditor.

## **C. Emergency Purchases**

Emergency purchases are authorized in extremely limited circumstances: (a) in the event of public calamity for the benefit of the county citizens or to protect public property; (b) in order to protect the public health or safety of county residents; or (c) when made necessary by unforeseen damage to public property. Depending upon the time of the emergency and type of purchase necessary, one of the following procedures should be followed:

- (1) After hour's emergency -- in such instances the department must take the necessary action to obtain the needed goods or services. If, however, the Department is aware that the purchase involves an expenditure of \$25,000 or more, a reasonable effort should be made to contact the County Judge or County Auditor to notify him or his designated representative that the emergency exists. The next working day the Department should contact purchasing to obtain a requisition and purchase order; procedures applicable to phone in purchase orders may be followed.

- (2) Emergency during working hours -- (a) If the purchase is for less than \$25,000 and budgeted funds are available, phone-in purchase order procedures may be utilized; (b) if the purchase is less than \$25,000 and funds are not available, approval of the County Judge and County Auditor must be obtained by the Department prior to acquiring the item using the phone in purchase order procedure; or (c) if the purchase is in excess of \$25,000, the Department must obtain approval of the 3 members of the Court for the purchase and then utilize phone in purchase order procedures.

#### **D. Sole-Source Purchases**

An item valued in excess of \$50,000, which would otherwise be purchased by competitive bidding, may be purchased without the necessity of bidding if it is available from only one source. Typical items in this category include patented or copyrighted material, secret processes, natural monopolies, utility services, captive replacement parts or components for equipment, and films, manuscripts or books. Such items may be purchased from a sole source without competitive bidding only after the Department, in writing, certifies the existence of only one source to the Commissioners' Court and the Court enters a finding of such in its minutes.

#### **E. Equipment Maintenance**

Maintenance contracts for service on County owned equipment is arranged through the Commissioner's Court or County Judge.

- (1) Equipment under warranty or existing maintenance contract – the department will contact the appropriate vendor and arrange for the service. After the equipment is serviced, the Department should notify Auditor's office that the equipment has been serviced.
- (2) Service of Other Equipment
  - (a) The department will contact vendor(s) and obtain estimate(s) of cost. If estimated cost is not justified (e.g., cost of repair exceeds replacement cost or value of equipment), the Auditor's office will advise the Department and declare the equipment surplus. If the Department objects to the equipment being declared surplus, the final decision on whether or not to declare the equipment surplus will be made by the Commissioners' Court.
  - (b) If the cost of maintenance is justified, the Department will prepare a requisition and normal purchasing procedures will be followed.
  - (c) After the equipment has been serviced, the Department will forward the service ticket to the Auditor.

#### **F. Impracticality of Preparing Detailed Specifications**

If the Department determines that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, the Department shall notify Commissioners' Court that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, Commissioners' Court shall instruct the Department to follow purchasing procedures as prescribed in "Alternative Multistep Competitive Proposal", Section 262.0295 of the LGC.

## **INSPECTING, TESTING AND RECEIVING**

- A. It is the responsibility of each County department to see that all purchased items conform to the quantity, quality and specifications of the order.

After delivery of the merchandise to the requesting department, the department must determine whether the goods are acceptable. If they are not, the Receiving Department must immediately notify the Vendor of the reasons why the merchandise is not acceptable. The Department will then contact the vendor for replacement, cancel the order, or take other appropriate action to obtain correct merchandise.

## **COUNTY-OWNED SUPPLIES AND EQUIPMENT**

All County-owned supplies, equipment and machinery must be used only for County business. Elected Officials and Department Heads are responsible for the proper accounting for, maintenance of and use of County equipment.

### **A. Receipt of New Property -- Tagging**

New property with a value of \$1,000 and up will be tagged with a Erath County Property tag with a sequential number for inventory purposes by the County Auditor.

All IT related equipment and peripherals will be monitored, tagged and inventoried by the IT department.

### **B. Elected Official and Department Head Responsibility**

Each Elected Official and Department Head is responsible for the custody and care of county property assigned to their respective department. County property may be used only for County purposes. Each Elected Official and Department Head is responsible for ensuring that assets are tracked and secured in a manner that is most likely to prevent theft, loss, damage or misuse of assets. Care shall be taken to insure all necessary precautions are in place so that assets are secured.

### **C. Controlled Property**

Each Elected Official and Department Head shall maintain control over property not defined under the capitalization policy, yet considered high-risk items. High-risk items include, but are not limited to, weapons, electronics, tools, and computer peripherals. Each Elected Official or Department Head to track such items shall establish internal procedures. The County Auditor upon request shall make reports of high-risk items available for inspection.

Information Technology Department shall maintain an inventory of all computer equipment for the purpose of tracking and maintenance. This inventory does not absolve Elected Officials and Department Heads from the responsibility of assuring stewardship of the property or the reporting requirements for the property.

### **D. Transfer of Property Local Gov. Code Section 262.011(j)**

Commissioners Court may transfer supplies, materials and equipment among the various County departments. The transfer or trade of any equipment (not limited to capital items) from one department to another must be handled through the County Auditor. In the event an item is no longer required, the department shall notify the County Auditor in writing. The County Auditor will direct appropriate action to be taken.

The County Auditor and other departments are encouraged to make inquiries as to unused or unneeded equipment in the possession of other departments, but the decision as to whether the property is unneeded ultimately rests with the Commissioners Court.

#### **E. Missing Property**

Lost or stolen property must be reported immediately. The Elected Official or Department Head must make reports of loss or theft in writing to the County Auditor. Reports of theft must have attached a copy of the theft report compiled by the proper law enforcement agency.

If an item cannot be located, the Auditor will verify all proper documentation has been submitted by the respective department and remove the item from the financial accounting system.

#### **F. Disposal of Surplus or Salvage Property Local Gov. Code Chapter 263, Subchapter D)**

The Auditor may periodically request that the Commissioners Court declare property “surplus” (in excess of needs, but still useful) or “salvage” (valueless property). Surplus or salvage property may be sold by competitive bid or auction by the Auditor as provided in Section 263 of the Local Government Code. Surplus or salvage property is not limited to capital items as defined herein.

County employees will be given the same opportunity afforded to other persons to bid on and purchase surplus properties offered at a public sale or auction.

No County Auditor employee or his or her immediate family may bid on property sold through a Sealed Bid Sale. County Auditor employees may not knowingly purchase or receive merchandise through a third party through a Sealed Bid Sale.

Erath County may sell surplus or salvage property to another county or a political subdivision within the county, or offer the property as a trade-in for new property of the same general type. Commissioners Court may order the property to be destroyed or disposed of if bids are not received from a public auction or sealed bid sale.

#### **G. Inventory Arrangements – Resignation, Retirement or Removal**

When an Elected Official or a Department Head leaves his or her County employment, arrangements must be made with Auditor for an equipment inventory far enough in advance ensuring that the inventory can be taken before the termination date. The County Auditor will provide to the Commissioners Court a full report, noting any discrepancies between property actually located and property listed on the inventory. The County Official or Department Head will be personally accountable to the Court for all missing items.

## **H. Annual Inventory**

On July 1 of each year, the Departments shall file an inventory of all property of the county with the County Auditor based on the information submitted by the Elected Officials and Department Heads for the purpose of financial accounting and inventory control.

## **LEGAL BASIS FOR PURCHASING**

### **A. Govt. Code Chapter 2254 -- Professional Services Procurement Act**

Counties may not bid contracts for professional services. These contracts instead must be awarded on the basis of “demonstrated competence and qualification for the type of professional services to be performed.” Fees must be “fair and reasonable,” consistent with and not in excess of published recommended practices and fees of applicable professional organizations, and not in excess of any maximums specified by State law. “Professional services” includes services within the scope of the practice of: accounting, architecture, optometry, professional engineering; this includes services performed by any licensed architect, optometrist, physician, surgeon, certified public accountant or registered professional engineer in connection with his or her professional employment or practice.

### **B. Local Gov. Code Chapter 271, Subch. D -- Purchase Under State Contract**

The State Purchasing and General Services Commission may perform purchasing services for local governments (including counties). The county may participate by adopting a resolution. The contents required in the resolution are stated in the statute. A county that purchases under state contract satisfies all competitive bidding laws.

### **C. Local Gov. Code Chapter 171 -- Conflict of Interest**

Ownership of certain property or business interests may require that a local public official refrain from participation in votes or decisions and/or refrain from certain acts if the vote, decision or act involves the business interests or property owned by the public official or by a person related to the public official within the second degree of consanguinity or affinity.

“Local public official” includes members of the county governing body or other county officers, whether elected or appointed, paid or unpaid.

A person is deemed to have a substantial interest in a business entity” if”:

- (1) Ownership of ten per cent (10%) or more of voting stock or shares of the business entity, or ownership of \$2,500 or more of the fair market value of the business entity; or
- (2) Proceeds received from the business entity exceed ten per cent (10%) of the person’s gross income for the prior year.

A person is deemed to have a substantial interest in real property if the interest, whether involving equitable or legal ownership, has a fair market value equal to or exceeding \$2,500. A local public official is deemed to have a substantial interest in the business entity or in land

if a person related to the official within the second degree by consanguinity or affinity has a substantial interest in said business entity or land as defined above.

If the local public official has a substantial interest in a business that seeks to do business with the county, the official must file with the county clerk an affidavit stating clearly the nature and extent of his interest. The public official must then abstain from participation in any matter involving or between the county and the business in which he has the substantial interest. In particular, this includes abstention from votes or other decisions regarding the business entity, if it is reasonably foreseeable that action taken on the matter would or might confer an economic benefit on the business. The official must not act as surety for the business if it has work, business or contracts with the county. An official may not knowingly act as a surety on any official bond required of an officer of the county. A violation of any of these is a crime (CLASS A misdemeanor).

The County Commissioners' Court may, however, contract for services or personal property with a business entity in which a member of the court has a substantial interest if the business entity (1) is the only business entity which can provide the needed service or property within the jurisdiction of the Commissioners' Court, and (2) bids on the contract.

The Commissioners' Court must take a separate vote on any budget item that is specifically concerned with a contract involving a business entity in which a member of the Court has a substantial interest. The Commissioner having the substantial interest may not participate in that separate vote; he may, however, vote on the final budget if: (1) he has otherwise complied with the requirements of Local Gov. Code Chapter 171, some of which are indicated above, and (2) the matter regarding the business entity with which the member is concerned by virtue of his substantial interest has been resolved.

**D. Local Gov. Code Chapter 262, Subch. A -- County Contracting Agent**

The Commissioners' Court may at its discretion appoint an agent with authority to contract on behalf of the county for (1) erecting or repairing county buildings; (2) supervising same; or (3) any other purpose authorized by law. Any contract or other act of such an agent that is properly executed on behalf of the county and is within the agent's authority is binding on the county for all purposes.

**E. Local Gov. Code Chapter 263, Subch. D -- Disposition of Salvage or Surplus Property**

Surplus property is property in excess of needs, but property that still has some usefulness. Salvage property is defined as property having no value for the purpose for which it was originally purchased.

Surplus or salvage property may be sold by competitive bid or may be auctioned. It also may be offered as a trade-in on new property of the same general type. If the commissioners' court cannot sell or trade in the property, the property can be destroyed. (Formerly Act. 664-7)

**F. Local Gov. Code Chapter 262, Subch. C -- County Purchasing Act (Competitive Bidding)**

Purchasing and contracting authority of the county is contained in Chapter 262 of the Local Government Code. It is a comprehensive county purchasing statute. The statute includes:

1. Competitive bidding requirements, procedures and exemptions;
2. An alternative competitive request scheme and proposal procedure for insurance or high technology items (see section 262.030); and
3. Bond requirements for bidders.

The competitive bidding procedures must be strictly complied with except for certain specific exemptions enumerated in the statute. These include certain emergencies and cases involving sole suppliers. Failure to follow the bidding requirements of the act may subject the contract to injunction to prohibit its performance. See section 262.033.

All separate, sequential or component purchases of items ordered or purchased by the same officer or department from the same supplier in any attempt to avoid the bidding requirements are treated as parts of a single purchase or contract. 262.023(c). Any county officer or employee who knowingly or intentionally makes or authorizes separate, sequential or component purchases in avoidance of the competitive bidding requirements is guilty of a CLASS B misdemeanor. Automatic and immediate removal of the officer or employee from his county office or position results upon final conviction. 262.034(a).

Intentional or knowing violation of the subchapter is a CLASS C misdemeanor.

**G. Labor Code Section 406.096 applies to every “building or construction contract” entered into by the State or a political subdivision of the State, no matter how small the subject matter of the contract may be.**

**H. Local Gov. Code Chapter 113 -- Approval of Claims by County Auditor**

Each “claim, bill and account “against the county” must be filed with the county auditor, allowing sufficient time for the auditor to “examine and approve” the claim before the meeting of the Commissioners’ Court at which it is to be approved. Such claim, bill or account may not be paid or allowed until it has been “examined and approved” by the county auditor. Section 113.064(a). The auditor may not audit or approve a claim unless the claim was “incurred as provided by law.”

The auditor may not audit or approve and account (i.e., claim) for the purchase of supplies or materials for the county unless a requisition properly signed by the officer ordering the supplies or materials and approved by the county judge is attached to the account (claim). Section 113.901(a). The county judge may, by written order, waive the requirement that he approve requisitions. If this approval requirement is waived, all claims must be approved by the Commissioners’ Court in open court.

## MISCELLANEOUS

### **Vendor Accounts**

Typically, purchases will be made with established Vendor's who have turned in a Vendor packet to the County in advance of any business dealings. The Vendor packet includes the W9, billing address, contact information, Conflict of Interest Form and other pertinent data necessary to establish a Vendor relationship with the County. Establishment of credit accounts with the County should all be directed to the County Auditor.

In some cases, purchases will be made with a County Credit card to a Vendor who the County has not established terms. This type of purchase should be the exception and not regular business.

### **Quotes Required**

If a purchase is being made for an item that is anticipated to exceed \$3,000.00 the purchaser should request a quote from at least two Vendors and forward the quotes along with the purchase request to the Auditor's office.

There are instances where a purchase is made on a routine basis and the purchaser would be aware of current market prices. An example might be the purchase of equipment tires by a Precinct or a technology purchase being made by the IT department. In these cases, a quote may not be required, however, quotes from more than one Vendor ensure the County is always seeking the best prices available.

### **Technology Purchases**

Any purchases made for technology items to be used for County business should be coordinated with the Erath County IT Department. Technology changes rapidly and factors, such as, network compatibility and product obsolescence should be reviewed by IT before the purchase is made.

### **Original Invoice Required**

Original invoices must be presented to the Auditor's office and will be retained by the Auditor's office either in original format or on digital media. You are welcome to make copies of the invoices for your records before submitting them.

### **Recurring Invoices**

Bills for utilities, subscriptions, copier leases, drinking water, lease payments, etc. are considered recurring invoices. These invoices should be sent directly to the Auditor's office for processing. No purchase order in advance is required for these items as they were included in the annual budget.

Any new contract for these types of items are required to be approved through Commissioners Court and will must be budgeted.