

# **TOWN OF PROSPER ADMINISTRATIVE REGULATIONS**

## **CHAPTER 11: PURCHASING**

The Purchasing Division will serve as the central procurement office of the Town, and will have the right to determine which method of procurement provides the best value for the Town, adopt operational procedures consistent with sound business practices and state law, governing the procurement and management of all materials, services, and construction to be procured by this Town, and to manage disposal of materials no longer needed by the Town.

The purpose of the Purchasing Policy is to provide the Town with the requisite parameters for purchasing goods and services under applicable state statutes. More specifically, the purposes are:

- to simplify and clarify the laws governing purchasing by the Town
- to permit the continued development of purchasing policies and practices
- to provide consistency in the purchasing practices of the Town with regard to pertinent purchasing laws
- to increase public confidence in public purchasing
- to ensure the fair and equitable treatment of all persons who participate in the purchasing process
- to provide increased economy and efficiency in purchasing activities by avoiding unnecessary, unwarranted, and duplicative purchases
- to foster free and open competition
- to provide safeguards for the maintenance of a purchasing system of quality and integrity
- to ensure that full accounting is available and given for all purchases.

### **SECTION 11.01: ORGANIZATIONAL RESPONSIBILITIES**

#### **A. Town Council**

The Town Council shall be responsible for:

1. considering all purchases exceeding \$50,000, or the amount set for competitive bidding pursuant to current state law;

2. considering all written contracts and agreements exceeding \$25,000;
3. considering all change orders exceeding \$25,000, provided the change order does not increase the original contract price by more than twenty-five percent (25%), or decrease the original contract price by more than 25% without the consent of the contractor;
4. adopting rules for electronic receipt of bids or proposals (Resolution No. 13-52); and
5. approving the alternative bidding method to be used for construction projects, as described by Chapter 2269, Government Code, after determining it to be a better value than competitive bidding.

#### **B. Town Manager**

The Town Manager shall be responsible for:

1. approving and executing change orders up to \$25,000, provided the change order does not increase the original contract price by more than 25%, or decrease the original contract price by more than 25% without the consent of the contractor (Ordinance No. 13-53);
2. approving and executing all contracts and agreements up to \$25,000 (Ordinance No. 13-53);
3. approving and executing interlocal agreements entered into pursuant to Chapter 791 of the Texas Government Code, up to \$25,000, including purchasing agreements and agreements with other governmental entities relative to authorized governmental functions and services, as defined in Section 791.003(3) of the Texas Government Code (Ordinance No. 13-53); and
4. approving requisitions over \$10,000.

#### **C. Town Department Heads**

Town Department Heads, or an authorized designee, shall have authority to approve requisitions up to \$10,000, and be responsible for:

1. complying with existing purchasing policies and procedures;
2. reviewing and approving proposed purchasing actions to avoid unnecessary or duplicative purchases;
3. ensuring that the item to be purchased has monies available in the budget;
4. determining whether a contract exists for the item to be purchased;
5. verifying that the items received are sufficient and in good condition, and authorizing payment of the invoice; and

6. ensuring that all paperwork is forwarded to the purchasing and finance offices for recordation and payment.

#### **D. Purchasing Agent**

The Purchasing Agent shall be responsible for:

1. developing and administering the Town's purchasing policy and procedures;
2. managing the Town's purchasing program to include compliance with all statutory and internal policies;
3. developing and maintaining a purchasing procedures manual;
4. determining the best method of procurement (excluding alternative construction methods) (Resolution No. 13-51);
5. processing purchase requests;
6. executing and issuing purchase orders;
7. identifying, soliciting, and evaluating competitive offerings to select vendors or contractors;
8. monitoring the terms and conditions of purchases;
9. ensuring complete and accurate documentation of all purchases;
10. administering contracts and agreements for goods and services;
11. administering the requisition/purchase order/p-card modules of the financial system;
12. administering the electronic procurement (e-procurement) system;
13. administering the Town's procurement card program;
14. performing vehicle fleet and equipment administration;
15. managing fleet fuel accounts, First Responder toll tag accounts, and other related fleet accounts as assigned;
16. administering the Town's fleet/mobile equipment tracking software program;
17. disposing of surplus and obsolete property; and
18. maintaining all purchasing files and records.

## **SECTION 11.02: ETHICS**

### **A. Standard of Conduct**

Each officer, employee, or agent acting under the authority of this Section shall at all times adhere to and comply with the Town's Code of Ethics, set forth in Article 1.10 of Chapter 1 of the Town's Code of Ordinances, and Chapter 171 of the Texas Local Government Code.

No officer, employee, or agent of the Town shall participate in the negotiation, selection, discussion, award or administration of a contract or procurement supported by public funds if: 1) that individual has a substantial interest in a person or entity, as defined by Chapter 1, Article 1.10 of the Town's Code of Ordinances and/or Chapter 171 of the Texas Local Government Code, that is the subject of the contract or procurement; or 2) a conflict of interest exists. An officer, employee or agent of the Town shall at all times avoid the appearance of impropriety.

A conflict arises when a Town employee, officer or agent, or any relative thereof, a partner or a person or an organization that employs or may employ in the near future any of these individuals, has a financial or other interest in any entity that may be considered for the award.

### **B. Course of Conduct in the Event of a Conflict or Substantial Interest**

In the event of a conflict of interest or substantial interest, as set forth in subpart A, the affected officer, employee or agent must adhere to the following procedures:

1. sign a declaration of possible conflict of interest or affidavit of a substantial interest; and
2. if applicable, abstain from any participation in any procurement action:
  - a. where the officer, employee or agent directly represents an organization or may receive an economic benefit;
  - b. where the officer, employee or agent is in direct competition with a proposal or bid which would provide a direct financial benefit; or
  - c. as required by Chapter 171 of the Texas Local Government Code and the Town's Code of Ethics.
3. abstain from participating in the procurement process, which includes, but is not limited to, discussions, lobbying, rating, scoring, recommending, explaining or assisting in the design or approval of the procurement process or the award of the contract:
  - a. on contracts with the organization he/she represents or from which he/she receives an economic benefit;
  - b. on contracts with organizations in which a relative might realize an economic benefit; or

- c. as required by Chapter 171 of the Texas Local Government Code and the Town's Code of Ethics.

### **C. Violations and Remedies**

Violations of policy may constitute misconduct, subjecting the violator to any and all penalties prescribed by state law, the Town's Code of Ethics, and/or the Town's Charter.

Penalties, sanctions or other disciplinary actions, to the extent permitted by state or local law, rules or regulations, shall be imposed for violations of the code of conduct/conflict of interest standards, by Town officer, employees or agents or by persons, contractors or their agents, when the procurement involves state or federal programs and/or funds.

Appropriate sanctions, penalties or disciplinary actions shall be applied for violations. Violations of state or federal law shall be referred to the proper authority having jurisdiction over same.

## **SECTION 11.03: REQUISITION REQUIREMENTS**

Requisitions are required for all procurements in excess of \$3,000, unless otherwise exempt as indicated in the Exemptions section below. Requisitions may be submitted for purchases less than \$3,000, but are not required. Requisitions shall be electronically submitted in the financial system, with all supporting documentation attached.

### **A. Exemptions**

1. Items that are exempt from the requisition requirement and can be paid with a procurement card, by completing a check request, or approved for payment in the manner prescribed by the Finance Department are:
  - catered event fees
  - election fees
  - insurance premiums
  - membership or professional association dues and fees
  - periodicals
  - postage
  - registration fees
  - regulatory fees
  - subscriptions

- travel expenses
  - tuition
  - utilities
  - other fees as approved by the Purchasing Agent.
2. Items that are exempt from the requisition requirement and will have a purchase order issued directly to the vendor by the Purchase Office are:
- one-time purchases pre-approved by the Town Council (Agenda Items)
  - one-time purchases pre-approved by the Town Manager (Manager's Memorandums).

Any recurring costs associated with a one-time purchase will comply with the requisition requirement on all future year expenditures.

## **B. Emergency Requisition**

### **1. Conditions**

In order to qualify as an emergency purchase, one of the following conditions must exist, as identified in Section 252.022 of the Texas Local Government Code, as amended:

- a. a purchase necessary because of a public calamity that requires the purchase of goods or services to relieve the necessity of the municipality's residents, or to preserve the property of the municipality;
- b. a purchase necessary to preserve or protect the public health or safety of the municipality's residents; or
- c. a purchase necessary because of unforeseen damage to public machinery, equipment, or other property.

### **2. Process**

If a condition qualifies as an emergency purchase, the emergency requisition process shall be followed, as outlined in the Purchasing Procedures Manual that has been provided to each department/division.

## **C. Requisition Processing**

Upon receipt of a requisition, the Purchasing Office shall process the requisition and procure goods and services utilizing the best method of procurement, to include the following:

- check the requisition for completeness;
- comply with State of Texas Historically Underutilized Business (HUB) law, as identified in Section 252.0215 of the Texas Local Government Code, as amended, and with internal policies and procedures;
- verify contract provisions, if purchasing goods or services from an existing contract;
- verify signature authorization;
- verify that sufficient funds are available to purchase goods or services; and
- prepare and issue a purchase order.

#### **SECTION 11.04: PURCHASING THRESHOLDS**

##### **A. Purchases \$3,000 and under**

1. Competitive quotes are not required for purchases \$3,000 or under, but may be obtained for any purchase. Procurement cards should be utilized for these purchases when possible.

##### **B. Purchases Over \$3,000 and up to \$50,000**

1. Competitive written quotes will be solicited by the department, from an adequate number of vendors to ensure competition, including at least two Historically Underutilized Businesses (HUBs), if available, as required in Section 252.0215 of the Texas Local Government Code, as amended. HUBs should be contacted on a rotating basis, based on information provided by the comptroller. If the list fails to identify a HUB in the county, the Town is exempt from this requirement. All purchases within this dollar threshold will be processed through the Purchasing Office, except for exempt purchases defined above.

##### **C. Purchases Over \$50,000**

1. Unless otherwise specified by law, all purchases in excess of \$50,000 shall be awarded by competitive sealed bidding, competitive sealed proposals, reverse auction procedures, or in compliance with an alternative construction method described by Chapter 2269, Government Code, all pursuant to current state law. All competitive processes will be managed by the Purchasing Office, in coordination with the associated Town department(s).
2. Change Orders shall not exceed 25% of the original contract amount, or decrease the original contract price by more than 25% without the consent of the contractor, except for exempt purchases as defined above.

The Town may not split purchases to circumvent the competitive requirements or the \$50,000 limit. Split purchases are defined as follows:

1. Component Purchases: Purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.
2. Separate Purchases: Purchases made separately of items that in normal purchasing practices would be purchased in one purchase.
3. Sequential Purchases: Purchases made over a period, of items that in normal purchasing practices would be purchased in one purchase

## **SECTION 11.05: METHODS OF PROCUREMENT**

### **A. Methods of Procurement**

The Purchasing Agent will determine the best methods of procurement (excluding alternative construction methods), based on the purchasing threshold as identified above, and the nature of goods or services required. The methods of procurement utilized by the Town include, but are not limited to, the following:

- Competitive Sealed Bids (CSB)
- Competitive Sealed Proposals (CSP)
- Request for Proposals (RFP)
- Request for Statements of Qualifications (SOQ)
- Request for Quotes (RFQ)

### **B. Exemptions**

Exemptions from the methods of procurement listed above, as identified in Section 252.022 of the Texas Local Government Code as amended, include, but are not limited to, the types of purchases listed below.

1. Emergency Purchases: An emergency purchase that qualifies under one of the conditions defined above.
2. Personal Services: Services involving the personal, intellectual or manual labor of an individual; a service performed personally by a particular individual for the benefit of another.
3. Professional Services: Services performed within the scope of practice (or provided in connection with the employment of a licensed person in the areas of practice) of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising or professional nursing. Methods for procuring these services are set forth in the Texas Government Code, Chapter 2254.

4. Planning Services: Services primarily intended to guide governmental policy to ensure the orderly and coordinated development of land uses.
5. Consulting Services: Service of studying or advising the Town under a non-employee/ employer type contract.
6. Sole Source Purchases: The item is available from only a single source because of patents, copyrights, secret processes or natural monopolies; films, manuscripts, or rare books; electricity, gas, water and other utility services; captive replacement parts or components for equipment.
7. Cooperative Purchases: Supplies, equipment or services purchased through an approved cooperative purchasing program which meets all applicable laws and regulations.
8. Personal Property: Property sold (a) at an auction by a state licensed auctioneer; (b) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; (c) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or (d) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391, Local Government Code.
9. Retail Sale: Goods purchased for subsequent retail sale by the Town.
10. Advertising: Advertisements, other than legal notices.

### **C. Professional Services**

Although Professional Services are exempt from competitive bid laws, the Town will utilize the SOQ process for the selection of firms as follows:

1. Architectural, Engineering, or Land Surveying Services: The Town will utilize the SOQ process for the selection of the most highly qualified firms providing Architectural, Engineering, or Land Surveying services, for any dollar amount.
2. All Other Professional Services: The Town will utilize the SOQ process for the selection of firms, on the basis of demonstrated competence and qualifications to perform the services; and for a fair and reasonable price, for professional services other than those identified above, if the expenditure for services is anticipated to be in excess of \$25,000.

### **SECTION 11.06: PROCUREMENT CARD PROGRAM**

The procurement card (p-card) program is a payment mechanism designed to reduce the administrative costs associated with processing small purchases under \$3,000. The p-card program is not intended to avoid or bypass appropriate purchasing or payment procedures. The intent of the p-card program is to complement the existing purchasing processes available.

## **A. Obtaining Procurement Cards**

The Procurement Card Application Form is available from the Purchasing Office. Upon Department Head signature of approval, the completed application form should be submitted to the Program Administrator (Purchasing Agent or designee). P-cards will not be issued to cardholders until each cardholder:

1. has received the appropriate level of training from the Program Administrator;
2. has received program hand-outs; and
3. has signed the Cardholder Agreement confirming receipt of p-card, understanding of agreement, and acknowledgment that improper use of the p-card may result in disciplinary action, up to and including termination of employment.

## **B. Cardholder Limits and Commodity Restrictions**

Monthly dollar limits and commodity restrictions will be assigned to all Town p-cards. The monthly billing cycle runs from the 6th of the month, to the 5th of the following month. If the 5th falls on a holiday or weekend, the billing cycle will be extended until midnight on the first business day following the 5th.

Some restrictions will apply to the entire program, such as cash advances, alcohol, cigar/tobacco products, and casinos/gambling facilities, while others are determined based upon the cardholder's job position and responsibilities. If a purchase is declined due to Merchant Category Code (MCC) exclusion, and you have reason to believe that the MCC is valid, contact the Program Administrator to discuss.

The Program Administrator will assign one of the authorization levels listed below to each p-card. Variations must be approved in advance by the Town Manager. This is not meant to be an all-inclusive list, and the Town reserves the right to impose other limitations and restrictions.

1. Executive: \$5,000
2. Supervisory or Administrative Support: \$3,000
3. General: \$1,000 (additional exclusions may apply, including any travel related expenses)

## **C. Duties and Responsibilities**

1. Program Administrator

The Purchasing Agent will serve as the Program Administrator for the Town's p-card program. The responsibilities of the Program Administrator include:

- a. serving as the official Town liaison with the credit card processing company;
- b. determining appropriate MCC exclusions to minimize risk to the Town;

- c. maintaining online p-card system, to include cardholder database, department assignments, hierarchy levels, and accounting codes;
- d. processing p-card applications;
- e. issuing p-cards and related program information;
- f. maintaining inventory of p-cards and authorization level assignments;
- g. providing training to all cardholders;
- h. securing revoked/cancelled p-cards;
- i. handling disputed charges/discrepancies not successfully resolved between cardholder and merchant;
- j. assisting departments with merchant declines and emergency transactions;
- k. handling re-issuance of expired cards;
- l. handling replacement of p-cards after notification of lost/stolen/fraudulent activity; and
- m. handling any and all issues related to the p-card program not specifically mentioned.

## 2. Cardholder Responsibilities

P-cards will be assigned to individual cardholders, and should not be shared. Although the cardholder's name is printed on the card, the card is issued to the Town of Prosper and will have no impact on the cardholder's personal credit. However, Town funds are committed each time the p-card is used, and each individual cardholder is responsible for all charges made to their p-card. Therefore, by participating in the p-card program, all cardholders are responsible for the following:

- a. not allowing other individuals to use their p-card;
- b. determining if the transaction is an acceptable use of the p-card, and if the total expenditure, including delivery or freight charges, is within the cardholder's spending limit;
- c. ensuring p-card is utilized for legitimate Town business only;
- d. ensuring transactions are not split to avoid the \$3,000 threshold that requires a requisition to be submitted to the Purchasing Office;
- e. ensuring that the Town is not charged sales tax - inform the merchant of tax exempt status **prior** to placing the order;

- f. obtaining an itemized invoice or receipt for every p-card transaction - the credit card charge slip is not considered adequate documentation;
- g. for business meals, include the purpose of the business meal, and the names of those in attendance on the receipt;
- h. completing transaction review and coding transactions in the financial system after the end of each billing cycle;
- i. submitting Expense Report, with detailed receipts attached, to the assigned supervisor for review, reconciliation, approval, and submission to the Purchasing Office by the 15th of each month;
- j. maintaining p-card in a safe and secure location at all times;
- k. attempting to resolve disputes or billing errors directly with the merchant;
- l. notifying the Program Administrator of any disputes that cannot be resolved with the merchant, and following the credit card company's dispute process;
- m. immediately informing the bank, at the phone number indicated on the p-card, your Department Head, and the Program Administrator of lost or stolen p-cards, or of fraudulent charges; and
- n. surrendering p-card to the Program Administrator upon separation from the Town, or on demand at any time.

#### **D. Missing Receipts**

It is the responsibility of the cardholder to obtain an itemized receipt/invoice for each transaction. If a receipt/invoice is missing, the cardholder will make every effort to obtain a duplicate receipt/invoice from the merchant. However, if obtaining a duplicate receipt is not possible, a Missing Receipt Form will be completed, approved by the supervisor, and attached to the Expense Report. Contact the Program Administrator to obtain the form. Habitual use of the Missing Receipt Form may be grounds to revoke p-card privileges.

#### **E. Returns, Credits, and Disputed Charges**

Should a problem arise with a purchased item, or with billing, every attempt should be made by the cardholder to resolve the issue directly with the merchant. Review of future statements is vital to ensure that the account is properly credited for returns, credits, and disputed charges. It is the cardholder's responsibility to ensure credits are processed in a timely manner.

If you are unable to resolve the issue directly with the merchant, please notify the Program Administrator, and follow the credit card processing company's dispute resolution process. The Program Administrator is available to assist with this process.

During the investigation, a credit will be issued to the cardholder's account for the amount in question. Upon completion of the investigation, the cardholder will be notified of resolution. If the dispute is not settled in the cardholder's favor, the account will be charged for the disputed transaction amount.

Failure to take immediate and appropriate action could result in a loss to your department's budget, and your p-card privileges may be revoked.

#### **F. Lost, Stolen, or Misplaced Cards**

If your p-card is lost or stolen, immediately contact the credit card processing company at the number below. Representatives are available 24 hours a day, 7 days a week. Also contact the Program Administrator and your Department Head during normal business hours. Prompt action can reduce the Town's liability for fraudulent activity. The credit card processing company will be responsible for all transactions made after the card has been reported lost/stolen. The Town is liable for all charges prior to that time.

**Lost or Stolen Card: (800) 316-6056**

When reporting a lost or stolen card, the cardholder should tell the representative the call is regarding a company procurement card.

#### **G. Violations and Remedies**

Violations to the p-card program may result in disciplinary action, up to and including termination of employment. At a minimum, violations to the p-card program will result in the following remedies:

1. First Offense: Written warning of infraction.
2. Second Offense: P-card privileges suspended for thirty (30) days, and cardholder will surrender p-card to the Program Administrator for the duration of suspension period.
3. Third Offense: P-card privileges suspended permanently. Cardholder will surrender p-card to the Program Administrator.

### **SECTION 11.07: RECEIPT OF GOODS/SERVICES**

#### **A. Inspection**

Upon receipt of goods or services, it is the department's responsibility to ensure that the order is complete as to quality and quantity, and to report any discrepancies to the Purchasing Office or directly to the vendor.

If the shipment is complete and undamaged, the packing slip or delivery ticket should be signed and retained until the invoice for payment is received.

Should the department receive only a partial shipment, or return part of a shipment due to damage or delivery of the wrong items, this must be noted on the packing slip or delivery ticket, and noted on the invoice in order to prevent improper payment.

## **B. Damages/Defects**

Goods and services should be checked at the time of receipt to detect any damages or defects. This inspection should also include assuring that the material is in compliance with the specifications. When it is apparent that the extent of the damage causes the goods to be of little worth, they should not be accepted.

1. Visible Damage: One of the major reasons for inspection at the time of receipt is to detect any visible damage. It is important that all damage be completely described on the receiving paperwork.
2. Concealed Damage: Any evidence of concealed damage should be documented to support the filing of damage claims against the carrier. The carrier should be notified immediately, and a joint inspection should be scheduled with the carrier's representative.
3. Claims: If the shipment is "F.O.B. destination" the vendor is responsible for assisting with the settlement of the claim and for full replacement of the damaged items. Payment should be withheld until the claims are settled.

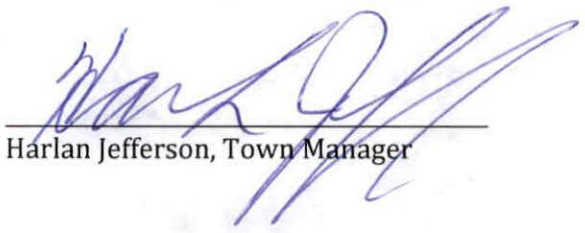
## **SECTION 11.08: DISPOSAL OF SALVAGE/SURPLUS PROPERTY**

The Purchasing Agent or designee shall be responsible for the disposal of salvage/surplus personal property. Personal property that has been deemed salvage or surplus may be disposed of by one the following methods, as deemed appropriate by the Purchasing Agent:

- sold at a public auction
- sold by soliciting competitive bids
- sold or donated to a political subdivision of this state, a state agency of this state, or an entity of the federal government
- sold or donated in accordance with any other approved personnel policy
- traded-in on new property of the same type
- destroyed or donated to a civic or charitable organization, if such property has a value of less than \$500

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The Town of Prosper Purchasing Policy was revised and adopted the 15 day of July, 2019.



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Harlan Jefferson, Town Manager

**TOWN OF PROSPER  
ADMINISTRATIVE REGULATIONS**

**Exhibit A  
Town of Prosper  
Purchasing Procedures Manual**

(Revised 3/17/2023)



**An Employee Guide to Understanding  
Town of Prosper Purchasing**

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# **Town of Prosper Purchasing Procedures Manual**

## **Introduction**

<b>Purpose</b>	To establish uniform procedures for the effective purchase of goods and services for the Town of Prosper, that are consistent with all applicable laws and Town policy, as set forth in the Town of Prosper Administrative Regulations, Chapter 11 Purchasing Policy and Procedures.
<b>Scope</b>	These procedures apply to all material and service purchases and related activities.
<b>Responsibility</b>	<p>Town Department Heads are responsible for complying with the existing purchasing policies and procedures, and for ensuring adherence to the same by their staff. Additionally, it is the individual responsibility of each employee involved in the purchasing process to understand the policy upon which these procedures are based and the meaning and intent of the procedures themselves.</p> <p>If there are any questions or concerns relative to either the policy or procedures, or the ability of the employee to respond effectively to the requirements of the procedures, then it is the responsibility of both the Department Head and employee to bring such matters to the attention of the Purchasing Manager immediately.</p> <p>The fundamental purpose of these procedures is not to restrict the effectiveness of the individuals involved in the purchase of goods and services, but to provide a foundation for effective, consistent, and complete consideration of all aspects of the task, with the expected result being a positive, professional relationship between the employees of the Town and the suppliers who serve the Town.</p>

## **Section 1 Purchasing Thresholds**

### **A. Exceptions**

This section applies to the purchase of all goods and services, except as follows:

1. **Emergency Purchases:** An emergency purchase that qualifies under one of the following conditions:
  - a. purchase necessary because of a public calamity that requires the purchase of goods or services to relieve the necessity of the municipality's residents, or to preserve the property of the municipality;
  - b. a purchase necessary to preserve or protect the public health or safety of the municipality's residents; or
  - c. a purchase necessary because of unforeseen damage to public machinery, equipment, or other property.
2. **Personal Services:** Services involving the personal, intellectual or manual labor of an individual; a service performed personally by a particular individual for the benefit of another.
3. **Professional Services:** Services performed within the scope of practice (or provided in connection with the employment of a licensed person in the areas of practice) of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising or professional nursing. Methods for procuring these services are set forth in the Texas Government Code, Chapter 2254
4. **Planning Services:** Services primarily intended to guide governmental policy to ensure the orderly and coordinated development of municipal land areas.
5. **Consulting Services:** Service of studying or advising the Town under a non-employee/employer type contract.
6. **Sole Source Purchases:** The item is available from only a single source because of patents, copyrights, secret processes or natural monopolies; films, manuscripts, or rare books; electricity, gas, water and other utility services; captive replacement parts or components for equipment.
7. **Cooperative Purchases:** Supplies, equipment or services purchased through an approved cooperative purchasing program which meets all applicable laws and regulations.
8. **Personal Property:** Property sold a) at an auction by a state licensed auctioneer; b) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; c) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or d) under an interlocal contract

for cooperative purchasing administered by a regional planning commission established under Chapter 391, Local Government Code.

9. Retail Sale: Goods purchased for subsequent retail sale by the Town.
10. Advertising: Advertisements, other than legal notices.

#### **B. Purchases \$3,000 and Under**

Departments can purchase goods and services that fall within this dollar threshold based on a single quote. Competitive quotes are not required, but they may be obtained for any purchase. **Departments are encouraged to utilize p-cards for these purchases whenever possible.**

#### **C. Purchases Over \$3,000 and Up to \$50,000**

Departments can purchase goods and services that fall within this dollar threshold by one of the methods listed below. Competitive written quotes should be solicited from at least three (3) vendors to ensure adequate competition, including at least two Historically Underutilized Businesses (HUBs), if available. HUBs should be contacted on a rotating basis, based on information provided by the State Comptroller. If the list fails to identify a HUB in the county, the Town is exempt from this requirement. All purchases within this dollar threshold will be processed through the Purchasing Office, unless otherwise exempted as listed in Section 5 of this manual.

1. Department Obtains Quotes or Proposals: The department can obtain quotes or proposals but must comply with the State of Texas HUB law. Please contact the Purchasing Office to obtain a list of HUB vendors prior to obtaining quotes, in order to expedite the process.
2. Purchasing Obtains Quotes or Proposals: The Purchasing Office can obtain quotes or proposals on behalf of the department. Quotes can be obtained manually, or through the Town's e-procurement system. The Purchasing Office will work with the department to develop a specification and will obtain quotes using the pre-determined method. All quotes received will be forwarded to the department for evaluation and selection of a vendor.

#### **D. Purchases Over \$50,000**

Unless otherwise specified by law, all purchases in excess of \$50,000 shall be awarded by competitive sealed bidding, competitive sealed proposals, reverse auction procedures, or in compliance with an alternative construction method described by Chapter 2269, Texas Government Code, all pursuant to current state law. All competitive processes will be managed by the Purchasing Office, in coordination with the associated Town department(s). The Town may not split purchases to circumvent the competitive bid limit. Split purchases are defined as follows:

1. Component Purchases: Purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

2. Separate Purchases: Purchases made separately of items that in normal purchasing practices would be purchased in one purchase.
3. Sequential Purchases: Purchases made over a period, of items that in normal purchasing practices would be purchased in one purchase.

## **Section 2 Methods of Procurement**

The Purchasing Manager will determine the best method of procurement to purchase goods and services and will discuss options with the department to select the appropriate method. The methods of procurement utilized by the Town are as follows:

### **A. Purchase of Construction Services**

#### **1. Competitive Bidding Method**

A bid is utilized to purchase one-time construction services over \$50,000 and is subject to the competitive bid laws of the State of Texas. Solicitations at this dollar threshold are processed by the Purchasing Office.

##### **a. Traditional Low Bid**

Award is made to the lowest responsive and responsible bidder. Negotiations are not permitted. A written contract is required, and conditions of Section 7 below will apply. Please allow 6-8 weeks at a minimum to complete the process.

##### **b. A+B Bidding**

Award is made to the lowest responsive and responsible bidder, taking into consideration the number of days bid. The number of days bid will be multiplied by the value of a calendar day as listed below and added to each bidder's base bid. This is also sometimes referred to as 'A+B' bidding. The Town reserves the right to set a maximum value to the total number of days. Negotiations are not permitted. A written contract is required, and conditions of Section 7 below will apply. Please allow 6-8 weeks at a minimum to complete the process.

<b>Amount of Contract (\$)</b>	<b>Value of a Calendar Day (\$)</b>
\$1,500,000 to \$1,999,999.99	\$500 per day
\$2,000,000 to \$2,999,999.99	\$1,000 per day
\$3,000,000 to \$3,999,999.99	\$1,500 per day
\$4,000,000.00 or more	\$2,000 per day

If applicable, any incentives offered by the Town will be solely at the direction of the Town Council.

## 2. Competitive Sealed Proposal (CSP) Method

This is an alternative construction method, as defined in Texas Government Code, Chapter 2269. A CSP can be utilized to purchase one-time construction services and is subject to the competitive bid laws of the State of Texas. Solicitations are processed by the Purchasing Office. Award is made to the contractor that offers the best value to the Town, based on pre-determined evaluation criteria. Negotiations are permitted with the top-ranked contractor, in order to obtain the best value for the Town. A written contract is required, and conditions of Section 7 below will apply. Please allow 8-12 weeks at a minimum to complete this process.

The standard evaluation criteria established for construction services is as follows but can be changed by the CIP subcommittee on a project by project basis as needed:

- Qualifications and Experience (25%)
  - Contractor and sub-contractor experience with similar projects.
  - Qualifications of key personnel assigned to this project.
  - References
- Project Timeline (10%)
- Cost Proposal (65%)

## 3. Construction Manager-At-Risk (CMAR) Method

This is an alternative construction method, as defined in Texas Government Code, Chapter 2269. This method can be utilized to purchase facilities construction services over \$50,000 and is subject to the competitive bid laws of the State of Texas. The Town contracts with an architect/engineer for design and construction phase services, and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction, rehabilitation, alteration, or repair of a facility. Award is made to the contractor that offers the best value to the Town, based on pre-determined evaluation criteria. Negotiations are permitted with the top-ranked contractor, in order to obtain the best value for the Town. A written contract is required, and conditions of Section 7 below will apply. Please allow 8-12 weeks at a minimum to complete this process.

The standard evaluation criteria established for construction manager-at-risk services is as follows:

- Overall Ability to Meet Town Objectives (10%)
- Experience with Similar Facility Construction (20%)
- Qualifications of Project Personnel (20%)
- References (10%)
- Cost Proposal (40%)

The standard evaluation criteria can be changed by the CIP subcommittee on a project by project basis as needed.

## 4. All Other Alternative Construction Methods

The use of other alternative construction methods, as defined in Texas Government Code, Chapter 2269, not specifically outlined above, will not be allowable until the Town sets parameters for use.

## 5. Liquidated Damages

In order to emphasize that time is of the essence for construction services, for each day that any work shall remain uncompleted after the time specified in the Contract or in an executed Change Order, including milestone completion dates, substantial completion, and final completion, the Town may deduct the following sum from monies due to the Contractor for each day the work remains uncompleted:

<b>Amount of Contract (\$)</b>	<b>Amount of Liquidated Damages (\$)</b>
Less than \$25,000.00	\$200.00 Per Day
\$25,000.00 to \$99,999.99	\$350.00 Per Day
\$100,000.00 to \$999,999.99	\$500.00 Per Day
More than \$1,000,000.00	\$1000.00 Per Day

In the case of a project where expenses are definitively quantifiable, a higher liquidated damage value can be assessed, and will be published in the Special Conditions section of the bid/proposal document for that specific project.

## B. Purchase of Non-Construction Goods and Services

### 1. Quote Method

Quotes are utilized to purchase goods and services up to \$50,000. Purchases over \$3,000 and up to \$50,000 are subject to the Historically Underutilized Businesses (HUB) law of the State of Texas. Quotes can be obtained by the department or the Purchasing Office, for one-time purchases or for the establishment of an annual contract. Award is made to the vendor providing the lowest bid or the best value, as pre-determined by the Town. Negotiations are not permitted. If a written contract is required, conditions of Section 7 below will apply. Please allow 2-4 weeks at a minimum to complete this process.

### 2. Competitive Bidding Method

A bid is utilized to purchase goods and services over \$50,000 and is subject to the competitive bid laws of the State of Texas. Solicitations at this dollar threshold are processed by the Purchasing Office. A bid is utilized for one-time purchases, or for the establishment of an annual contract if there is a continuous need to purchase same goods or services totaling in excess of \$50,000 annually. Award is made to the lowest responsive and responsible bidder, or to the bidder providing the best value, as pre-determined by the Town. Negotiations are not permitted. If a written contract is required, conditions of Section 7 below will apply. Please allow 6-8 weeks at a minimum to complete the process.

### 3. Competitive Sealed Proposal (CSP) or Request for Proposal (RFP) Method

The proposal process is utilized to purchase goods and services at all purchasing thresholds, taking into consideration other factors besides price. A pre-determined set of evaluation criteria is established, and all proposals are evaluated against the criteria and scored accordingly. The proposal process is utilized for one-time

purchases, or for the establishment of an annual contract. Negotiations are permitted in order to obtain the best value for the Town. If a written contract is required, conditions of Section 7 below will apply. Please allow 8-12 weeks at a minimum to complete this process.

### C. Purchase of Professional Services

#### 1. Statement of Qualifications (SOQ) Method

The SOQ process is utilized to procure professional services, as defined in Texas Government Code, Chapter 2254.

- a. Architectural, Engineering, or Land Surveying Services: The SOQ process is utilized to select the most highly qualified firm to perform a scope of professional engineering, architecture, or land surveying services, at any dollar amount.
- b. All Other Professional Services: The SOQ process is utilized to select a firm on the basis of demonstrated competence and qualifications to perform the services, and for a fair and reasonable price, for professional services other than those identified above, if the expenditure is anticipated to be in excess of \$25,000.

A pre-determined set of evaluation criteria is established, and all qualifications are evaluated against the criteria and scored accordingly. **Price cannot be disclosed or considered during the scoring process.** Negotiations are permitted with the most highly qualified firm only. Negotiations will continue until terms, conditions, and a fair and reasonable price are agreed upon. If negotiations with the most highly qualified firm are not successful, negotiations will cease with the current firm and begin with the next most highly qualified firm. Once negotiations have ceased with a firm, re-opening negotiations with that firm is not allowed. If a written contract is required, conditions of Section 7 below will apply. Please allow 6-8 weeks at a minimum to complete this process.

### D. Purchase through Interlocal or Cooperative Contracts

The Town has entered into various interlocal agreements, which authorize the Town to utilize contracts with certain governmental entities, and certain cooperative programs for the purchase of goods and services at any dollar threshold. Purchasing through cooperative contracts satisfies all competitive bid requirements, which means additional quotes are not required. However, if a department utilizes a cooperative contract, the contract terms and conditions of that contract must be adhered to. A list of interlocal agreements with other entities is on file in the Purchasing Office. The cooperative programs that are available to the Town include, but are not limited to, the following:

1. BuyBoard  
[www.buyboard.com](http://www.buyboard.com)
2. Department of Information Resources (DIR)  
<https://dir.texas.gov>

3. Houston-Galveston Area Council (HGAC)  
[www.hgacbuy.com](http://www.hgacbuy.com)
4. Texas Multiple Award Schedule (TXMAS)  
<http://www.txsmartbuy.com/contracts?filterBy=TXMAS>
5. OMNIA Partners  
[www.omniapartners.com](http://www.omniapartners.com)
6. State of Texas Term Contracts  
[www.txsmartbuy.com](http://www.txsmartbuy.com)
7. North Texas Share (NCTCOG)  
[https://www.northtexasshare.org/SHARE\\_partners/available-contracts/](https://www.northtexasshare.org/SHARE_partners/available-contracts/)
8. Sourcewell  
<https://www.sourcewell-mn.gov>
9. Choice Partners  
<https://www.choicepartners.org/member-login>

If utilizing a contract through an interlocal agreement or a cooperative program, please obtain an itemized quote from the supplier. The quote should reflect the cooperative program or identify the contracted agency (e.g. BuyBoard, City of Frisco, etc.), the contract number, and contract pricing. If the contract pricing is based on a guaranteed percentage discount, the quote should reflect the list price and discounted price. The Purchasing Office will verify contract validity and contract pricing.

### **Section 3 Evaluation Process**

The evaluation process is facilitated by the Purchasing Office but is the ultimate responsibility of the department. Award will be based on either low bid, or best value bid/proposal, as pre-determined and stipulated in the bid/proposal document. Other than tabulations/summaries released for public disclosure by the Purchasing Office, all contents of bids/proposals, and all activities that take place during the evaluation and negotiation processes, shall remain confidential until awarded.

#### **A. Low Bid**

1. The department will evaluate all bids submitted to determine the following:
  - a. the bids meet the published specifications; and
  - b. the vendor did not note any exceptions to the terms and conditions of the bid.
2. The department will verify that sufficient funding is available for the purchase.
3. Upon completion of the evaluation process, the department will submit a written recommendation of award to the Purchasing Office, that should include the following:
  - a. official name of the recommended vendor;
  - b. line items being awarded (if the bid lists more than one line item);
  - c. total amount of award;
  - d. account number funding the purchase; and

- e. justification for deeming any vendor non-responsible or non-responsive, if applicable.

## **B. Best Value**

1. The Project Manager will assemble an evaluation committee, which should be comprised of at least three staff members. The names of the evaluation committee members will be provided to the Purchasing Office.
2. The Project Manager will coordinate a kick-off meeting with the evaluation committee and the Purchasing Office. Additional meetings may be required to complete a thorough evaluation of all bids/proposals submitted. The Purchasing Office shall be included in all evaluation committee meetings, as a facilitator only.
3. The evaluation committee will evaluate all bids/proposals submitted to determine the following:
  - a. the bids/proposals meet the minimum requirements as published in the bid/proposal document;
  - b. the vendor did not note any exceptions to the terms and conditions of the bid/proposal; and
  - c. point values for each evaluation criteria published in the bid/proposal document.
4. The evaluation committee will complete the evaluation forms and submit to the Purchasing Office. Evaluation forms can be completed by each individual evaluation committee member, or collectively by the evaluation committee.
5. The Purchasing Office will combine all points assigned, apply weightings, and complete the evaluation matrix, which will be distributed to all members of the evaluation committee for review.
6. During the evaluation process, interviews and/or demonstrations are often requested in order to gain a better understanding of the submissions. Interviews/demonstrations can take place before Step 4, or after Step 5 above. All interviews/demonstrations will be coordinated by the Purchasing Office, as instructed by the evaluation committee.
7. Negotiations will take place with the top scoring vendor. The Purchasing Office can handle negotiations or assist the Project Manager with negotiations.
8. Upon successful negotiation, the Project Manager will submit a written recommendation of award to the Purchasing Office, that should include the following:
  - a. official name of the recommended vendor;
  - b. line items being awarded (if the bid/proposal lists more than one line item);
  - c. total amount of award;
  - d. account number funding the purchase; and
  - e. justification for deeming any vendor non-responsible or non-responsive, if applicable.

## **Section 4 Award Process**

The award process takes place after the department submits a written recommendation of award to the Purchasing Office. The appropriate award process is determined by the total amount of the expenditure and other factors.

### **A. One Time Purchases**

1. The Purchasing Office will review the recommendation of award submitted by the department to verify accuracy and completeness of the required processes, and vet the recommended vendor.
2. If a written contract is required, conditions of Section 7 below will apply for all purchases, regardless of the amount of the expenditure.
3. Written contracts over \$25,000, and all purchases of goods and services in excess of \$50,000 require Council approval. The department will prepare the Agenda Item, and route through the Purchasing Office for review. If these conditions do not apply, skip to Step 4.
4. If the purchase is in excess of \$3,000, the department will enter a requisition into the financial system, in accordance with Section 5 below.
5. The Purchasing Office will issue the purchase order to the vendor.

### **B. Annual Contracts**

1. The Purchasing Office will review the recommendation of award submitted by the department to verify accuracy and completeness of the required processes, and vet the recommended vendor.
2. If a written contract is required, conditions of Section 7 below will apply for all purchases, regardless of the amount of the expenditure.
3. Written contracts with an estimated annual expenditure over \$25,000, and all purchases of goods and services with an estimated annual expenditure in excess of \$50,000 require Council approval. The department will prepare the Agenda Item, and route through the Purchasing Office for review. If these conditions do not apply, skip to Step 4.
4. The Purchasing Office will issue an award letter to the vendor, and perform contract administration as outlined in Section 7 below.
5. The department will enter a requisition into the financial system, in accordance with Section 5 below. Requisitions can be entered on an as-needed basis, or to establish a blanket purchase order.

## **Section 5 Purchase Requisitions**

In order to ensure proper procurement practices and availability of funds, orders should not be placed for goods or services until a purchase requisition has been approved at all appropriate levels, and a purchase order is issued by the Purchasing Office. Please plan accordingly.

### **A. Exemptions**

This section applies to the purchase of all goods and services over \$3,000, unless otherwise exempted as follows:

1. Items that are exempt from the requisition requirement and can be paid with a procurement card, by completing a check request, or approved for payment in the manner prescribed by Accounting Division are:
  - catered event fees
  - election fees
  - insurance premiums
  - membership or professional association dues and fees
  - periodicals
  - postage
  - registration fees
  - regulatory fees
  - subscriptions
  - travel expenses
  - tuition
  - utilities
  - other fees as approved in writing by the Purchasing Manager
2. Items that are exempt from the requisition requirement and will have a purchase order issued directly to the vendor by the Purchasing Office are:
  - One-time purchases pre-approved by the Town Council (Agenda Items)
  - One-time purchases pre-approved by the Town Manager (Manager's Memorandums)

Any recurring costs associated with a one-time purchase will comply with the requisition requirement for all future year expenditures.

## **B. Preparing Purchase Requisitions**

### **1. Contracted Goods and Services**

If purchasing goods or services at any dollar threshold utilizing an established annual contract, a quote is not required unless the contract is for time and/or materials, a guaranteed percentage discount, or through a cooperative venue. The purchase requisition process is as follows:

- a. Enter a purchase requisition in STW (see Exhibit B). Purchase requisitions should be itemized whenever possible.
- b. Verify that the items listed on the purchase requisition are available under the contract, and that the correct contract prices are listed.
- c. Annotate the contract number in the Special Information section of the purchase requisition.
- d. Include the date of Town Manager/Council approval in the Requisition Comments section of the purchase requisition, if applicable.
- e. Attach the following documentation to the requisition:

- 1) Quote/Proposal (only required for contracts that are for time and materials, a guaranteed percentage discount, or through a cooperative venue).
- f. After the requisition has been approved at all appropriate levels, the Purchasing Office will generate and issue the purchase order to the supplier, and the department will be copied on the email.

## 2. One-Time Purchase \$3,000 and Under

Requisitions are not required for purchases \$3,000 and less but can be processed if a purchase order is required by the supplier, or at the department's discretion. The process is as follows:

- a. Enter a requisition in STW (see Exhibit B).
- b. Attach the following documentation:
  - 1) Quote or proposal.
  - 2) Contract executed by Town Manager, if applicable.
  - 3) Insurance certificate, if applicable. Insurance is required if the supplier is performing work on Town property.
- c. After the requisition has been approved at all appropriate levels, the Purchasing Office will generate and issue the purchase order to the supplier, and the department will be copied on the email.

## 3. One-Time Purchase Over \$3,000 and Up to \$50,000

For one-time purchase of goods and services within this dollar threshold, the purchase requisition process is as follows:

- a. Enter a requisition in STW (see Exhibit B).
- b. Indicate type of purchase in the Special Information section (e.g., low bid, best value, etc.).
- c. If a written contract is associated with the purchase, indicate the date of Town Manager or Council approval in the Requisition Comments section.
- d. Attach the following documentation:
  - 1) All quotes/proposals obtained for this purchase (minimum of three).
  - 2) HUB vendor information provided by the Purchasing Office, if applicable. Indicate which HUB vendors were contacted.
  - 3) Executed contract, if applicable.
  - 4) Insurance certificate, if applicable. Insurance is required if the supplier is performing work on Town property.
- e. After the requisition has been approved at all appropriate levels, the Purchasing Office will generate and issue the purchase order to the supplier, and the department will be copied on the email.

## 5. Exempt Purchases

For one-time purchase of goods or services at any dollar threshold that is exempt from competitive bid/quotes, the purchase requisition process is as follows:

- a. Enter a requisition in STW (see Exhibit B).
- b. State the exemption in the Special Information section of the purchase requisition (e.g., "Sole Source", "Professional Service", etc.).
- c. Include the date of Town Manager or Council approval in the Requisition Comments section of the purchase requisition, if applicable.
- d. Attach the appropriate documentation as applicable:
  - 1) Quote/Proposal.
  - 2) Sole Source Letter.
  - 3) Executed contract/agreement.
  - 4) Insurance certificate, if applicable. Insurance is required if the supplier is performing work on Town property.
- e. After the requisition has been approved at all appropriate levels, the Purchasing Office will generate and issue the purchase order to the supplier, and the department will be copied on the email.

6. **Emergency Purchase Requisition**

If the purchase qualifies as an emergency purchase under one of the conditions listed in Chapter 9, Purchasing Policy and Procedures, Section III. B. of the Town of Prosper Personnel Policies and Procedures, the process is as follows:

- a. Notify the Purchasing Office of the emergency as soon as possible. (Note: Inform the Purchasing Office if the vendor requires a purchase order up front. The Purchasing Office will coordinate the process with the department, as it will slightly differ from the steps below.)
- b. After work is completed, enter a purchase requisition in STW (see Exhibit B) only if the invoice amount exceeds \$3,000.
- c. Attach a copy of the invoice to the requisition.
- d. After the purchase requisition has been approved at all appropriate levels, the Purchasing Office will generate and issue the purchase order to the department.
- e. The department will code and submit invoice for payment after receipt of the purchase order and reference the purchase order number on the invoice.

**C. Requisition Processing**

Upon receipt of a requisition, the Purchasing Office shall:

1. Check the requisition for completeness, to include verification that all supporting documentation is attached. If any of the supporting documentation is missing, the Purchasing Office will contact the department for additional information.
2. Verify compliance with HUB law.

3. Verify pricing for accuracy.
4. Verify contract provisions, if purchasing goods or services from an existing contract.
5. Verify that sufficient funds are available to purchase goods or services.
6. Generate and issue purchase order to the supplier.

## **Section 6 Receipt of Goods and Services**

### **A. Inspection**

1. Upon receipt of goods or services, it is the department's responsibility to ensure that the order is complete as to quality and quantity, and to report any discrepancies to the Purchasing Office or directly to the vendor.
2. If the shipment is complete and undamaged, the packing slip or delivery ticket should be signed and retained until the invoice for payment is received.
3. Should the department receive only a partial shipment or return part of a shipment due to damage or delivery of the wrong items, this must be noted on the packing slip or delivery ticket and noted on the invoice in order to prevent improper payment.

### **B. Damages/Defects**

Goods and services should be checked at the time of receipt to detect any damages or defects. This inspection should also include assuring that the material is in compliance with the specifications. When it is apparent that the extent of the damage causes the goods to be of little worth, they should not be accepted.

1. Visible Damage: One of the major reasons for inspection at the time of receipt is to detect any visible damage. It is important that all damage be completely described on the receiving paperwork.
2. Concealed Damage: Any evidence of concealed damage should be documented to support the filing of damage claims against the carrier. The carrier should be notified immediately, and a joint inspection should be scheduled with the carrier's representative.
3. Claims: If the shipment is "F.O.B. destination", the vendor is responsible for assisting with the settlement of the claim and for full replacement of the damaged items. Payment should be withheld until the claims are settled.

## C. Invoices

Invoices for goods and services will be processed in accordance with the manner prescribed by the Accounting staff.

1. It is the responsibility of the department to ensure that information contained on the invoice is a correct and accurate reflection of the goods or services received by the Town, prior to submitting the invoice for payment processing.
2. In most cases, invoices should not be submitted for payment processing if the goods and services are outstanding. Some exceptions include, but are not limited to, progress payments, required deposits, or maintenance agreements for a specified term.
3. If applicable, vendors are instructed to reference the purchase order number on their invoice. However, **it is the department's responsibility to ensure the purchase order number is clearly referenced on the invoice when submitting for payment processing.**

## Section 7 Contract Administration

For the purpose of this section, the term "Contract" shall represent contracts, agreements, professional services agreements, interlocal agreements, engagement letters, applications, and all other similar documents that include terms and conditions for the purchase of goods and services, and/or requires a signature binding the Town.

### A. New Contracts

New contracts for goods and services shall be established in accordance with the Town's Purchasing Policy and Procedures. After completion of the procurement process, the contract will be established in accordance with the following:

1. The department will work with the Purchasing Office and Town Attorney to develop the contract. **The contract must be finalized and approved as to form by the Town Attorney, prior to submitting for approval.** Please allow sufficient time for contract development and/or review. *If available, a standard form previously approved by the Town Attorney may be used in lieu of new contract development. Standard forms are available through the Purchasing Office.*
2. The contract should be executed by the vendor prior to submitting for approval, whenever possible. The Purchasing Office is available to assist the department with obtaining the appropriate signatures. A minimum of two originals of the contract should be executed.
3. The department will submit the contract for approval, which includes preparing a Manager's Memorandum or Agenda Item (Council approval is required on written contracts over \$25,000) and will be routed through the Purchasing Office for review. A copy of the Town Attorney's approval must be provided with the contract (unless a pre-approved standard form is utilized).
4. Upon contract approval and execution, the Town Secretary will retain one original for the official record and provide one original to the Purchasing

Office for distribution to the vendor. The Purchasing Office will retain an electronic copy for the purchasing file.

## **B. Contract Renewals**

The Purchasing Office tracks annual contracts with renewal options. Contract files are pulled ninety days prior to the expiration date and processed as follows:

1. The Purchasing Office will verify the department's intent to renew the contract.
2. The Purchasing Office will run an expenditure report for the current contract period to determine if the annual expenditure is in-line with the contract award.
3. The Purchasing Office will work with the department to consider any request for price increase submitted by the vendor.
4. The Purchasing Office will issue the renewal letter to the vendor or assist the department with the appropriate action(s) to process the renewal, if Town Manager or Council approval is required. If the renewal involves a document that requires a signature, the process outlined in Section 7 A above will apply.
5. Upon completion of the renewal process, the Purchasing Office will:
  - a. Update contract database.
  - b. Provide notice of renewal to all parties involved.

If there are no renewal options available, the department will work with the Purchasing Office to rebid the contract, if there is a continuing need for the goods or services.

## **C. Contract Amendments and Change Orders**

Contract amendments and change orders cannot exceed 25% of the original award amount, individually or collectively, if the purchase is subject to the competitive bid laws of the State of Texas. Additionally, change orders for construction contracts cannot be decreased by more than 25% of the original award without the contractor's consent. Any changes to an executed contract document should be processed as a contract amendment or change order, as appropriate, in accordance with the following:

1. The department will work with the Purchasing Office and Town Attorney to develop the amendment/change order. **The amendment/change order must be finalized and approved as to form by the Town Attorney, prior to submitting for approval.** Please allow sufficient time for document development and/or review. *If available, a standard form previously approved by the Town Attorney may be used in lieu of new document development. Standard forms are available through the Purchasing Office.*
2. The amendment/change order should be executed by the vendor prior to submitting for approval, whenever possible. The Purchasing Office is available to assist the department with obtaining the appropriate signatures. A minimum of two originals of the amendment/change order should be executed.

3. The department will submit the amendment/change order for approval, which includes preparing a Manager's Memorandum or Agenda Item (Council approval is required on amendments/change orders over \$25,000), and will be routed through the Purchasing Office for review. A copy of the Town Attorney's approval must be provided with the amendment/change order (unless a pre-approved standard form is utilized).
4. Upon approval and execution of the amendment/change order, the Town Secretary will retain one original for the official record, and provide one original to the Purchasing Office for distribution to the vendor. The Purchasing Office will retain an electronic copy for the purchasing file.
5. If applicable, the Purchasing Office will revise the purchase order accordingly, and re-issue to the department and the vendor.

#### **D. Contract Cancellation/Termination**

1. If it becomes necessary to cancel/terminate a contract, please notify the Purchasing Office as soon as possible. If a written contract is in place, the Town must comply with the cancellation/termination requirements outlined in the contract document. The terms and conditions are specific to the contract and vary from one contract to another.
2. If written notice is required, the department will work with the Purchasing Office and the Town Attorney to draft the cancellation/termination letter, and to determine the appropriate signatory authority.
3. The department will submit the cancellation/termination letter for approval, which includes preparing a Manager's Memorandum or Agenda Item, and will be routed through the Purchasing Office for review.
4. Upon approval and execution of the cancellation/termination letter, the Town Secretary will retain one copy for the official record and provide the original to the Purchasing Office for distribution to the vendor, in the manner prescribed in the contract. The Purchasing Office will retain an electronic copy for the purchasing file.

#### **E. Performance Issues**

Any vendor/contractor performance issues should be documented and reported to the Purchasing Office immediately. It is extremely important to document details of non-compliance and provide documentation for the file. The department has two options to cure as follows:

##### **1. Department to Cure**

The department will make initial efforts to cure the issue. If efforts are successful, the department will continue to monitor vendor performance to ensure compliance. If performance is not cured, the Purchasing Office should be notified immediately for further action.

##### **2. Purchasing Office to Cure**

The department will provide the Purchasing Office with details of non-compliance. The Purchasing Office will take action in order to cure the issue by issuing a formal cure notice. If non-compliance continues, the Purchasing Office will confer with the Town Attorney in regard to any legal recourse that may be available.

## **Section 8 Vehicle and Equipment Replacement Fund (VERF) Purchases**

### **A. Purchasing Requirements**

1. All vehicle and equipment purchases replacing a VERF unit, or new additions to the fleet that will be placed in the VERF, will be purchased in accordance with Town of Prosper Administrative Regulations, Chapter 12 Vehicle Equipment Replacement Fund Program Policy.
2. Departments will coordinate specification development with the Finance Department and/or the Town's Fleet Program Manager, accordingly.
3. After an approved unit configuration has been purchased, no additional modifications will be made to the unit without prior approval from the assigned Department Head and coordinated through the Town's Fleet Program Manager if applicable.

### **B. Window Tint Standards**

1. The Town requires 45% or greater transparency on the front driver's and passenger's windows only.
2. For other windows, window tint must be within legal limits.

## **Section 9 End of Year Fiscal Year Purchase Order Rollover Process**

1. Departments will have until November 30 of each year to close out purchase orders from the previous fiscal year before they lapse.
2. Exceptions for extenuating circumstances can be made through each department's Executive Director, but these should be relatively rare.
3. Town Manager, or their designee, will have final approval of purchase orders to be rolled.
4. This policy only applies to operating funds that have annually adopted budgets.
5. Purchase orders for large capital projects or software implementations that require more than one (1) year to complete can be left open for the duration of the project.

## **Section 10 Glossary of Terms**

- A. This glossary further defines terms that are contained in the Purchasing Policy and Purchasing Procedures Manual or are related to. Any process or procedure outlined in this glossary is incorporated as part of the Purchasing Procedures.

1. **Addendum:** A written change, addition, alteration, correction or revision to a bid or proposal. An addendum may be issued following a pre-bid/pre-proposal conference, or as a result of a specification or work scope change to the solicitation. All addendums to a formal bid/proposal process will be issued by the Purchasing Office.
2. **Agreement:** An understanding, usually in writing, between two or more competent parties, under which one party agree to certain performance as defined in the agreement and the second party agrees to compensation for the performance rendered in accordance with the conditions of the agreements. Agreements and contracts are sometimes used synonymously. Generally, agreements are approved by an attorney "as to form" and legal sufficiency prior to execution.
3. **Amendment:** 1) An agreed addition to, deletion from, correction or modification of a document or contract; and 2) To revise or change an existing document; a formal revision, improvement or correction.
4. **As To Form:** Documents and agreements that are approved by an attorney for legal sufficiency prior to their execution while not commenting on the business merits of their contents.
5. **Auction:** A public sale in which property or items of merchandise are sold to the highest bidder. Many governments will auction off government property and may contract with a private auctioneering firm to handle the complete transaction including advertising, the sale and collection of funds.
6. **Award:** After completion of the evaluation process, award will be made to the lowest responsible/responsive bidder, unless award is based on best value as indicated in pre-determine evaluation criteria published in the bid/proposal document. If the award amount is in excess of \$50,000, or if there is an associated formal agreement/contract in excess of \$15,000, Council must award the bid/proposal, or reject all submissions. A notice of award is sent to the successful bidder or proposer, and award notification is sent to all unsuccessful bidders or proposers.
7. **Best and Final Offer:** In a competitive negotiation, the final proposal submitted after negotiations are completed that contains the proposer's most favorable terms for price, services, and products to be delivered. Sometimes referred to as BAFO and utilized during the Request for Proposal (RFP) or Competitive Sealed Proposal (CSP) method of procurement.
8. **Best Value:** An assessment of the return which can be achieved based on the total life cycle cost of the item; may include an analysis of the functionality of the item; can use cost/benefit analysis to define the best combinations of quality, services, time, and cost considerations over the useful life of the acquired item. A procurement method that emphasizes value over price. The best value might not be the lowest cost. Generally achieved through the Best

Value Bid, Request for Proposal (RFP), or Competitive Sealed Proposal (CSP) method of procurement.

9. **Bid (noun):** The response submitted by a bidder to a competitive sealed bid or request for bid. Sometimes the completed bid document may be referred to as "the bid". The response to a Request for Proposal (RFP) is called a proposal or offer.
10. **Bid (verb):** To submit a bid response. By submitting a bid response, one person (the vendor) gives the Purchasing Office the legal power to create a contract with the responding vendor in accordance with the bid response.
11. **Bid/Proposal Evaluation:** A comprehensive review of all bids/proposals received as a result of a competitive process usually for the purpose of comparing strengths and weaknesses of the bids/proposals received based on the requirements and criteria set forth in the request for bids/proposals. In determining whether the bid/proposal is responsive, designated personnel should decide whether the bid/proposal is responsive, check to see whether it is provided on the form furnished, and see that it contains no exceptions to specifications or plans.
12. **Bid-Opening:** The official process in which sealed bids are publicly opened, usually in the presence of one or more witnesses, at the time and place specified in the invitation for bid. The Purchasing Manager, or an authorized designee, will preside over bid openings for the Town. The envelope will be checked to determine that all required documents are enclosed, and the amount of each bid will read aloud. The pricing is recorded by a Town representative, and bids are made available for public inspection after award. Per Texas Local Government Code 252.041 the due date for the bid cannot be less than fifteen (15) days from the first legal advertisement date.
13. **Bid Tabulation:** A public document listing all vendors who responded to a request for bid, with a list of all items contained in the bid and showing unit prices for each item for each bidder. All unit prices, extensions, and total dollar amounts will be checked, and any errors corrected. In the event of a discrepancy, the unit price will prevail.
14. **Blanket Purchase Order:** A purchase order for the total estimated amount to purchase contracted goods or services over a specified period of time, usually one year. Quantities are not always specified on the purchase order, but the contract establishes prices, terms, conditions, and the period covered. Goods or services are ordered on an as-needed basis, and
15. **Contract:** A contract is a legally binding document between the Town and a vendor, outlining the terms and conditions of the purchase of goods or services offered by the vendor, and accepted by the Town. A contract is enforceable by law.
16. **Change Order:** A written alteration that is issued to modify or amend a contract or purchase order. A change order directs the contractor to make

changes to the contracted scope of work or specifications. In reference to construction contracts, it relates primarily to changes caused by unanticipated conditions encountered during construction not covered by the drawings, plans or specifications of the project.

17. **Clarification:** A communication with a bidder/offeror for the sole purpose of eliminating minor irregularities or apparent clerical mistakes in a bid/proposal; may be initiated by either bidder/offeror or purchaser; does not give bidder/offeror an opportunity to revise or modify its bid/proposal, except to the extent the correction of apparent clerical mistakes results in revision.
18. **Cure Notice:** A notice that must be issued prior to termination for default of a supply or service contract. The cure notice will outline the non-conformance, and will typically include an opportunity for the vendor to cure the issue. The notice will also state the consequences for continued non-conformance, and the grounds for termination.
19. **Historically Underutilize Business (HUB):** A "Historically Underutilized Business" is an entity with its principal place of business in Texas and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American and/or American woman who reside in Texas and have a proportionate interest and demonstrate active participation in the control, operations, and management of the entity's affairs. The State Comptroller's Office handles the HUB certification process, and maintains a HUB vendor database.
20. **Negotiations:** A procurement method for obtaining goods, services and construction in which discussion and negotiations may be conducted with responsible offerors who submit responsive proposals.
21. **Pre-Bid/Pre-Proposal/Pre-Submission Meeting:** A meeting to discuss with potential respondents, technical, operational and performance specifications, and/or the full extent of financial, security and other contractual obligations related to a solicitation before the closing date. The meeting will provide information to potential respondents to ensure responses are submitted with the best understanding of conditions or circumstances surrounding the project. Meetings are recommended for complex construction projects, or any other projects as deemed appropriate by the department.
22. **Legal Notice:** A public notice required by law, Texas Local Government Code 252.041, to be published in the Town's official newspaper. Legal notice must be advertised once a week for two consecutive weeks, and should identify the type of work involved, where the work is to be accomplished, bid bond requirements, how to obtain bid documents, dates for pre-bid conferences, site visits, and questions deadline, and specify the date, time, and place for receiving bids. The legal notice should also state that the Town has the right to reject any or all bids/proposals, to waive informalities, and to accept the bid/proposal that is deemed to be in the best interest of the Town.

23. **Requisition:** An internal document that is entered into the financial system by the department outlining details of goods or services to be ordered, after completing the appropriate purchasing process.
24. **Purchase Order:** A written document issued to a vendor, formalizing all the terms and conditions of the purchase of goods or services, such as a description of the items, delivery schedule, and terms of payment. The purchase order serves as a contract between the Town and the vendor, when a formal written contract does not exist, and is enforceable upon the vendor acceptance of the purchase order.