

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. 262.034(a).

A County officer or employee commits an offense if the officer or employee intentionally or knowingly violates this subchapter, other than by conduct described by Subsection (a). An offense under this subsection is a Class C misdemeanor. 262.034(c).

**H. 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.**

**I. 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.

## **X. PROCUREMENT ETHICS CODE**

### **A. General Ethical Standards**

Public employment is a public trust. It is the policy of Johnson County to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by Johnson County. Such policy is implemented by prescribing essential standards of ethical conduct without creating unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair and competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the Johnson County Purchasing Department. Johnson County employees will avoid the appearance of unethical or compromising practices in relationships, actions, and communications.

- (1) It shall be a breach of ethics to attempt to realize personal gain through public employment with Johnson County by any conduct inconsistent with the proper discharge of the employee's duties.

- (2) It shall be a breach of ethics to attempt to influence any public employee of Johnson County to breach the standards of ethical conduct set forth in this code.
- (3) It shall be a breach of ethics for any employee of Johnson County to participate directly or indirectly in procurement when the employee knows that:
  - (a) The employee or family member\* of the employee has a financial interest pertaining to the procurement;
  - (b) A business or organization in which the employee, or family member\* of the employee has a financial interest pertaining to the procurement; or
  - (c) Any other person, business or organization with whom the employee or family member\* of the employee is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
  - (d) If such conflicts of interest exist, the employee shall notify the Purchasing Agent in writing and remove him/herself from the County procurement process.
- (4) It shall be a breach of ethics to offer, give or agree to give any employee or former employee of Johnson County, or for any employee or former employee of Johnson County to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content or any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore pending before this government.
- (5) It shall be a breach of ethics for any person who is a contractor or subcontractor or who is seeking to become a contractor or subcontractor on a contract with Johnson County, or any person acting on the behalf of such contractor or subcontractor to offer employment or anything of value to any Johnson County employee or family member\* of any Johnson County employee as an inducement to influence the award of a contract to such potential contractor or subcontractor.
- (6) It shall be a breach of ethics for any employee or former employee of Johnson County knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person. Employees will keep County procurement information obtained in the competitive bidding process confidential until after contract award if the solicitation and law provides for such information it to be kept confidential.

\* "Family member" shall be defined to include only those persons related within the first degree of consanguinity or the first degree of affinity. The method of computation of degrees of consanguinity or affinity shall be according to the provisions of Texas Government Code Chapter 573 but shall include only persons related to the employee within the first degree of consanguinity or first degree of affinity.