

Jefferson County, Texas



A VENDOR'S GUIDE How to do Business with Jefferson County Effective October 2025

Jefferson County Purchasing Board:

Judge John Stevens, Criminal District Court
Judge Kent Walston, 58th District Court
Judge Baylor Wortham, 136th District Court
Commissioner Cary Erickson, Pct. 2
Commissioner Everette "Bo" Alfred, Pct. 4

County Commissioners:

Commissioner Brandon Willis, Pct. 1
Commissioner Cary Erickson, Pct. 2
Commissioner Michael Sinegal Pct. 3
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Jefferson County Judge

Jeff R. Branick

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Jefferson County Purchasing Department
1149 Pearl Street, First Floor
Beaumont, Texas 77701
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How to do Business with Jefferson County

A VENDOR'S GUIDE

Preface

If you sell a commodity or service, you may find a market in Jefferson County Government. The Purchasing Department contracts for approximately \$72 million in goods, services, and construction each year.

Since the principal objective of the Purchasing Department is the acquisition of quality goods and services at the lowest price, we are constantly seeking new sources of supply. The Jefferson County Commissioners welcome your participation in these efforts.

It is easy to do business with Jefferson County. All purchases are made through a comprehensive system of specifications and competitive bidding. This ensures that contracts go to the lowest bidders who are also able to comply with specifications, terms and conditions, and also have the capability to deliver.

This pamphlet has been prepared to acquaint you with information you need in order to bid for Jefferson County Contracts. Jefferson County does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment, or the provisions of services. Individuals requiring special accommodation are requested to contact our office at 409-835-8593.

The information set forth is intended as a general guide. There may be questions relating to your firm that are not answered. If this is true, please do not hesitate to call or write:

Jefferson County Purchasing Department
1149 Pearl Street, 1st Floor
Beaumont, Texas 77701
(409) 835-8593
<http://jeffersoncountytexas.gov/Purchasing>

Thank you for your interest in doing business with Jefferson County.



Deborah L. Clark, Purchasing Agent
Jefferson County, Texas

Receiving Bids

Bidders Lists / Purchasing Database Vendor Database

The Purchasing Department maintains a Vendor Database for most products and services purchased by the County. If you wish to be included in this Vendor Database for products and services you sell, you may contact:

Jefferson County Purchasing Department
1149 Pearl Street, First Floor
Beaumont, Texas 77701
Attention: Cindy Greene, Contract Specialist
cynthia.greene@jeffersoncountytexas.gov
(409) 835-8593

You will be asked to complete a Bidder's List Application, which will be used to add the name of your firm and contact information to the Purchasing Department's Vendor Database. The Purchasing Department utilizes the vendor database as a reference resource when making direct purchases or preparing Bidder's Lists for bid opportunities. Jefferson County will use reasonable efforts to include your firm on Bidders Lists for bid notifications, but it has no legal duty to do so. No guarantee or warranty is made that you_firm will be included in Bidders Lists for bid notifications.

You may also complete the Bidder's List Application online via the Jefferson County Purchasing Department's website at:

<https://www.jeffersoncountytexas.gov/Purchasing/>

Vendors are also encouraged to visit the Purchasing Department's website (Notices for Bid section) periodically to check for potential bid opportunities.

Changes in Vendor Information

It is your responsibility to keep the Purchasing Department informed of subsequent changes that should be made to your Bidder's List Application. Incidental correspondence and/or bids received with different addresses will not be considered as requests for changes. Changes in vendor information on file with the Purchasing Department (such as company name, address, or services, supplies and equipment you wish to furnish) can only be accomplished by contacting in writing the Purchasing Department Office, including your vendor, federal ID number (DUNS #), company name, address, telephone number, and information being changed on your communication.

Solicitation of Bids and Quotations

After your firm's information is added to the Purchasing Department's Vendor Database, it is possible that you may receive solicitations for Bids or Proposals when a formal solicitation (an amount of \$100,000 or more). It is possible that you may also receive a Request for Quotations (solicitations under \$100,000).

As the Vendor Database is utilized as a reference resource only, the Purchasing Department makes no guarantee that your firm will receive bid or quotation notifications.

Qualifications of Bidders

Qualifications of Bidders are not reviewed prior to placement on a Bidders List for bid notifications, and placement on a Bidder's List does not mean that the Purchasing Department considers your firm to be a responsible Bidder. The Purchasing Department reviews responsibility on an individual bid-by-bid basis as noted in the Section of this guide entitled, "Qualifications of Bidder."

How to Obtain Bids if You Are Not on the Mailing List

Publication of Bid Solicitations. In addition to Jefferson County's Website Page, you may learn of a Bid Request from the Wednesday Classifieds in the *Beaumont Enterprise* and the *Port Arthur News*, or *The Examiner*. You may obtain an Invitation for Bid Packet by visiting or calling the Jefferson County Purchasing Department, 1149 Pearl Street, Beaumont, Texas, 77701; Phone No. (409) 835-8593. When you request your copy of the Invitation for Bid Packet, ask for it by Bid Number, Bid Name, and Opening Date – this information appears in all advertisements, solicitations and notices. In addition, bid documents may be viewed and downloaded on the Purchasing website. Note that for certain construction bids, the website includes only notification of bids (not the entire document), along with instructions on how to obtain the bid documents. Addenda to bids are also posted on the Purchasing website: <https://www.jeffersoncountytexas.gov/Purchasing/>

NOTE: No formal published advertisements are made for Quotation Requests. However, these solicitations are automatically mailed, faxed, or emailed to a competitive number of vendors. The Purchasing Department determines the number of mailings warranted for each quotation. All vendors are advised that the county is under No Obligation to mail Invitations for Bids, Request for Proposals, Requests for Qualifications, etc., to any vendor, and the County disclaims any liability or responsibility for doing so or not so doing. All vendors must check public notices to determine when the bids responses are to be submitted.

Types of Purchases

Formal Bids and Contracts

The Invitation for Bid is a formal procurement method (normally, purchases of \$100,000 or more) utilizing legal advertising, and a formal official opening of Bids viewed by witnesses at a prescribed time and date. Contracts resulting from the bid process may be of several types:

One-Time Contracts (firm or fixed price). These are awarded for a specified quantity of goods or services. According to the terms of the contract, delivery may be in one or several shipments.

Price Agreements (Term or Requirements Contracts). These are awarded for anticipated amounts during a certain time period, usually one year. The contracts are binding for the full time period regardless of quantity.

Construction Contracting. Bids and contracts generally follow the format and framework described in this guide. They do, however, have additional requirements for bid surety, bonding, and wage rates. The Bid Documents, including blueprints and specifications, are available for free or a reasonable fee from either the using Department or a consultant.

Service Contracts. The County contracts for services such as maintenance of equipment, janitorial, etc., through Invitation for Bids or Request for Proposals (RFP). The award of these contracts is based upon various factors including, but not limited to, the price quoted, experience of the firm, management ability, and other factors in accordance with formulas provided in the RFP or bid.

Requests for Proposals (RFP)

The County Purchasing Act allows an alternative competitive proposal procedure for the purchase of high technology items, insurance, and certain other items. Requests for Proposals (RFPs) allow negotiation with those vendors who submit proposals with a reasonable possibility of obtaining the award. A response to an RFP is not opened in the public forum and the final negotiated contract may differ considerably from the original proposal. All documents become public upon award and issuance of the purchase order as described by State law.

Informal Quotations and Contracts

The informal Quotation Process (normally, purchases under \$100,000) may result in a Purchase Order for commodities, printing or services. There are two types of informal Quotations normally used:

Written Quotations. Informal written Quotations are solicited in the same manner as written Bids without the formalities of a Public Bid Opening or Advertising.

Telephone/Fax/Email Quotations. In some situations, the Purchasing Department is authorized to obtain Quotations by telephone, fax, or email. You may be assured that such Telephone Quotations have the same integrity as written bids and that the lowest responsive and responsible bidder will receive the award.

Special Requirements of Some Bids

Many bids are for specialized products or services and contain requirements designed to meet specific needs. Below are listed some of the more common special requirements.

Pre-Bid Conferences

Pre-Bid Conferences are designed to give you, the Vendor, the opportunity to meet the Purchasing Agent, Buyer, and/or ultimate users. This is also an opportunity to examine and discuss specifications, bid conditions, and delivery information. We welcome and value your input on these matters and we encourage your attendance.

Bid Deposits and Performance Bond

A Bid Surety is designed to assure that Bids are presented in good faith and unconditionally may not be unilaterally withdrawn. A Performance Surety assures that a Contract will be faithfully performed. A Security is recognized as a possible impediment in your bidding, and is not required on the majority of purchases made by the County. If security is required, the specific conditions contained in the Invitation for Bid will indicate the kind and amount of security. If a Bid Security is required with the Bid, the Bid cannot be considered without it.

Bid Deposit

Cash, Money Order, a Bid Bond executed by a Surety company, Certified Check, Cashier's Check, Bank Draft of any National or State Bank, or Unconditional Letter of Credit may be required to be submitted with your Bid as Bid Security. **A personal check or a company check of a bidder shall not be deemed a valid bid security.**

Performance and Payment Bond

A Performance and Payment Bond shall be issued by a Surety Company authorized to do business as surety in the State of Texas, having a Resident Agent in the State of Texas and having twice the minimum surplus and capital required by the Texas Insurance Code at the time the Bid is issued.

Insurance

Whenever a Quotation or Bid requires you to provide insurance, the low bidder must provide this prior to the Purchasing Department executing a contract. It will be necessary for you to furnish a Certificate of Insurance evidencing insurance coverages as may be required to include Jefferson County as an "Additional Insured" on the certificate. All insurance requirements and a sample form will be provided to all interested Bidders.

Samples and Testing

From time to time the Purchasing Department may require samples of goods being bid. If such a request is made, all samples must be furnished free of charge (including delivery charges) and will be returned at Vendors' request if not destroyed in testing.

Addenda/Changes in the Bid Proposal

During the course of a formal written bid procedure, changes may take place affecting the terms and conditions or the specifications of the bid. In these instances, a written Addendum will be distributed via fax or email to all vendors who have received bid documents. These changes become an integral part of the bid and may be required to be signed and returned with the bid documents. The Addendum will indicate if a signature is required as well as whether it must be returned. Addenda for bids are also posted on the Purchasing website.

How to Bid

Contents of Solicitations

The Bid Packet in its entirety contains the specifications for the commodity or service being purchased, the terms and conditions governing the bid, and will become part of the actual contract if you are awarded the bid.

Adherence to Specifications

Manufacturers' names, trade names, brand information, and/or catalog numbers listed in the bid specifications are for information and establishment of quality level desired and are not intended to limit competition. You may offer any brand that meets or exceeds the specifications for any item(s). If bids are based on equivalent products, indicate such on the bid form the manufacturer's name and catalog number. You should submit with your bid complete descriptive literature and/or specifications. You should also explain in detail the reason(s) why and how the proposed equivalent will meet the specifications and not be considered an exception, and submit adequate proof to substantiate this claim. The Jefferson County Board of County Commissioners or other awarding authority reserves the right to be the sole judge of what is equal and acceptable. Bids that do not comply with these requirements are subject to rejection. If you fail to name a substitute it will be assumed that you are bidding on, and will be required to, furnish goods identical to the bid standard.

Bidding Prompt Payment Discounts

You may offer a cash discount for prompt payment; however, such discounts will not be considered in determining the lowest net cost for bid evaluation purposes. Your bid should reflect any unit price discount to be considered in the bid evaluation.

Submitting the Bid

Bids must be submitted in complete original form by mail or messenger to the address and location as specified in the bid packet.

Bidder shall submit bid in a tightly sealed opaque envelope or box, plainly marked "SEALED BID." The outside of the envelope or box shall also include the Bid Number, Bid Name, Bid Due Date, and the Bidder's Name and Address; and shall be addressed to the Purchasing Agent.

Late bids will not be accepted and will be returned unopened to the bidder.

All bids are opened at the indicated time and date in public, read aloud in the County Courthouse location indicated in the bid, tabulated, and made available for public inspection. For questions regarding bid submission requirements, contact the Purchasing Agent.

All bids submitted in response to this invitation shall become the property of Jefferson County and will be a matter of public record available for review.

Bid Submissions During Time of Inclement Weather, Disaster, or Emergency:

In case of inclement weather or any other unforeseen event causing the County to close for business on the date of a bid/proposal/statement of qualifications submission deadline, the closing will automatically be postponed until the next business day that County offices are open to the public. Should inclement weather conditions or any other unforeseen event cause delays in courier service operations, the County may issue an addendum to all known vendors interested in the project to extend the deadline. It will be the responsibility of the vendor to notify the county of their interest in the project should these conditions impact their ability to submit a bid/proposal/statement of qualifications submission before the stated deadline. The County reserves the right to make the final judgement call to extend any deadline.

Should an emergency or unanticipated event interrupt normal County processes, and bid/proposal/statement of qualifications submissions cannot be received by the Jefferson County Purchasing Department's office by the exact time specified in the IFB and urgent County requirements preclude amendment to the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first business day on which normal County processes resume.

Courthouse Security:

Bidders are advised that all visitors to the Courthouse must pass through Security. Bidders planning to hand deliver bids must allow time to get through Security, as a delay in entering the Courthouse will not be accepted as an excuse for late submittal. Mondays and Tuesdays are particularly heavy days. Bidders are strongly urged to plan accordingly.

Signatures

All bids, notifications, claims, and statements must be signed by an individual authorized to bind the bidder. The individual signing certifies, under penalty of perjury, that he or she has the legal authorization to bind the bidder.

Errors in Bidding

Your bid is your firm offer to enter into a contract with the County. However, if you discover that you have made an honest mistake in your bid, which can be supported by proof that has evidentiary value, you must notify the Purchasing Agent immediately. The Purchasing Agent, on a case-by-case basis and in the exercise of professional discretion, may grant or deny relief.

How Awards are Made

Acceptable Bids

After bids are read and tabulated, they are analyzed by the Purchasing Department's Staff to determine the lowest responsive and responsible bid that meets specifications. To be responsive, a Bidder must complete all applicable portions of the Bid as instructed. Omission of signature or any crucial part will result in automatic bid disqualification. In addition, all bids must meet the minimum acceptable quality level as stated in the specifications. Failure to meet the specifications will also result in disqualification of the bid. Quality that exceeds that which was specified will not be given special consideration in determining the low bidder.

Awards

All awards of \$100,000 or more are awarded by the Jefferson County Commissioners' Court. All awards less than \$100,000 shall be made by the Purchasing Agent. Although the time varies, analysis and award is normally completed within ninety (90) days.

Tie Bids

In the event that two or more bids are tied, the tie may be broken and the successful Vendor selected according to Texas Local Government Code 262.027.

Additional Helpful Information

The Purchase Order is the County's official means of procurement notification. Vendors are not authorized to deviate from the instructions set forth in the Purchase Order. In the case of a Term Contract (a requirements contract covering a specific period of time), a letter will normally be sent to the successful bidder advising of those items being awarded. Invoices must always reference the applicable Purchase Order.

It is the policy of the Purchasing Department to consider **total cost** when making an evaluation to determine the lowest and best bid. Total cost evaluations may include items such as quality, durability, user recommendation/experience, past performance record, and other items as applicable.

Care should be taken when completing your formal bid package. Failure to comply with the bid requirements may result in your bid being disqualified. Prior to submitting your bid, **check to see that it is signed** and that all documentation has been completed.

Rejection After Bid Opening

After bids are opened, any oral bids may be rejected by the Purchasing Agent.

Special Requirements for Vendors

Vendor Registration: SAM (System for Award Management)

Vendors doing business with Jefferson County are **required** to be registered with The System for Award Management (SAM), with an “active” status. The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS. There is NO fee to register for this site. Entities may register at no cost directly from the SAM website at: <https://www.sam.gov>

Bidders are strongly encouraged to review their firm’s SAM (System for Award Management) status prior to Bid Submission.

Awarded Vendor(s): Submission of FORM 1295 (Texas Ethics Commission)

In accordance with House Bill 1295 (passed January 1, 2016), Vendors entering into contracts and professional agreements with Jefferson County will be required to complete a Certificate of Interested Parties (FORM 1295), **unless contract is considered exempt as described below.**

In 2017, the Texas legislature amended the law to require Form 1295 to include an “unsworn declaration” which includes, among other things, the date of birth and address of the authorized representative signing the form. The unsworn declaration, including the date of birth and address of the signatory, replaces the notary requirement that applied to contracts entered into before January 1, 2018. The TEC filing application does not capture the date of birth or street address of the signatory and it will not appear on forms that are filed using the TEC filing application.

Changes to the law requiring certain businesses to file a Form 1295 are in effect for contracts entered into or amended on or after January 1, 2018. The changes exempt businesses from filing a Form 1295 for certain types of contracts and replace the need for a completed Form 1295 to be notarized. Instead, the person filing a 1295 needs to complete an “unsworn declaration.”

FORM 1295 Exemptions: What type of contracts are exempt from the Form 1295 filing requirement under the amended law?

The amended law adds to the list of types of contract exempt from the Form 1295 filing requirement. A completed Form 1295 is not required for:

- a sponsored research contract of an institution of higher education
- an interagency contract of a state agency or an institution of higher education
- a contract related to health and human services if: the value of the contract cannot be determined at the time the contract is executed; and o any qualified vendor is eligible for the contract
- a contract with a publicly traded business entity, including a wholly owned subsidiary of the business entity
- a contract with an electric utility, as that term is defined by Section 31.002, Utilities Code
- a contract with a gas utility, as that term is defined by Section 121.001, Utilities Code

Upon entering into a contract or professional agreement, the Jefferson County Purchasing Department will submit a request to the Vendor to both:

- 1. Submit a FORM 1295 online via the Texas Ethics Commission website link below.**

Vendors must enter the required information on Form 1295, and print a copy of the completed form.

The form will include a certification of filing that will contain a unique certification number.

2. Submit a FORM 1295 hard copy (completed & signed by an Authorized Agent of the Awarded Vendor), to the Jefferson County Purchasing Department.

FORM 1295, Completion Instructions, and Login Instructions are available via the Texas Ethics Commission Website at:

<https://www.ethics.state.tx.us/filinginfo/1295/>

FEMA Mandated Contract Clauses:

A Contract for purchases, services, construction, repairs, or other approved projects (procured through an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Qualifications (RFQ) or any other legal procurement process per the Texas Local Government Code); that is funded in whole or part, by Federal Assistance in the form of grant, sub-grant, loan or reimbursement either directly to the County as a recipient or to the County as a sub-recipient of funding provided by the Federal Government to the State of Texas or to the another pass-through agency – shall be in accordance to the current version of Mandated Contract Provisions of 2 Code of Federal Regulations Section 200-318-327 at time of procurement, as applicable.

ADDITIONAL MANDATED CONTRACT PROVISIONS: As included in SECTION 22 (FEMA provisions) and SECTION 23 (FAA provisions) of this manual shall be included in IFB/RFP/RFQ specifications, if applicable.

Vendor's Responsibility after Award

Contract Performance

After you have been awarded a contract, the acceptance of your delivery is conditional upon inspection by the receiving agency and their certification that you have fully complied with the terms of the contract. This includes, but is not limited to, on-time delivery of the exact items described in the Purchase Order.

Non-Performing Vendors

In order to guarantee the contract price and ensure delivery of needed products and services, the County reserves a contractual right to cancel the contracts of non-performing Vendors. If a Vendor fails to deliver in accordance with the terms and conditions, or otherwise breaches the contract with the County, the nonperforming Vendor may be barred from doing business with Jefferson County for a time period determined by the Purchasing Agent, along with any legal action deemed appropriate.

Change Orders and Modifications

Occasionally, after a Contract has been awarded, changes occur in either price or performance. If the Contract provides for modifications, it is done by a written Change Order which is sent to the Purchasing Agent. Please note that the Contract will specifically state the circumstances under which changes are allowed.

Buying of Surplus Property

Cars, trucks and a variety of other types of miscellaneous equipment used by the County will be sold to the public through Public Auction or trade-in allowances. For further information, contact:

Jefferson County Purchasing Department
1149 Pearl Street. First Floor
Beaumont, Texas 77701
Attn: Sylvia Moore
409-835-8593 office

Safety Standards

Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall comply with applicable requirements of Occupational Safety and Health Act and any standards thereunder:

1. The potential for fire, explosion, corrosivity, and reactivity;
2. The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
3. The primary routes of entry and symptoms of overexposure.
 - a. The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.
 - b. The emergency procedure for spills, fire, disposal, and first aid.
 - c. A description in lay terms of the known specific potential health risks posed by the toxic substance intended to alert any person reading this information
 - d. The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

Invoice and Payment Procedures

The County Auditor is responsible to ensure that all legal and procedural requirements have been met before authorizing payments to Vendors. In order to facilitate the timely processing of payments to Vendors, the Auditing Department must have the proper invoice.

Proper Invoice

The County Auditor may set forth requirements for an invoice to be a proper invoice. Vendors will deliver an original invoice to the county in accordance with the purchase order and include the following information:

- The County purchase order number, correlating to the County purchase order number under which the purchase was made;
- The name of the business organization recited in the County purchase order;
- The date of its preparation;
- An identifying number to facilitate identification of the invoice;
- The Vendor's federal identification number;
- A description of the goods or services or property provided to the County;
- The County's part or item number for each item or part delivered;
- The delivery terms set forth within the County purchase order;
- The location and date of delivery of the goods or services of property to the County;
- The quantity of the goods or services or property provided to the County;
- The unit price of the goods or services or property provided to the County;
- The extended total price of the goods or services or property provided to the County; and
- Any applicable discounts.

The Auditing Department must also have authorization from the Purchasing Department to pay amount invoiced.

Mail all invoices to:

Jefferson County Auditing Department
1149 Pearl Street, 7th Floor
Beaumont, Texas 77701

Generally, invoices will be paid 30 days or net 30, from the date of the invoice unless discount terms are offered.

Jefferson County Purchasing Department Contact Information

Jefferson County Purchasing Department
1149 Pearl Street, First Floor
Beaumont, Texas 77701
409-835-8593 office

Deborah Clark	Purchasing Agent
Mistey Reeves	Assistant Purchasing Agent
Tina Williams	Senior Buyer
Mykailyn Harbison	Senior Buyer
Cindy Greene	Contract Specialist
Sylvia Moore	Senior Office Specialist

Helpful Hints

Selling to Jefferson County is not as difficult as you may envision. Some helpful hints to a business interested in selling include:

- Invitation for Bid Standard Form must be signed by an authorized member of the firm.
- Quotation Request must be signed by an authorized member of the firm.
- Bid Deposits/Bonds (if required) must accompany bid documents.
- Supporting literature (if required) must accompany bid documents.
- Addenda (if required) must accompany bid documents.
- Items quoted must be delivered; there will be no substitution without prior approval.
- Read the Bid Invitation closely to understand what the Bid Invitation is for, and how it is to be answered.
- Ask questions of the Purchasing Department to clear up any doubt.
- Ensure registration with the System for Award Management (SAM) website.
- “Shall/Will or Must” — these words indicate mandatory; expresses a requirement binding on either the constructor or the purchaser.
- “Should or May” — these words indicate non-mandatory provisions.
- “Equivalent” — these words indicate that items offered must be equivalent as to function, basic design type and quality of material, method of construction and any required dimensions.
- Respond (e.g., yes/no, etc., NA) to each item or question in the bid documents or bid questionnaire.
- Resolve Protested Solicitations and Proposed Awards. According to the Texas Local Government Code 262.027, “Awarding Contract,” any prospective Bidder or Offeror who is aggrieved in connection with the solicitation or proposed award of a Contract may protest by submitting a written request to appear before Commissioners’ Court and should have known the facts giving rise thereto.

Non-Binding Nature of this Publication

This publication is designed solely to provide general summary information to those wishing to do procurement business with Jefferson County. As such, it is not binding in either a legal or regulatory sense. The procurement activity of Jefferson County is performed in accordance with the applicable laws, the Texas Local Government Code 262, and other applicable rules and regulations governing the information in this publication notwithstanding.

This publication does not have the force or effect of any law, rule or regulation, and should not be relied upon by bidders in determining their actions or conduct.