

Prohibited or Restricted Activities

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Overview & Purpose

As a General Law municipality within the State of Texas, the Town of Westlake and its component units are subject to compliance with Local Government Code procurement laws and Texas Education Code for Academy purchasing. In addition to the restrictions established therein, additional prohibitions or restrictions instituted by Council/Board are necessary to safeguard public funds and trust.

Participants

Council/Board – elected officials responsible for directing staff to purchase goods and services to facilitate the mission and activities of the Town/Academy

Employee – person tasked with the administration of ordering, receiving/implementing, and issuing authorized payments for goods and services

Vendor – business entity or individual that seeks to have or has a contract to provide goods or services to the Town/Academy; could be a consultant, contractor, company, or individual provider

Prohibited Purchasing Activities

Due to the Town's responsibility of managing public funds, several actions are prohibited by law, policy, or ethics. Prohibited activities include:

- Purchasing goods or services for personal benefit.
- Purchasing goods or services under the guise of sole source, but which the LGC and legal opinion do not expressly agree on the classification.
- Separate, sequential, or component purchases that avoid competitive bidding requirements, deviate from purchasing authority limits, or circumvent budgetary controls, even if unintentional.
- Purchasing goods or services from a vendor or company that provides any kind of favor or item of value that might influence or appear to influence the purchasing decision.
- Disclosing confidential or proprietary information from solicitations to another party or using the information for personal gain.
- Verbally or in writing authorizing the purchase of goods or services that you do not have the express authority to authorize. This includes signing contracts for budgeted items.

In addition to the activities above, any purchases violating applicable federal or state law or the Town's purchasing policies are expressly prohibited.

Restricted Purchasing Activities

Restricted purchasing activities include those that are usually prohibited but may have rare instances in which authorization could be granted. Among the known restricted activities are:

- Purchasing alcohol. For special events in which resale of alcohol is an authorized activity, the purchase of alcohol may be allowed. Express permission must be granted by the Town Council to include alcohol sales at the event.
- Unbudgeted or unfunded purchases are generally not allowed. In the case of emergency purchases, as defined by LGC and the Purchasing Authority Policy (Policy 07.11), exceptions may be made to ensure the safety of life or property. Other unbudgeted or unfunded purchases should be handled using the process outlined in Purchasing Authority (Policy 07.11).
- Purchasing goods or services from a vendor or company from which an elected official or employee has a personal stake in without disclosing the conflict of interest and recusing oneself from all purchasing activities related to the vendor or company.

Should a purchasing scenario arise that is not expressly allowed through statute or policy, consultation with the Town Manager, Head of School, and Director of Finance are required prior to engaging a vendor. Any purchases must still adhere to all other policies and thresholds, including Council/Board approval, as appropriate.

Approval & Update Process

The Town Manager and Head of School, in coordination with the Director of Finance, are responsible for monitoring applicable statute and regulations and revising the procurement policies, at least annually. They have the authority to further prohibit or restrict the activities listed here in the course of the duties to ensure the responsible expenditure of public funds. Any permanent changes will be included in the policy, which will be updated as needed and presented to the Council/Board. Additionally, the Council/Board has the authority to prohibit or restrict the authorized activities of the Town Manager and Head of School.