



COUNTY OF CASS

PURCHASING

POLICIES AND PROCEDURES MANUAL

Adopted by Commissioners Court,

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PURCHASING POLICIES AND PROCEDURES

The purpose of this manual is to establish uniform policies and procedures for the procurement of materials and services that are consistent with Texas Local Government Codes for Purchasing and Contracting Authority of Counties.

To establish policies and procedures for purchases made with grant funds received from the State or Federal government. The County of Cass will implement all terms and conditions for each grant and the appropriate Texas Code or Uniform Guidance as it pertains to each funding source. As Texas Local Government Codes and or Uniform Guidance is updated, this manual will also be updated.

Section. 262.012. COUNTY AUDITORS AS PURCHASING AGENTS IN CERTAIN COUNTIES. (a) The commissioners' court of a county that employs a county auditor jointly with one or more counties under Section [84.008](#) may require the auditor to act as the purchasing agent for the county, in addition to performing the regular duties of the auditor as required by law. The County Auditor shall supervise all purchases made on competitive bid and shall see that all purchased supplies, materials, and equipment are delivered to the proper county officer or department in accordance with the purchase contract.

It is the individual responsibility of each employee involved in the procurement process to understand the policies upon which these procedures are based, the meaning, and intent of the procedures themselves.

If there are any questions relative to policy or procedure, or the ability of the employee to respond effectively to the requirements of the procedures, then it is the responsibility of the employee to bring such matters to the attention of their immediate supervisor before any action is taken.

The fundamental purpose of these procedures is not to restrict the effectiveness of the individuals involved in the procurement, but to provide a foundation for effective and consistent practices resulting in a positive and professional relationship between the County of Cass and the vendors from whom we are served.

The County Purchasing Policy is to:

- Seek the best quality, best value, lowest priced goods and services available that meet the needs and delivery requirements of the County of Cass personnel.
- Provide all responsible vendors and contractors with equitable access to servicing the needs of the County of Cass and its personnel through the competitive bidding of goods and services;
- Comply with all state laws and uniform guidance that apply to the County of Cass's purchasing for grant funding opportunities and the policies and procedures in this manual.
- Manage all County assets and inventory so that replacement costs are minimized and the County of Cass may account for those assets;
- Disposal of all surplus, salvage and seized and abandoned property in a manner that provides the most benefit to the taxpayers of the county and complies with the law.

The County of Cass shall purchase all supplies, materials, and equipment required or used, and contracts for all repairs to property used. The County of Cass recognizes the County Auditor as the County Purchasing Agent.

COUNTY PURCHASING ACT

The Purchasing Act applies to all departments: all district, county, precinct officials, employees and subdivisions of all district, county and precinct offices.

The County Purchasing Act provides a general legal and procedural framework that emphasizes price (rather than total cost and value), openness, control, and accountability rather than efficiency. It is the duty of the county's chief procurement official to review and to recommend periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.

In Texas counties there are usually two entities that have the authority to sign procurement documents: the commissioners court as a voting body only, and the county purchasing agent. *The commissioners court must approve all contracts exceeding the statutory limit for supplies, materials, and equipment required or used, and contract for all repairs.* Program officials typically do not have procurement authority unless specifically authorized by commissioner's court under authority of the Purchasing Act or other government code.

VIOLATIONS OF THE ACT

The following purchasing strategies that are made with the intention of avoiding formal competitive bidding are in violation of the law:

- **COMPONENT PURCHASES:** purchasing a series of component parts of an item that normally would be purchased as a whole.
- **SEPARATE PURCHASES:** purchasing goods and services in a series of separate purchases that in normal purchasing practices, would have been purchased in one purchase.
- **SEQUENTIAL PURCHASES:** purchases made over a period of time that in normal purchasing practices would be made as one purchase.

CAUTION: Intentionally separating purchases/invoices to avoid the statutory limit on competitive bidding is a violation of the County Purchasing Act, any county officer or employee is subject to criminal penalties for such activities.

Any commitment to acquire supplies, materials, and equipment required or used, and contract for all repairs that are not covered by a current contract, or where a discretionary exemption has been granted without an authorized purchase order is prohibited. Anyone obligating an expenditure of funds for supplies, materials, and equipment required or used, and contract for all repairs prior to securing a purchase order may be held personally responsible for the payment or the purchase may be deemed void and returned to the vendor.

COOPERATIVE PURCHASING PROGRAM

The County of Cass may participate in a cooperative purchasing program with another local government or a local cooperative organization.

A local government that is participating in a cooperative purchasing program may sign an agreement with another participating local government or a local cooperative organization stating that the signing local government will:

1. designate a person to act in all matters relating to the program;
2. make payments provided in the agreement; and
3. be responsible for a vendor's compliance with provisions relating to the quality of items and terms of delivery.

A local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or service.

Federal funding does not recognize cooperative purchasing programs as a source for competitive bids or proposals. All purchases made with Federal funding over \$50,000 must use competitive bid/proposal.

PROFESSIONAL SERVICES PROCUREMENT ACT

Any commitment to acquire supplies, materials, and equipment required or used, and contract for all repairs that are not covered by a current contract, available from a co-op or where a discretionary exemption has been granted without an authorized purchase order is prohibited. Anyone obligating an expenditure of funds for supplies, materials, and equipment required or used, and contract for all repairs prior to securing a purchase order may be held personally responsible for the payment or the purchase may be deemed void and returned to the vendor.

Counties must comply with a host of procurement and financial requirements, including federal procurement requirements which flow through to states and localities receiving federal funds (grants).

BEST VALUE PROCUREMENT POLICY

The Texas Legislature added the ability for County's to utilize best value analysis for any type of procurement where it has been determined it is in the best interest of the County. The Request for Proposal (RFP) method is used where the evaluation is made by established weighted evaluation factors.

Cost plus a percentage of cost and percentage of construction cost methods of contracting will not be used by the County of Cass.

BID/PROPOSALS

The purpose of the procedure is to provide guidance for the regulations that apply to purchases of material, equipment, supplies, and services that are required by law to be a competitive sealed bid or request for proposal,

These regulations and procedures apply to all purchases as follows:

The County as a whole if cost exceeds \$50,000 in the aggregate for a twelve (12) month period.

Construction, maintenance, repair, renovation of a building or materials for a renovation project valued at \$50,000 or more in the aggregate for a twelve (12) month period.

EXEMPTIONS AND EMERGENCY PURCHASES

Some goods and services can be exempt from competitive procurement process if the commissioners court orders the purchase exempt. Section 262.024 of the Texas Local Government Code lists all the circumstances when exemptions are available for purchases made out of current funds, bond funds, or through time warrants.

If an “EMERGENCY” purchase order is needed, approval must be obtained first. ***Improper planning cannot be considered a true emergency. Care should be taken that emergency purchases do not result from improper planning.***

QUOTATIONS

The County Auditor’s office will solicit all quotes or bids.

- **Bid Openings**

The County Auditor will open all bids publicly on the date specified in the notice. All bids for grants will be kept in grant files. All other bids will be kept in the County Auditor’s office.

- **Bid Selection**

The County of Cass will base selection on the evaluation factors listed in each bid. The commissioners court may choose to accept or reject the bids.

- **Bonding Requirements**

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold will require bid guarantee, performance bond, and a payment bond on all federally funded projects unless the federal award agency or the pass-through entity has made a determination that the federal interest is adequately protected.

- The County of Cass will require a bid guarantee from each bidder equivalent to 5% of the bid prices. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- The County of Cass will require a performance bond on the part of the contractor for 100% of the contract price. A “performance bond” is one executed in

connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

- The County of Cass will require a payment bond on the part of the contractor for 100% of the contract price. A "payment bond" is one executed in connection with contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

INVENTORY & DISPOSITION

When property is determined to be surplus/salvage, is no longer needed, is in unusable or unsafe condition, it shall be disposed of as outlined below.

Items purchased by Federal Funds, Grant Funds or Asset Forfeitures shall be handled in accordance with their respective regulations.

Surplus/salvage inventory shall be recorded and disposed in the following manner:

1. All property must have Commissioner's Court approval and court action to be declared surplus.
2. Once the item or items have been declared surplus, then it can be sold, salvaged, or disposed.
3. The County Auditor's office will remove from the County of Cass inventory all items that have been declared surplus.

VENDOR RELATIONS

It is County of Cass's policy to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in all of our dealings. At all times, applicable laws must be scrupulously observed. In this regard, the following should be observed when dealing with suppliers and/or their representatives:

- A. To accord prompt and courteous reception, as well as fair and equal treatment, to all suppliers and their representatives,
- B. Provide equal opportunity for all suppliers to offer price quotes and products,
- C. Guarantee the confidentiality of all price quotations made by vendors, until awarded,
- D. Remain scrupulously free from obligations to any supplier,
- E. Keep informed about sources of supply, current methods, services, and material; encourage their testing of new product samples; and
- F. If, for any reason, one vendor is permitted to re-quote, his competitors will be given the same opportunity. Re-quoting should be restricted to an absolute minimum.

ETHICAL PRACTICES

Policy

It is the policy of County of Cass that the following ethical principles will govern the conduct of every employee involved directly or indirectly in the County procurement process.

Responsibility to County

Employees will avoid any activities that would compromise or give the perception of compromising the best interest of County of Cass. Employees will not use confidential proprietary information for

actual or anticipated personal gain.

CONFLICT OF INTEREST

Employees of the County of Cass shall not engage in any employment, relationship, or activity which could be viewed as a conflict of interest because of the potential or appearance of affecting the employee's job efficiency, or which would reduce his/her ability to make objective decisions in regard to his/her work and responsibility as a County of Cass employee.

Employees involved in conflict-of-interest situations shall be subject to discipline, up to and including termination and these actions may have criminal consequences for employees.

Activities which constitute a conflict of interest shall include but not be limited to:

- (1) Soliciting, accepting, or agreeing to accept a financial benefit, gift, or favor, other than from the County, that might reasonably tend to influence the employee's performance of duties for the County or that the employee knows or should know is offered with the intent to influence the employee's performance;
- (2) Accepting employment, compensation, gifts, or favors that might reasonably tend to induce the employee to disclose confidential information acquired in the performance of official duties;
- (3) Accepting outside employment, compensation, gifts, or favors that might reasonably tend to impair independence of judgment in performance of duties for the County;
- (4) Making any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and his or her duties for the County; or
- (5) Soliciting, accepting, or agreeing to accept a financial benefit from another person in exchange for having performed duties as a County employee in favor of that person. *{Cass County Personnel Policy}*

Subcontractor

It shall be a breach for any payment, gratuity or offer of employment to be made on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor for any contract for the County of Cass, or any person associated therewith, as an inducement for the award of a subcontract to order.

Confidential Information

It shall be a breach of ethics for any employee or former employee of County of Cass knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated gain of any person.

Perception

Employees will avoid any appearance of unethical or compromising practices in all relationships, actions, and communications.

Gratuities

Employees will never solicit or accept money, loans, gifts, favors, or anything of value, from present or potential vendors which might influence or appear to influence any purchasing decision. Generally edible goods with a value of \$50.00 or less are acceptable if shared with the entire staff and will not offend the prohibition unless it appears to influence a purchasing decision. If anyone is in doubt whether a transaction complies with this policy, the individual should disclose the transaction to the County Auditor for interpretation.

UNNECESSARY PURCHASES PROHIBITED

County of Cass shall avoid purchasing unnecessary or duplicative items. Every grant-funded purchase must meet the definition of an “allowable cost” per the federal administrative requirements.

ENCOURAGE PARTNERING

County of Cass encourages partnering with state and local governments to reduce costs within our regional area, state and nation.

PROMOTE USE OF FEDERAL EXCESS AND SURPLUS PROPERTY

County of Cass encourages the use of federal excess or surplus property instead of purchasing new property so as to reduce project costs.

REQUIRE THE USE OF RESPONSIBLE AND REPUTABLE CONTRACTORS

County of Cass is required to use responsible and reputable contractors. County of Cass will consider the integrity, past performance, competency, and other factors in the selection of contractors. County of Cass will not contract with contractors that have been suspended or debarred. This will be verified using SAM.GOV and the documentation will be kept in the grants file.

REQUIRE RECORD OF PROCUREMENT

County of Cass will keep a detailed record of procurements. Specifically, County of Cass will record why a particular procurement method was chosen, the contract type, factors contributing to the selection and rejection of contractors, and the basis of the contract price.

DISCOURAGE USE OF TIME AND MATERIAL CONTRACTS

County of Cass discourages the use of time and material contracts due to the open-ended contract price. If County of Cass uses a time and materials contract there will be a ceiling price that will be enforced to monitor the efficiency of the contract.

NON-COMPETITIVE PRACTICES

County of Cass and their subrecipients shall avoid actual, or the appearance of, conflicts of interest or non-competitive practices which may restrict or eliminate competition or otherwise restrain trade.

Contractors that develop or draft specifications, statements of work, and/or invitations for bids, Requests for Proposals (RFPs) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement.

- **Contractor Management**

County of Cass provides contractor oversight to make sure that contractors perform their responsibilities consistent with the terms and conditions of their purchase orders and contracts.

- **Affirmative Steps**

County of Cass takes all necessary affirmative steps to ensure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

SOLICITATION OF GOODS AND SERVICES

The following must be in all solicitations for goods and services:

- Description of good or services needed
- Should not have language that unduly restricts competition
- Describe bidder requirements including bond, lump-sum or unit pricing, and method of payment by the county
- Evaluation factors
- Clear, accurate and technical requirements spelled out in terms of the “functions to be performed”
- If uses terms “brand name or equivalent” the specific features of that brand should be included
- Include a range of acceptable characteristics or minimum standards without impairing competition

The notice will be published at least once a week in a newspaper of general circulation in the county, with the first day of publication occurring at least 14 days before the date of the bid opening. Trade secrets and confidential information contained in the bid/ proposal, so identified by offeror as such, will be treated as confidential by County of Cass to the extent allowable in the Open Records Act.

2 CFR Part 200 Section 200.320 specifies five methods of procurements to be followed as illustrated on the table below:

Method	Aggregate Dollar Amt.	Notes 1	Notes 2
1. Micro -Purchase	Not to exceed \$3,000 (\$2K for subject to Davis Bacon)	No quotations required if price is reasonable.	To extent practicable distribute equitably among qualified suppliers
2. Small Purchase	Up to \$150K	Rate quotations from an adequate number of qualified sources.	No cost or price analysis required.
3. Sealed Bid	>\$150K	Primarily construction projects-Firm fixed price contract.	Price is a major factor-formal process for bidding.
4. Competitive Proposals	>\$150K	Fixed price or cost reimbursement.	RFP with evaluation methods for an adequate number of qualified sources.
5. Sole Source	Available for procurements of any dollar amount.	No competition/Must be authorized by agency (or pass-through entity)	Unique or public emergency

Federally-Mandated Procurement Contract Provisions

All contracts awarded by County of Cass to subcontractors and involving a grant-funded purchase of goods or services, including small purchases, must include certain federally-mandated procurement contract provisions, including:

Provision	Citation
Recipient Termination	2 CFR Part 200 Appendix II
Equal Employment Opportunity	E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor
Clean Air Act	42 U.S.C. 7401
Federal Water Pollution Control Act	33 U.S.C. 1251
Energy Efficient	2 CFR Part 200 Appendix II
Copeland "Anti-Kickback" Act	18 U.S.C. 874 and 40 U.S.C. 276C
Byrd Anti-Lobbying Amendment	31 U.S.C. 1352
Debarment and Suspension	Executive Orders 12549 and 12689
Recycling	2 CFR Part 200 Appendix II
Davis-Bacon Act	40 U.S.C. 276a to a-7
Contract Work Hours and Safety Standards Act	40 U.S.C. 327-333
Rights to Inventions Made Under a Contract or Agreement	37 CFR part 401
Contractor Breach Clause	2 CFR 200 Appendix II
Domestic Preference for Procurements	Preference for purchases, acquisitions, or use of goods, products and materials made in the USA

All contracts awarded by County of Cass to subcontractors and involving a grant-funded purchase of goods or services, including small purchases, must also contain the following contract clauses:

- Provisions that allow for administrative, contractual, or legal remedies where contractor violates or breaches contract terms as well as remedial actions
 - Provisions addressing termination by County of Cass, including manner of termination and basis of settlement
 - Provisions addressing termination of contract for default as well as circumstances beyond control of subrecipient
 - Provisions for bid guarantees, performance bonds and payment bonds
- Provisions allowing access to subrecipient records by County of Cass, federal awarding agency, Comptroller General of the United States, and any other duly authorized representative

County of Cass will follow all terms and conditions in grant agreements or contracts along with the more stringent Texas Local Code or federal uniform guidance.

PURCHASING CREDIT CARD POLICY AND PROCEDURES

Purpose:

The purpose of this policy is to establish procedures for the use of County Credit Cards. This policy is being established in order to provide immediate access to goods and/or services. All Credit Card purchases shall adhere to all purchasing statutes, rules, policies and procedures when using the card. The use of a credit card does not automatically exempt a governmental agency or its officers or its employees from any purchasing requirements of state law.

Cardholders must remember that this is a *payment method only*.

Definitions:

Bank – The bank selected by the County to provide the credit card program.

- The Credit Card is provided and utilized to make basic travel registration and small or spot purchases of business-related goods and services.
- All Credit Card purchases must follow County of Cass's Procurement Policies.
- County of Cass Credit Card purchases should be made only when there are specific situations of need and/or the vendor does not direct bill.

Unauthorized Credit Card Use:

County of Cass may not use a credit card and may not reimburse an officer or employee for use of said credit card for the following:

- A purchase of a personal nature or any other purchase not connected with county business.
- A cash advance
- Charges for entertainment
- Purchases made in attempt to bypass the normal purchasing policy
- A purchase that violates any provision of state law or County of Cass's Procurement Policies and Procedures.

Under “no” circumstances should an authorized credit card user allow another person to use the county credit cards either by physically having the card in their possession or by giving a card number to another individual or vendor so as to allow someone other than the designated cardholder to use the card.

- Personal purchases or purchases for family members or friends or for identification.
- A single purchase that exceeds the monthly limit or the Cardholder's single purchase limit; unless a higher limit has been agreed in writing with the Elected Official/ Department Head.
- Entertainment expense or meals and travel expenses for non-County related business.
- Alcoholic Beverages.
- Any additional items/services as may be restricted by County policy.

Any person(s) who makes unauthorized purchases, carelessly uses the card, or fails to turn in the appropriate documentation in a timely manner, will be liable for the total dollar amount of such unauthorized purchases, plus any administrative fee charged by the bank in connection with misuse.

Responsibilities:

- Ensure sales tax is not charged at time of purchase.
- Ensure appropriate encumbrances are made with the issuance of a purchase order prior to the utilization of any credit card purchases.
- Personal charges on hotel bills should be paid for at checkout time by the employee and not charged to the county credit card.

Payment:

Vouchers with receipts attached shall be sent to the County Auditor for processing.

Record Keeping:

Whenever a purchasing card purchase is made, either over the counter, by telephone, or internet documentation shall be retained as proof of the purchase. Such documentation will be used to verify the purchases listed on the monthly statement. An itemized listing (receipts) of all items purchased shall be forwarded with the voucher to the County Auditor for processing.

When the purchase is made over the counter, the Cardholder shall retain the invoice and “customer” copy of the charge receipt. Prior to signing this slip, the Cardholder is responsible for making sure that the vendor lists the quantity, and fully describes the item(s) on the charge slip.

Card Security:

It is the Cardholder’s responsibility to safeguard the credit card and account number to the same degree that a Cardholder safeguards his/her personal credit information.

The Cardholder must not allow anyone to use his/her account number.

If the purchasing card is lost or stolen the Cardholder shall immediately notify the County Auditor who in turn will contact the bank.

Cardholder Separation:

Prior to separation from the County of Cass or transfer to another department, the Cardholder shall surrender any current credit card to the County Auditor.

Please be aware that the responsibility of the void card remains with the Department Head until it has been received by the County Auditor.

DEFINITIONS

Auditor- Cass County Auditor and his designated representatives.

Change order - A document used in construction contracts that changes the contract by increasing or decreasing the cost or the time for performance or changes the goods or services to be delivered.

Commissioners Court – County of Cass Commissioners Court consisting of the County Judge and four Precinct Commissioners.

Competitive bidding – The formal process of soliciting sealed bids from vendors as governed by Local Government Code §262.023 and Uniform Guidance 2 CFR 200.319-200.320.

Contract – A formal, written agreement executed by the county and a vendor containing the terms and conditions under which the goods or services are to be furnished to the county.

Department – Any county, precinct, district offices, and subdivisions thereof.

Employee – Any county, precinct or district employee elected, appointed, or hired.

Goods – Includes any personal property to be purchased by the county, including equipment, supplies, material, and component or repair parts.

Lease – A contract for the use of personal property for a period of time in return for a specified compensation. All leases must be approved by the Commissioners Court and signed by the County Judge.

Lowest responsible bid – The offer from the responsible bidder who submits the lowest and best bid meeting all requirements of the specifications, terms, and conditions of the invitation for bid. It expressly is understood that the lowest responsible bid includes any related costs to the county in a total cost concept. The term “responsible” refers to the financial and practical ability of the bidder to perform the contract and take into consideration the past performance of the vendor.

Modification/Amendment – A document used to change the terms and/or conditions of a contract.

Pre-bid/proposal conference – A conference conducted by the County Auditor’s office and/or Grant Consultant for the benefit of those wishing to submit a bid or proposal for services or supplies required by the county. This is to allow bidders/proposers to ask questions about any proposed contract and the specifications contained therein.

Proprietary information – Information in bids or proposals to which a vendor claims ownership or exclusive rights and which are protected from disclosure in the Texas Open Records Act (Texas Local Government Code, Chapter 551).

Purchase order – A written order issued by the County Auditor, or designee, authorizing the purchasing office to enter into a contract with a vendor to purchase goods or services.

Purchasing – The act, function, and responsibility for the acquisition of goods and services including construction.

Purchasing Act – As defined in the Texas local Government Code, Chapter 262.

Purchasing Agent – Is the County Auditor and/or designee in County of Cass.

Request for Offer (RFO) – An RFO provides a method of negotiating prices, terms, and conditions with catalogue vendors. It assumes that negotiation for “best value” will occur with catalogue vendors, instead of making selections for goods and services based on the published prices, terms and conditions in the catalogues.

Request for Proposal (RFP) – A procurement method that emphasizes value over price. The best value might not be the lowest cost. A document requesting an offer be made by a vendor which allows for negotiations after a proposal has been received but before award of the contract for goods and services procured in compliance with Texas Local Government Code section 262.0295 or 262.030. All proposals are confidential information and will be open to the public after the award has been made.

Sealed Bid – Competitive bid required to be advertised in a newspaper of general circulation and submitted to the purchasing office in a sealed envelope within the specified time period.

Services – Includes all work or labor performed for the county on an independent contractor basis, including maintenance, construction, manual, clerical, or professional services.

Sole source good or service – A good or service that can be obtained from only one source that is purchased in compliance with Texas Local Government Code section 262.024 (a)(7) and (c).

Solicitation – A document, such as a Request for Bid, Request for Proposal, Request for Offers, or Request for Statement of Qualifications, issued by the purchasing office. The document contains the terms and conditions for a contract and seeks (solicits) a bid or proposal for goods or services needed by the County.

Specifications – A concise description of a good or service that the County seeks to buy, including the requirements the vendor must meet in order to be considered for the award. A specification may include requirements for testing, inspection, or preparing any items for delivery, or preparing or installing it for use.

Vendor – One who sells a good or service.