

# TAPP TALK



Texas Association of Public Purchasers – Austin, Texas

[www.austinontapp.org](http://www.austinontapp.org)

December 2009

Volume 26, Issue 12, Page 1

## President's Message –

I want to express my appreciation to everyone for being so kind to tolerate me this year as your President. It was a distinct honor, and a highlight of my career in public procurement. I want to thank those who have worked so hard this year.

Since this is the last time I can address you as President, I thought it would be interesting to go back to my first message to you last January and see how far we have come. I recognized some of the great purchasers from our past who distinguished themselves with NIGP. Although we did not have anyone win a national honor this year, TAPP was well represented at the NIGP National Forum and the Lone Star Conference. 2010 will be another chance, so please consider finding someone to nominate. The forms are easy to use, and it takes almost no effort. Remember that nominations are due by March or so.

<http://www.nigp.org/eweb/Dynamicpage.aspx?webkey=efc16fe0-bca3-4538-a610-b0f0f82a4769> is the link where you will find several award categories. Please take a few minutes to nominate some deserving colleague for some kind of recognition. This year I will dedicate myself to work with Sandra to get TAPP awarded the Chapter of the Year award. We deserve that, and I will pledge to expend whatever time it takes to make that happen. Enter the Ethics Essay Writing contest. Supervisors, what better way to show your appreciation than to nominate someone for buyer of the year? Nominate someone you admire for Purchasing Manager of the Year. If you need help filling out the forms, call me – I'll help you. As the Nike slogan goes, "Just do it!"

My second initiative was to reach out to contracting professionals, and let them know they too have a home with TAPP. We have had several new visitors to our meetings from the contracting field, and one new member joined. Some of our programs centered on contracting, and we had good presentations representing that segment of our work. We should keep up that effort.

I am sad to say the third goal, has not been as successful. I had hoped we could market our public procurement profession to local high schools, so that young people coming up can know what a wonderful career opportunity we have. This would give them an opportunity to prepare themselves to enter the public procurement profession. Now that I will no longer be President, I am hoping to take this initiative on myself for 2010. Won't you join me in this effort? There are far too many schools for me to cover alone, but I feel that together we can make a difference.

I began this year with a greeting for you all to have a Happy New Year so I will go out the same way. I hope that 2010 turns out to be the best year you have ever had personally and professionally, and that it will be a banner year for TAPP! I feel that there are three vital areas for our continued success – preparation, recognition, and inclusion. I'm afraid in the past we have focused exclusively on preparation; however, we can and should do more on the other two. That is where you'll find me over the next couple of years – come on over and help!

Bless you all. Thank you all for everything. I wish you all the best of luck and greatest joy in the future. If there is ever anything I can do for any one of you, please call me.

Your friend,

*Ernie Lee*

### **Next Board Meeting:**

11:30 a.m., Wednesday, December 2, 2009

Camp Hubbard, 3800 Jackson Avenue, Building 5, Austin, Texas



## **TAPP Holiday Luncheon**

**December 3rd - 11:30 – 1:00**

**Austin Energy Building  
721 Barton Springs Road**

### **ACTIVITIES:**

**Buffet Luncheon**

**Swearing-In of newly elected TAPP Officers and Board members**

***TAPP Silent Auction* fund raiser**

**Gift baskets, potted herbs, and more**

**Come complete your Christmas shopping list!**

**Operation Brown Santa donations (cash or check) - help fund gifts for needy children in our community.**

**RSVP to James Gonzalez at [James.Gonzalez@tea.state.tx.us](mailto:James.Gonzalez@tea.state.tx.us)**

## 2009 Chapter Leadership

*Officers:***President****Ernie Lee, CPPO, CTPM**

Texas Department of Transportation  
 Phone: (512) 374-5166  
 Fax: (512) 374-5121  
 Email: [elee@dot.state.tx.us](mailto:elee@dot.state.tx.us)

**Secretary****Kay Wagner, CPPO, CPPB**

Texas Department of Transportation  
 Phone: (512) 374-5421  
 Fax: (512) 374-5483  
 E-mail: [kwagne1@dot.state.tx.us](mailto:kwagne1@dot.state.tx.us)

**Immediate Past President****Jo B. Woten, C.P.M., CTPM**

Texas Department of Transportation  
 Phone: (512) 374-5431  
 Fax: (512) 374-5480  
 Email: [jwoten@dot.state.tx.us](mailto:jwoten@dot.state.tx.us)

**Vice President****Sandra Radosavljevic, CPPO, CTPM**

Texas Department of Transportation  
 Phone: (512) 374-5431  
 Fax: (512) 374-5482  
 E-mail: [sradosav@dot.state.tx.us](mailto:sradosav@dot.state.tx.us)

**Treasurer****Misti Shumate, CTCM, CTPM**

Texas Board of Professional Engineers  
 Phone: 512-440-3086  
 Fax: 512-440-2934  
 Email: [misti.shumate@tbpe.state.tx.us](mailto:misti.shumate@tbpe.state.tx.us)

*Board of Directors:*

2007 - 2009

**Glenn R. Hagler, CPPO, CTPM**

Texas Department of Transportation  
 Phone: (512) 374-5402  
 Fax: (512) 374-5480  
 Email: [ghagler@dot.state.tx.us](mailto:ghagler@dot.state.tx.us)

**Weaver T. Jackson, CPPO, CPPB, CTPM**

Texas Department of Transportation  
 Phone: (512) 374-5432  
 Fax: (512) 374-5481  
 Email: [wjackso@dot.state.tx.us](mailto:wjackso@dot.state.tx.us)

2009-2010

**Steve Piña, CPPB, CTPM**

Attorney General of Texas  
 Phone: (512) 460-6135  
 Fax: (512) 460-6062  
 Email: [stephen.pina@cs.oag.state.tx.us](mailto:stephen.pina@cs.oag.state.tx.us)

**Art Huck, CSM**

Texas Department of State Health Services  
 Phone: (512) 255-5946  
 Fax: (512) 255-5946  
 Email: [huck\\_art@yahoo.com](mailto:huck_art@yahoo.com)

2010-2011

**Carol Debish, CPPB**

Austin Energy  
 Phone: (512) 322-6264  
 Fax: (512) 322-6405  
 Email: [carol.debish@austinenergy.com](mailto:carol.debish@austinenergy.com)

**Nancy McCallum, CPPO, CPPB, CTPM, CTP**

Texas Department of Transportation  
 Phone: 512-467-3973  
 Fax: 512-302-2040  
 Email: [nmccall@dot.state.tx.us](mailto:nmccall@dot.state.tx.us)

*Standing Committees:***Professional Development****Ann Tillman, CPIM, CTPM**

Employees Retirement System of Texas  
 Phone: (512) 867-7160  
 Fax: (512) 867-3199  
 Email: [ann.tillman@ers.state.tx.us](mailto:ann.tillman@ers.state.tx.us)

**Programs****Art Huck, CSM**

Texas Department of State Health Services  
 Phone: (512) 255-5946  
 Fax: (512) 255-5946  
 Email: [huck\\_art@yahoo.com](mailto:huck_art@yahoo.com)

**Facilities****Mike Long, CPPB**

Travis County  
 Phone: (512) 854-4850  
 Fax: (512) 854-4211  
 Email: [mike.long@co.travis.tx.us](mailto:mike.long@co.travis.tx.us)

**Communications and Publications****John Dobrich, CPPB, CTPM, CTP**

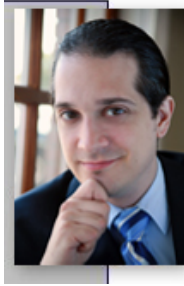
Teacher Retirement System of Texas  
 Phone: (512) 542-6569  
 Fax: (512) 542-6500  
 Email: [john.dobrich@trs.state.tx.us](mailto:john.dobrich@trs.state.tx.us)

**Membership****Jo B. Woten, C.P.M.**

Texas Department of Transportation  
 Phone: (512) 374-5431  
 Fax: (512) 374-5480  
 Email: [jwoten@dot.state.tx.us](mailto:jwoten@dot.state.tx.us)

**Awards****Sandra Radosavljevic, CPPO, CTPM**

Texas Department of Transportation  
 Phone: (512) 374-5431  
 Fax: (512) 374-5482  
 E-mail: [sradosav@dot.state.tx.us](mailto:sradosav@dot.state.tx.us)



## Ethical Negotiation With Multiple Suppliers

PurchTips - Edition # 191, November 17, 2009

By Charles Dominick, SPSM - President & Chief Procurement Officer, Next Level Purchasing, Inc.

### Is It Ethical To Negotiate With A Non-Low Bidder?

I often get questions about the ethics of negotiating with one or just a select number of bidders after receiving proposals. Should all bidders be given the opportunity to negotiate?

Well, here's my rule of thumb.

I create and continuously maintain a ranking of best bidders at the post-proposal stage of the sourcing process. Whether that ranking is based on price alone or a combination of criteria, I always have it. And my personal rule is to not give a negotiating opportunity to someone without giving the same opportunity to all HIGHER ranked bidders.

So, if you have seven bidders and want to negotiate with the bidder that has the third best rank, the bidders ranked #1 and #2 should also be given the opportunity to "sharpen their pencils." I wouldn't worry about the lower-ranked bidders unless I think that they also have a legitimate shot at actually earning the business. Usually, at that point, I've already ruled them out.

Now, if I negotiated with the third-best bidder and, as a result, got "the best deal" and never gave bidders 1 and 2 an equal opportunity to revise their proposals, that would reek of poor ethical judgment.

One thing about this approach is how it might be abused by the suppliers that you frequently engage in sourcing processes. If they know from experience that they don't have to put their best proposal forward because they will have the opportunity to negotiate later, you may find your sourcing process becoming more complex and less efficient than it needs to be.

You also have to do a self-evaluation and ask yourself "Why am I negotiating with someone other than the top two bidders?" In some cases, it may be due to internal political pressure to keep the incumbent.

Using the competitive bidding process to simply lower the incumbent's price without any realistic chance of actually switching suppliers is unethical. So you need to employ some change management to shape the culture of your organization while also keeping the process fair.

Charles Dominick, SPSM, is President & Chief Procurement Officer of Next Level Purchasing, Inc. (<http://www.nextlevelpurchasing.com>). This article was originally published in Next Level Purchasing's PurchTips newsletter. Republished with the written permission of Next Level Purchasing, Inc. To read previous editions of PurchTips or to subscribe to PurchTips directly for free, visit <http://www.NextLevelPurchasing.com/free.html>. Contact Charles at [cdominick@nextlevelpurchasing.com](mailto:cdominick@nextlevelpurchasing.com).



## Driving the Deal

By Joe Auer

### No Substitute for Contract Clarity

So what is good enough? Clarity, and nothing less. I really hit some supplier hot button with the Sept. 27 column "Are 'Best Efforts' Good Enough?" (You can check out that column at: [www.dobetterdeals.com/computerworld](http://www.dobetterdeals.com/computerworld).) One of the printable responses came from Keith Winn, a vice president at a supplier. He notes:

"As a VP of technology and director of product development, I was trained through the years by legal counsel to regard best efforts as a legal term that required that all feasible efforts, up to and including losing money, be applied to the tasks addressed in a best-efforts clause. We were advised to substitute 'commercially reasonable efforts' for 'best efforts.'

"From this school of thought, a best-efforts clause is a very strong obligation on the vendor—one that in software development would require the vendor to hire additional people to finish a job on time, even if it meant the vendor lost money in doing so. Have you heard of this reasoning? Is it outdated? I am certainly not an attorney and would be interested in your experience with this."

Keith, I've been testifying as an expert witness on contracts and negotiations for more than 20 years in state and federal courts. One thing I've learned is that in an IT deal, neither customer nor supplier should leave the issue of compliance for lawyers and juries to define for them.

What happens in court is the judge gets 12 laypeople off the streets from widely varied backgrounds (who normally have little business or IT experience), and they decide what the supplier and customer meant by the words in their contracts—all of them.

What's more, as a rule of thumb, you'll pay lawyers about \$50,000 per word to try to tell the jury what some of those words really mean. You're charged for the lawyers' time (and their clocks run real fast), expert witness fees, court reporters, travel and lodging expenses, preparation, assistants, faxes, phone calls, word processing, free lunches and so on.

After 35 years total in this business, I'm absolutely convinced what a good contract for both parties is: a document that's so clear a disinterested third party of average intelligence can read it and—without coaching—completely understand what the deal is.

We should strive diligently to make both parties contract compliance easily determinable by the parties. (What a concept.) Both customer and supplier should identify things like specific results to be accomplished, a measurable level of effort, statements of work (a detailed list of supplier "to-do's"), or any other way to objectively prove obligations have been fulfilled.

So, Keith, when there's a lot of painstakingly clear documentation of both parties' specific rights and obligations, the likelihood of a dispute even occurring is reduced dramatically. That's my experience, and thanks for asking. I love to get on my soapbox.



## Selecting Evaluation Teams

By Janet Hasty

Selection of the evaluation team is a very important part of the proposal process. You want to select the team as early in the process as possible. As a general rule, the team should be selected while developing the proposal document and the evaluation criteria. Evaluators are more likely to "buy-in" to the evaluation process if they participate in the proposal development process.

How many members should be on an evaluation team? My preference is 3-5 members. This is a manageable number and still gives a team approach. I do not recommend less than 3 people on an evaluation team. Large evaluation teams are difficult to manage, especially when trying to schedule meetings, oral presentations, etc. It really just depends on the type of the procurement and the type of expertise needed to evaluate the proposals. More complex procurements may require additional subject matter experts.

Having an odd number of people on the team is preferred because it is easier to break any ties in procedural matters. However, if you have a great team of 4 or 6 members- stay with it. The expertise of the team is more important than the number of team members.

Who do you ask to be on the evaluation team?

**End Users** - This is usually the program area within your entity who submitted the request for services.

**Stakeholders** - People within or outside of your entity who have a "stake" in the outcome of the procurement.

**Subject Matter Experts** -As the name implies, people who have expertise in the areas you are contracting out. These may or may not be the same as the end users.

**External Experts** – Whenever possible, I like to include people on the evaluation team who are outside of the contracting entity. Outside experts usually offer a different perspective and may reduce any pre-conceived biases the vendors think the contracting entity holds.

Other considerations when selecting an evaluation team are:

Subordinate relationships

Possible conflicts of interests

Any other negative influences



**TEXAS ASSOCIATION OF PUBLIC PURCHASERS (TAPP)**

Web Site: [www.austinontapp.org](http://www.austinontapp.org)

CHAPTER

**NATIONAL INSTITUTE OF GOVERNMENTAL PURCHASING**

**2010 Membership Application & Renewal Form/Invoice**

Date: \_\_\_\_\_

There are many exciting reasons for becoming a TAPP member or renewing your current membership! Receiving monthly newsletters, attending monthly meetings to network and share procurement related information, receiving discounts on NIGP/TAPP sponsored training, and receiving continuation education points are just to name a few!

- New Member - \$50.00
- Renewal - \$35.00
- Retired – No Dues

**(Please type or print and provide all information below)**

NAME: \_\_\_\_\_  
 TITLE: \_\_\_\_\_  
 EMPLOYER: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
 PHONE: ( ) \_\_\_\_\_ FAX: ( ) \_\_\_\_\_  
 E-MAIL (WORK): \_\_\_\_\_

Are you a member of National NIGP?  Yes  No NIGP#: \_\_\_\_\_

Professional certification earned:  CPPO  CPPB  CTPM  CTCM  CTP  
Other: \_\_\_\_\_

Interested in serving on a committee?  Programs  Membership  
 Facilities  Communications and Publications  Professional Development

**(Please note that the above information will be shared with NIGP)**

**Chapter Year: January 1 through December 31. To be a member in good standing, application must be received by March 15, 2010.**

**PLEASE RETURN FORM WITH PAYMENT FOR PROPER CREDIT**

**FORUM 2010 – SAN ANTONIO, TEXAS**

Please make check payable to: Texas Association of Public Purchasers

Send to: TAPP, P.O. Box 513, Austin, TX 78767

TAPP Tax ID # 14217636373000

## ***Job Postings***

Please check the following websites for the most recent postings. Positions are commonly found with the following keywords: Buyer, Contract, Proposals, Bids, Specialist, Purchaser, Procure, Purchasing, Procurement, Contract Administrator, Supply Management, and Inventory Management.

<http://esbd.cpa.state.tx.us/hr/jobs.cfm>

[http://www.txdps.state.tx.us/administration/staff\\_support/human\\_resources/jobs/jobsearch.asp](http://www.txdps.state.tx.us/administration/staff_support/human_resources/jobs/jobsearch.asp)

<http://www.twc.state.tx.us/jobs/job.html>

<http://www.monster.com>

<http://www.jobsearch.com>

<http://hotjobs.yahoo.com>

<http://www.careerbuilder.com>

NIGP members may access job postings dedicated to public purchasers on the NIGP website at:

<http://www.nigp.org/restrict/career.htm>

## ***Newsletter Additions***

Do you have something you would like to add to the newsletter? Is there a writer in you just itching to get out?

Please consider preparing an article for the newsletter. You may choose any topic you wish (almost!) Writing an article for a professional association newsletter brings many great returns; among them are personal satisfaction and recognition, but most of all you have an opportunity to share your accumulated experience, knowledge, and wisdom with other TAPP members. CPPOs and CPPBs may even be eligible for a recertification point from NIGP for published articles.

Give me a call at (512) 542-6569 or send me a note at [john.dobrich@trs.state.tx.us](mailto:john.dobrich@trs.state.tx.us).



# TEXAS ASSOCIATION OF PUBLIC PURCHASERS 2010 SEMINAR SCHEDULE Austin, Texas

**Seminar Hours: 8:00 am – 5:00 pm; No Lunch is provided**

DATE	PRICE CODE	SEMINARS	REGISTRATION DEADLINE
JANUARY 20-22, 2010	3	LEAP – INTRODUCTION TO PUBLIC PROCUREMENT	12-20-09 <b>NOON</b>
MARCH 3-5, 2010	3	LEAP – PLANNING, SCHEDULING & REQUIREMENT ANALYSIS	2-3-10 <b>NOON</b>
APRIL 5-6, 2010	2	CPPB (EXAM REVIEW) PREP	3-5-10 <b>NOON</b>
APRIL 7-8, 2010	2	CPPO (EXAM REVIEW) PREP	3-5-10 <b>NOON</b>
APRIL 21-23, 2010	3	LEAP – LEGAL ASPECTS OF PUBLIC PURCHASING	3-19-10 <b>NOON</b>
SEPTEMBER 22-24, 2010	3	LEAP – SOURCING IN THE PUBLIC SECTOR	8-20-10 <b>NOON</b>
OCTOBER 20-22, 2010	3	LEAP – CONTRACT ADMINISTRATION	9-20-10 <b>NOON</b>
DECEMBER 8-10, 2010	3	LEAP – DEVELOPING & MANAGING RFPs IN THE PUBLIC SECTOR	11-8-10 <b>NOON</b>

Seminar Fees			
Membership Type	1-Day Seminar	2-Day Seminar	3-Day Seminar
National Member	\$160	\$360	\$575
Non-Member	\$225	\$500	\$750

**SEMINAR LOCATION**  
**CLARION INN & CONFERENCE CENTER**  
 2200 South IH-35; Austin, TX 78704  
 Phone: 512-444-0561/ FAX: 512-444-7254

### Registration, Payment, & Cancellation

- A. **Locate Course(s):** NIGP home page is <http://www.nigp.org/eweb/>
  1. **Select** 'Professional Development' on left side of blue horizontal bar below green field
  2. **Under** 'Education Programs' (vertical blue bar) **Click** on 'Currently Scheduled Courses'
  3. **Browse** to pick course topic & **choose** 'Texas' from state drop down
  4. **Click** 'Search' and next **Click** on course title under topic
  5. On 'Search Results' **Click** Austin, TX course topic
- B. **Registration methods** – online (may pay by credit card) or FAX (may pay by check or PO)
  - **Online** – click 'Register' radio button (bottom of page) and follow step-by-step process, **OR**
  - **'Download print & FAX form'** (halfway down page after 'Register by FAX' & above red statement) – complete NIGP form & FAX to 703-736-9639 ("Attn: Seminar Registrar")
- C. **Payment to NIGP** – "Payments **must be received 2 weeks before the seminar start date**" by PO (vendor is NIGP), check (payable to NIGP), & credit card (American Express, Master Card, or VISA)
- D. **NIGP Cancellation Policy** – \$75.00 cancellation fee after registration deadline & 'No Shows' are liable for entire seminar fee

**www.austinontapp.org**  
 Ann Tillman, CTPM, CPIM(APICS)  
 Professional Development Chair  
 Email: TAPP\_Austin\_Chapter@yahoo.com