

**SUMMARY OF PURCHASING LAWS RELATED TO COMPETITIVE BIDDING REQUIREMENTS
PER TEXAS GOVERNMENT CODE AND LOCAL GOVERNMENT CODE**

This report serves only to highlight the numerous requirements of the various purchasing statutes. It is not intended to be all inclusive. The main reference point is Texas Local Government Code Chapter 252 which is known as THE COUNTY PURCHASING ACT. Other references include, but are not limited to: Local Government Code Chapter 271, Local Government Code Chapter 791, Texas Government Code Chapter 2269, Local Government Code Chapter 176 and Texas Government Code Chapter 2252.

HIGHLIGHTS

- *Counties cannot pay for a purchase if it was not made according to applicable law.
- *Sealed bids or proposals are required for purchases over \$ 50,000.
- *Separate, sequential or component purchases to circumvent the law are not allowed.
- *For purchases over \$ 50,000, the newspaper bidding requirements apply unless the item is being purchased through an approved purchasing cooperative.
- *The newspaper ad must be published twice over the period of two weeks and the bid deadline must be at least 14 days after the first publishing.
- *Specifications must not favor one vendor over another and should state "or equivalent" or "minimum requirements.
- *Criteria used to award the bid or proposal must be the same ones listed in the bid packet.
- *Use purchasing cooperatives when available and verify that quotes received are based on current contracts and pricing.
- *There are requirements for disclosures of relationships between elected officials/their families and vendors.
- *There are requirements for vendors to disclose relationships with elected officials.

CAUTIONS

- *Don't purchase service or products during the fiscal year where the total for that category will exceed \$ 50,000 without following the purchasing requirements.
- *Don't make separate, sequential or component purchases.
- *Don't divulge information to one vendor that is not available to all vendors.
- *Don't have a relationship with a vendor that could create a conflict of interest in fact or appearance.
- *Don't allow vendors who have helped write the bid specifications to bid on the item. Their role should be one or the other, but they should not assume both roles.
- *Don't ask a vendor to "hold" an item for possible future purchase. These are often called a Letter of Intent.
- *Don't collude with vendors to give one an advantage.
- *Don't accept sole source without fully documenting that no other vendor offers a suitable product.
- *Don't violate the laws that govern how to consider the location of a business in the award of a bid.
- *All purchases to be paid by County funds require a purchase order, in advance of the order being placed.
- *Purchase orders cannot be approved until the various purchasing rules and laws have been met.
- *Criminal penalties can apply.

RECOMMENDATIONS

- *Attend purchasing training offered to all commissioners.
- *Read the purchasing related articles in the COUNTY PROGRESS magazine. This magazine usually has an annual purchasing update.
- *Don't allow a salesman to convince you that their item is the very last one available in the time frame needed.
- *Remember the state statutes do not allow avoidance of the law because the item might not be available later.
- *Contact the County Auditor and County Attorney.

BASICS OF THE COUNTY PURCHASING ACT AND COMPETITIVE BIDDING

THIS PUBLICATION IS A RESEARCH TOOL AND NOT THE COUNSEL OF AN ATTORNEY. THIS PUBLICATION IS NOT A SUBSTITUTE FOR THE ADVICE OF AN ATTORNEY. It is provided without warranty of any kind and, as with any research tool, should be double checked against relevant statutes, case law, attorney general opinions and advice of legal counsel e.g., your county attorney. Any question should be directed to competent legal counsel for a written opinion.

Introduction

The purpose of this publication is to provide a summary of common questions that arise under the County Purchasing Act, Chapter 262, Subchapter C of the Local Government Code. This publication does not cover every competitive bidding law codified in Texas. This publication is not an all-inclusive reference.

COMPETITIVE BIDDING IN GENERAL

The general competitive bidding statute for counties is found in Subchapter C, of Chapter 262 of the Local Government Code, known as the County Purchasing Act. §262.023 requires a purchase of one or more "items" that requires an expenditure of more than \$50,000 to go through one of the following:

- The competitive bid or competitive proposal procedures outlined in the Act;
- Use the reverse auction procedure in Section 2155.062(d), Gov't Code (*see question 4 below*); or
- Comply with Chapter 2269, Gov't Code which is beyond the scope of this publication.

1. What are "items" under the Act?

"Item" is defined broadly under §262.022(5) as any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items, but not "professional services." Although there are additional authorities in other statutes that apply to specific services and goods (discussed below), the general competitive bidding rules apply to almost everything except real estate. In short, if

the county wants to acquire something that costs more than \$50,000¹, then the commissioners court will likely be using a competitive procurement method to acquire the item.

2. What is the difference between a competitive bid and competitive proposal?

The terms are often used interchangeably, but generally, a request for bids is used when the purchasing county can articulate specifications or the goods or services sought have easily identifiable characteristics. This is also commonly referred to as sealed bidding. Generally, price is the main factor. Requests for proposals are used when specifications and requirements are difficult to define, and the county asks responsive vendors to propose solutions to meet the requirements. Cost or price is one factor, but may not be the only factor.

3. What alternative competitive proposal procedures are available?

Competitive proposals (as opposed to competitive bids) may be sought under §262.030(a) for purchase of insurance, high technology items, landscape management, travel management, or recycling.

In counties that have appointed a purchasing agent under §262.011 or employed a purchasing agent under §262.0115, the purchasing agent may, with the consent of the commissioners court, solicit proposals, rather than bids, for items other than insurance and high tech items if the purchasing agent determines that it is in the best interests of the county to make a request for proposals.

An alternative multi-step solicitation procedure is authorized under §262.0295. Engaging in the multi-step alternative requires a finding by the commissioners court that it is impractical to prepare detailed specifications for an item to support an award of a purchase contract. After making such a finding, quotations may be solicited through a request for unpriced proposals following the same notice and advertising process undertaken for regular requests for bids. After opening the unpriced proposals on the date specified in the notice, the commissioners court has 7 days to mail a request for priced bids from those proposals that qualified under the criteria set forth in the first phase of the multi-step request for proposals. Within 30 days of

¹ For those counties who have held an election and are operating under the County Road Department System, all purchases of equipment, materials and supplies for the county road department in excess of \$25,000 (as opposed to the County Purchasing Act's \$50,000 threshold) must be competitively bid in conformity with estimates and specifications prepared by the county road engineer, Subchapter D, Chapter 252, Tex. Transp.Code.

opening the unpriced proposals, the priced bids must be submitted to the commissioners court. The commissioners court may then conduct discussions with those responsible offerors who submit priced bids and who may be selected for award. Offerors must be treated fairly and equally if the commissioners court engages in discussions. Award is to be made to the responsible offeror with the lowest and best evaluated offer.

4. What is a reverse auction procedure?

A reverse auction allows suppliers/sellers of goods and services bid for contracts to provide designated goods or services. Over the course of the auction, the price submitted by suppliers/sellers will begin high and decrease. The bidders are anonymous to each other but can see the other supplier/seller price submissions. The bid winner is not necessarily the lowest cost supplier. *See* §2155.085, Tex. Gov't Code.

5. Is a contract that should have been competitively bid void or merely voidable?

In 1985, the legislature adopted the County Purchasing Act. Contracts entered into in violation of the County Purchasing Act are not automatically void, but a court may declare such contracts void in a taxpayer suit, or in some circumstances an unsuccessful bidder suit. *See* Tex. Atty. Gen. Op. GA-0247.

6. Can a contract that was entered into in violation of the County Purchasing Act be ratified by the commissioners court?

No. Ratification may not be used to justify the making of an illegal contract. Because the commissioners court lacks authority to enter into a contract in violation of the County Purchasing Act in the first place, a commissioners court lacks authority to subsequently ratify such a contract. *See* Tex. Atty. Gen. Ops. GA-0247 and GA-0383.

7. Can the County Auditor approve a claim for payment under a contract that was awarded in violation of the County Purchasing Act or other competitive bid laws?

No. Under chapter 113 of the Local Government Code, the county auditor may not audit or approve a claim unless the claim was incurred as provided by law. If the county auditor determines that the county awarded a contract without complying with the County Purchasing Act, §113.065 of the Local Government Code prohibits the auditor from approving a claim for payment on the contract. *See* Tex. Atty. Gen. Ops. GA-0247 and GA-0383.

8. **Who has standing to challenge a contract award alleged to have been made in violation of the County Purchasing Act?**

Any property tax paying citizen of the county may file suit to enjoin performance of a contraction made in violation of the Act. §262.033 Tex. Local Gov't Code.

At least one court has ruled that a corporation is a tax paying citizen for purposes of filing suit against a governmental entity to enjoin performance of a contract that was awarded in violation of the County Purchasing Act. *Labrado v. County of El Paso*, 132 S.W.3d 581 (Tex. App. – El Paso, March 18, 2004).

9. **Are there any rules about what minimum specifications are required?**

Generally, no. However, if specifications are so vague as to effectively prohibit vendors from bidding on the same material terms and conditions, then a contract awarded would likely be set aside by a court. In one rare example where county specifications were found to be insufficient, the county was seeking bidders for various road materials. The bid documents did not attempt to specify approximate quantities of materials the county wanted to buy, and the bid documents did not state how long a term the contract was to be in place. These omissions were found to prohibit meaningful competition. Tex. Atty. Gen. Op. No. MW-449 (1982).

10. **Can the county require a prospective bidder to use a specific brand or model in its bid specifications?**

Generally, no. For example, in *Texas Highway Commission v. Texas Ass'n of Steel Importers, Inc.*, 372 S.W.2d 525 (Tex. 1963), the State Highway Department set forth bid specifications requiring all materials furnished under its construction contracts be manufactured in the United States. The steel importers sued as taxpayers seeking to set aside the specifications as invalid, illegal or void. The Texas Supreme Court held that the domestic materials requirement was unduly restrictive and therefore violated the competitive bid laws.

Similarly, in *Davray, Inc. v. City of Midlothian, Texas*, 2005 WL 1586574 (N.D. Tex. July 6, 2005), the City was sued by unsuccessful bidder for a fire hydrant specification for a particular brand. The City argued that the brand name specification was required as a matter of public safety. The trial court disagreed, citing evidence in the record that other brands had the same attributes and qualities cited by the City in its specifications.

11. Can the county restrict its bids to local businesses?

Generally, no. The attorney general has opined that a requirement that a bidder be located within the county would be an illegal restriction on competition. However, the attorney general also conceded that circumstances may exist where the proximity of the bidders determines who the lowest responsible bidder is. Tex. Atty. Gen. Op. No. H-1086 (1977).

12. Can the county give preference to bidders who provide health insurance?

Yes. If a county receives one or more bids from a bidder who provides reasonable health insurance to its employees and requires a subcontractor the bidder intends to use to provide reasonable health insurance to the subcontractor's employees, the county may award the contract to a health insurance providing employer if the insurance providing employer's bid is within five percent of the lowest and best bid price received by the county from a bidder who does not provide or require reasonable health insurance for employees. Tex. Local Gov't Code §262.0271

13. Can the county take into consideration a bidder's past performance?

The safety history of a bidder may be taken into account if the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder and the commissioners court has given notice in the bid specifications that the bidder's safety record may be considered in determining the responsibility of the bidder. Tex. Local Gov't Code §262.0275.

14. Can the county give preference to bidders who use recycled products?

Yes. §262.005 of the County Purchasing Act expressly incorporates the provisions of Health & Safety Code §361.426, which requires a county to give preference in purchasing to products made of recycled materials if the products meet specifications. Not only does Health & Safety Code §361.426 require counties to give preference to recycled products, it requires counties to affirmatively review and revise procurement procedures and specifications to eliminate discrimination against products made of recycled products, encourage the use of products made of recycled materials and to ensure to the maximum extent economically feasible that the county purchases products that may be recycled after they have served their intended use.

NOTICE PROVISIONS

1. **How long and how frequently must a county advertise its intent to make a purchase subject to the County Purchasing Act?**

At a minimum, a notice of a proposed purchase must be published at least once a week for two consecutive weeks in a newspaper of general circulation in the county with the first date of publication occurring at least 14 days before the date of the bid opening. If there is no newspaper of general circulation, then the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening. §262.025 Tex. Local Gov't Code.

2. **Are advertisements for bids required to be posted on a county website, if the county has a website?**

Although it is common practice for counties to post bidding opportunities on their websites, counties are not required by law to do so.

3. **Can bids be opened early?**

No. By its express terms, the County Purchasing Act requires that the notice for bids specifically advertise the time and place bids are to be publicly opened. §262.025(b)(2).

CONTRACTS

1. **Can a contract be awarded for multiple years?**

Yes. There is no statute that expressly authorizes multiple-year awards. Conversely, there are several statutes that limit or cap multiple-year award terms. For example, §271.009 Tex. Local Gov't Code limits a lease-purchase or other installment type contract under the Public Property Finance Act to a term of 25 years, and §116.021 Tex. Local Gov't Code authorizes counties to select a depository either under the County Purchasing Act or for a two to four-year term under this section plus negotiated renewal for another two year term.

2. How can the county enter a multiple year contract without creating an unconstitutional debt?

§271.903 Tex. Local Gov't Code expressly states that a multiple-year contract for the acquisition or lease of real or personal property that retains to the governing body the continuing right to terminate the agreement at the end of each budget period, is conditioned on a best efforts attempt to obtain and appropriate funds, or contains both the continuing right to terminate and the best efforts conditions, is a commitment of current revenues only. Alternatively, an interest and sinking fund must be established at the time the multiple-year obligation is created. Tex. Const. art. 11, §§5, 7

3. If the county finances, rather than outright purchases, an item, does the lease purchase have to be competitively bid?

Yes. The Public Property Finance Act expressly states that any contract entered into under the financing authority provided under Chapter 271 must also comply with the competitive bidding requirements of Chapter 262, the County Purchasing Act. §271.006 Tex. Local Gov't Code.

BONDS

1. What is the difference between a bid bond, a performance bond, and a payment bond?

A bid bond (sometimes called a proposal bond) guarantees a vendor submitted an accurate proposal and is able to begin work if awarded the contract. A performance bond ensures a project is completed according to the provisions of the contract, such as on time and within proposed cost. A payment bond is security to ensure that subcontractors and suppliers are paid for work performed and materials supplied.

2. Can a county require all vendors to submit bid bonds as a part of their bids or proposals under the County Purchasing Act?

Counties may (but are not required to) require bidders to furnish a bid bond for 5% of the total contract price for public works contracts. Counties may also require a bid bond for up to \$5,000 for any contract exceeding \$100,000. §262.032(a).

3. What is the purpose of requiring a bid bond?

A bid bond provides some assurance that the county will not have to absorb all costs and expenses associated with re-awarding a contract when a bidder ultimately proves unable to perform. A 5% bid bond is not a penalty for failing to perform. It is similar to a liquidated damages clause where default is acknowledged to cause damages, but those damages are not easily ascertained. *See e.g., Guido & Guido, Inc. v. Culberson County*, 459 S.W.2d 674 (Tex. Civ. App. – El Paso, Oct. 21, 1970, writ refused n.r.e.) (citing cases).

4. Are performance and payment bonds required for all public works contracts?

No. Performance and payment bonds are required for public works contracts governed by Chapter 2253 of the Government Code, which is beyond the scope of this publication. Performance bonds are authorized, but not required, for public works contracts under the County Purchasing Act or any contract exceeding \$100,000 within 30 days of signing a contract or issuance of a purchase order, if so required by the county, if the contract exceeds \$50,000. §262.032. There is no provision for a payment bond under the County Purchasing Act.

SPECIAL FUNDS EXEMPT FROM COMPETITIVE BIDDING

1. Are purchases made from “hot check” funds collected by prosecutors under Art. 102.007 of the Code of Criminal Procedure required to be competitively bid?

No. “Hot check” fees collected by prosecutors under Art. 102.007 of the Code of Criminal Procedure are statutorily required to be deposited in the county treasury in a special fund administered by the prosecutor. Expenditures from the “hot check” fund are statutorily committed to the sole discretion of the prosecutor. Since the competitive bidding provisions require the commissioners court to administer the procedure and to reject bids or award contract, requiring “hot check” purchases to be competitively bid would place ultimate control of these expenditures in the commissioners court and outside the statutory sole discretion of the collecting prosecutor. *Tex. Atty. Gen. Ops. JM-0967 (1988) and MW-0439 (1982)*.

2. Are purchases made from commissary proceeds required to be competitively bid?

Not usually. Commissary proceeds in most counties are under the sole control of the Sheriff by statute. *See* §351.0415 *Tex. Local Gov’t Code*. The County Purchasing Act does not apply to purchases within the exclusive authority of an official other than

the county commissioners court. Accordingly, a Sheriff in most counties may spend commissary proceeds without going out for competitive bids. Tex. Atty. Gen. Op. JC-0122 (1999).

In counties that (1) have a population of one million or more; (2) have two municipalities with a population of 200,000 or more; and (3) that are adjacent to a county with a population of a million or more, the Sheriff does not have exclusive control of commissary proceeds and commissary purchases are required to be competitively bid. Tex. Local Gov't Code §351.04155. Dallas and Tarrant Counties currently fall within the scope of §351.04155. Population trends indicate that Collin County will fall within scope by the time official 2020 census data is available.

3. Are purchases made with forfeiture funds required to be competitively bid?

Yes. The commissioners court has a ministerial duty to initiate competitive bidding upon receipt of request from the prosecutor or law enforcement agency entitled to spend the funds collected under article 59.06 Code of Criminal Procedure. Although the commissioners court has the right to reject bids, it may not do so for the purpose of delaying a forfeiture-fund purchase. Tex. Atty. Gen. Op. No. DM-243 (1993).

PENALTIES FOR VIOLATING THE COUNTY PURCHASING ACT

1. What happens if I violate the competitive bidding laws?

It depends. It is a Class B misdemeanor (up to \$2,000 fine and 180 days in jail) to intentionally or knowingly make or authorize separate, sequential, or component purchases to avoid the competitive bidding requirements under §262.023. It is a Class C misdemeanor (up to \$500 fine) to intentionally or knowingly violate the County Purchasing Act in a manner other than making sequential purchases designed to avoid the competitive bidding requirements.

Even if one violates the County Purchasing Act unintentionally, the county may face a taxpayer suit seeking to enjoin performance or execution of the contract and a judicial declaration that a contract is void.

Additionally, if the county auditor determines that the county awarded a contract without complying with the County Purchasing Act, §113.065 of the Local Government Code prohibits the auditor from approving a claim for payment on the contract. *See* Tex. Atty. Gen. Op. No. GA-0247 (2004).

ALTERNATIVES TO COMPETITIVE BIDDING

Interlocal Cooperation Act

Chapter 791 of the Government Code authorizes counties to contract with each other, other local governments, or federally recognized Indian tribes within the State for the cooperative provision of governmental services. §791.011(d) spells out what terms an Interlocal Agreement must contain, including a provision stating that payments for the performance of functions under an interlocal agreement must be made from current revenues available to the paying party. A local government that purchases goods and services under the Interlocal Cooperation Act satisfies the requirement of the local government to seek competitive bids for the purchase of the goods and services. §790.025(d) Tex. Gov't Code.

Cooperative Purchasing Program

Chapter 271, Local Government Code, Subchapter F authorizes counties to participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state. A local government that purchases goods or services under this subchapter is deemed to satisfy state law requiring competitive bidding. §271.102(c) Tex. Local Gov't Code.

TASB BuyBoard

The Buy Board, or Local Government Purchasing Cooperative, is an administrative agency created under the Interlocal Cooperation Act and administered by the Texas Association of School Boards. The Buy Board is a well-known purchasing cooperative that may be used as an alternative to competitive bidding. For more information, visit buyboard.com.

State of Texas Multiple Award Contracts under Comptroller Schedules

Non-IT goods and services can be ordered directly from a vendor online through the Texas SmartBuy Membership Program, administered and maintained by the Comptroller. Purchases from Texas Smart Buy are deemed to satisfy competitive bid requirements. Tex. Gov't Code §2155.504. For more information, visit txsmartbuy.com.

Texas Department of Information Resources

Certain IT products and services can be ordered from the Texas Department of Information Resources. Purchases from DIR's cooperative and shared contracts are deemed to satisfy competitive bid requirements. Tex. Gov't Code §2054.0565. For more information, visit dri.texas.gov.

Federal Supply Schedule Sources

Counties may purchase goods or services available under federal supply schedules of the United States General Services Administration. Purchases from GSA supply schedules are deemed to satisfy competitive bid requirements. §271.103 Tex. Local Gov't Code. For more information, visit gsa.gov.

MANDATORY EXCEPTIONS TO COMPETITIVE BIDDING

Professional Services Procurement Act

Under Chapter 2254, Subchapter A, Tex. Gov't Code, a county may not competitively bid for the services of the following: a certified public accountant, an architect, a landscape architect, a land surveyor, a physician or surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.

Contracts for the professional services of an architect, engineer, or surveyor have a specific statutorily prescribed selection method under §2254.004 Tex. Gov't Code.

DISCRETIONARY EXCEPTIONS TO COMPETITIVE BIDDING

§262.024 Tex. Local Gov't Code contains a list of items that may be exempted from competitive bidding if the commissioners court *by order* grants the exemption:

Public Calamity

An item that must be purchased in case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county.

Public Health or Safety

An item necessary to preserve or protect public health or safety of the residents of the county.

Whether an item is "necessary to preserve or protect the public health or safety of the residents of the county" is a question left to the commissioners court's discretion, subject to judicial review under an abuse of discretion standard. *Davray, Inc. v. City of Midlothian, Texas*, 2005 WL 1586574 (N.D. Tex. July 6, 2005)

Unforeseen Damage

An item necessary because of unforeseen damage to public property.

Personal or Professional Service

The discretionary exemption in §262.024(4) does *not* have the same meaning or effect as the term “professional services” in Chapter 2254 of the Government Code. If the county wishes to procure services listed in Chapter 2254, the county may NOT use sealed bids to acquire those services. Instead, the county issues a request for qualifications and negotiates a proposal price *after* selecting the most qualified professional or firm responding to the county’s request for qualifications.

The “professional services” referred to in §262.024 are defined under common law. There is very little guidance available about what services are considered personal or professional and can properly be exempted from competitive bidding under Chapter 262.

The Texas Attorney General Opinion procedure is not an effective outlet for obtaining guidance in this area because whether a particular service qualifies as “personal or professional services” is a fact issue left to the discretion of the commissioners court. Generally, a professional service is one that requires predominantly mental or intellectual skill or belonging to a discipline requiring special knowledge or attainment and a high order of learning, skill and intelligence. *See e.g.*, Tex. Att’y Gen. Op. No. JM-1136 (1990)

Individual Work

Any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period.

Acquisition of Land or Right-of-Way

The purchase of “any land or right-of-way”.

Sole Source Items

Sole source items, such as those covered by patents, copyrights, secret processes, monopolies; creative works such as films, manuscripts or books; electric power, gas, water and other utilities; captive replacement parts.

Food

An item of food – but see §262.024(d), which requires counties to solicit at least three bids for purchases of food items by telephone or written quotes at intervals specified by the commissioners court. Records of the informal food item quotes shall be retained for one year or until audited by the county auditor. Award for food purchase contracts

must go to the responsible bidder who submits the lowest and best bid, or all bids shall be rejected and the informal bidding process shall be repeated.

Personal Property Sold at Auction

Personal property sold at auction by a state licensed auctioneer; at a liquidation sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or by a political subdivision of this state, a state agency, or an entity of the federal government.

Community and Economic Development

Any work performed under a contract for a community and economic development corporation made by a county under Section 381.004.

Vehicle and Equipment Repairs

Any repairs on county vehicles or equipment.

SPECIAL STATUTORY EXCEPTIONS TO COMPETITIVE BIDDING LAWS

From time to time, the Legislature will exempt specific types of transactions or purchases from competitive bidding. The following is a list of some of these specific authorities:

Certain Transportation Construction

A local government corporation expenditure for: (1) an improvement constructed in a reinvestment zone the construction of which is managed by a private venture participant; or (2) an improvement construction by the corporation for which more than 50 percent of the construction is funded by a private entity is exempt from competitive bidding procedures. Tex. Transp. Code §431.110

Housing Finance Corporation

A housing finance corporation is exempt from any competitive bidding requirement imposed on the award of contracts for acquisition, construction, rehabilitation or lease, sale or other disposition of property for action taken under the Texas Housing Finance Corporations Act. Tex. Loc. Gov't Code §394.904.

Purchase from Certain Nonprofits

Products or services purchased from a nonprofit agency for persons with disabilities under Chapter 122, Human Resources Code.

Airport Purchases

Certain purchases of a jointly operated county and municipal airport under Subchapter D, Chapter 22, Texas Transp. Code.

Depository for Certain Sale Proceeds

Selection of depository for proceeds from sale of county park, recreational, and cultural resources bonds in counties with a population greater than 5,000. Tex. Local Gov't Code §320.079.

CONFLICTS OF INTEREST QUESTIONNAIRES

Chapter 176 of the Local Government Code requires county officers, vendors and "other persons" to file a completed conflict of interest questionnaire if the vendor has a business relationship with the county and a business relationship with a county officer or a family member of the county officer that results in the county officer or the county officer's family member receiving more than \$2,500 in taxable non-investment income during the 12-month period preceding the date that the vendor or county officer become aware that a contract between the vendor and county has been executed, negotiated or contemplated.

As a result, some counties are now attaching Chapter 176 conflicts of interest questionnaires in the form promulgated by the Texas Ethics Commission with their invitations to bid and require that the questionnaire be completed as a condition to submitting a responsive bid.

For more information regarding conflict of interest questionnaires, see TAC's *Short Answers to Common Questions: Disclosure Requirements for County Officials* publication.

LOCAL GOVERNMENT CODE

TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY

SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY

CHAPTER 262. PURCHASING AND CONTRACTING AUTHORITY OF COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 262.001. APPOINTMENT OF AGENT TO MAKE CONTRACTS. (a) The commissioners court of a county may appoint an agent to make a contract on behalf of the county for:

- (1) erecting or repairing a county building;
- (2) supervising the erecting or repairing of a county building; or
- (3) any other purpose authorized by law.

(b) A contract or other act of an agent appointed under this section that is properly executed on behalf of the county and is within the agent's authority binds the county to the contract for all purposes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.002. AUTHORITY TO PURCHASE ROAD EQUIPMENT AND TIRES THROUGH COMPTROLLER. (a) The commissioners court of a county may purchase through the comptroller road machinery and equipment, tires, and tubes to be used by the county.

(b) The commission must purchase an item under this section on competitive bids and in accordance with any rules of the commission.

(c) A purchase under this section must be made on the requisition of the commissioners court. When the court sends the requisition to the commission, the court must include with the requisition a general description of the item desired and a certification of the funds available to pay for the item.

(d) The commission may adopt rules to carry out the purpose of this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.101, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.102, eff. September 1, 2007.

Sec. 262.003. SMALL, SOLE-SOURCE PURCHASE EXEMPT FROM COMPETITIVE BIDDING. (a) Any law that requires a county to follow a competitive procurement procedure in making a purchase requiring the expenditure of \$50,000 or less does not apply to the purchase of an item available for purchase from only one supplier.

(b) If a county makes a purchase covered by Subsection (a), the county auditor or other appropriate county officer or employee may not refuse payment for the purchase because a competitive bidding procedure was not followed.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 12, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 115, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 3, eff. June 19, 2009.

Sec. 262.004. CONTRACT AND OTHER INSTRUMENTS VEST RIGHTS IN COUNTY; SUIT ON CONTRACT OR OTHER INSTRUMENT. (a) A note, bond, bill, contract, covenant, agreement, or writing in which a person is bound to a county, to the court or commissioners of a county, or to another person for the payment of a debt or for the performance of a duty or another action for the county vests in the county the same right, interest, or action that would vest in any other person if the contract had been made with that other person.

(b) A suit may be initiated and prosecuted on an instrument covered by Subsection (a) in the name of a county, or in the name of the person to whom the document was made for the use of the county, in the same manner that any other person may sue on a similar document made to that person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.005. APPLICATION OF OTHER LAW. The purchasing requirements of Section 361.426, Health and Safety Code, apply to county purchases made under this chapter.

Added by Acts 1991, 72nd Leg., ch. 303, Sec. 18, eff. Sept. 1, 1991.

Sec. 262.006. LEAST COST REVIEW PROGRAM. The commissioners court of a county may establish a least cost review program for public improvements to be constructed by the use of personnel, equipment, or facilities of the county that may exceed a cost of:

(1) \$100,000; or

(2) an amount less than \$100,000 as determined by the commissioners court.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 13.11(f), eff. Sept. 1, 1999.

Sec. 262.007. SUIT AGAINST COUNTY ARISING UNDER CERTAIN CONTRACTS. (a) A county that is a party to a written contract for engineering, architectural, or construction services or for goods related to engineering, architectural, or construction services may sue or be sued, plead or be impleaded, or defend or be defended on a claim arising under the contract. A suit on the contract brought by a county shall be brought in the name of the county. A suit on the contract brought against a county shall identify the county by name and must be brought in a state court in that county.

(b) The total amount of money recoverable from a county on a claim for breach of the contract is limited to the following:

(1) the balance due and owed by the county under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work required to carry out the contract;

(3) reasonable and necessary attorney's fees that are equitable and just; and

(4) interest as allowed by law.

(c) An award of damages under this section may not include:

(1) consequential damages, except as allowed under Subsection (b) (1);

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

(d) This section does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

(e) This section does not waive sovereign immunity to suit in federal court.

Acts 2003, 78th Leg., ch. 1203, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER B. PURCHASING AGENTS

Sec. 262.011. PURCHASING AGENTS. (a) A board composed as provided by this subsection, by majority vote, may appoint a suitable person to act as the county purchasing agent. In a county with a population of 150,000 or less, the

board is composed of the judges of the district courts in the county and the county judge. In any other county, the board is composed of three judges of the district courts in the county and two members of the commissioners court of the county unless the county has fewer than three district court judges, in which case the board is composed of one district court judge and one member of the commissioners court. If members of the board who are district judges must be selected, the selection is made by a majority vote of all the district judges in a county having more than one district judge. If members of the board who are members of the commissioners court must be selected, the selection is made by a majority vote of the commissioners court. The term of office of the county purchasing agent is two years.

(b) The board may remove the county purchasing agent from office.

(c) A person appointed under this section must execute a bond in the amount of \$5,000, payable to the county, conditioned that the individual will faithfully perform the duties of county purchasing agent.

(d) The county purchasing agent shall purchase all supplies, materials, and equipment required or used, and contract for all repairs to property used, by the county or a subdivision, officer, or employee of the county, except purchases and contracts required by law to be made on competitive bid. A person other than the county purchasing agent may not make the purchase of the supplies, materials, or equipment or make the contract for repairs.

(e) The county purchasing agent 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.

(f) A purchase made by the county purchasing agent shall be paid for by an electronic transfer, check, or warrant drawn by the county auditor on funds in the county treasury in the manner provided by law. The county auditor may not draw and the county treasurer may not honor an electronic transfer, check, or warrant for a purchase unless the purchase is made by the county purchasing agent or on competitive bid as provided by law.

(g) The county purchasing agent may cooperate with the purchasing agent of a municipality in the county to purchase any item in volume as may be necessary. The county treasurer shall honor an electronic transfer, check, or warrant drawn by the county auditor to reimburse the municipality's purchasing agent making the purchase for the county.

(h) The county purchasing agent is not required to make purchases for a municipal-county hospital or other joint undertaking of the municipality and county.

(i) On July 1 of each year, the county purchasing agent shall file with the county auditor and each of the members of the board that appoints the county purchasing agent an inventory of all the property on hand and belonging

to the county and each subdivision, officer, and employee of the county. The county auditor shall carefully examine the inventory and make an accounting for all property purchased or previously inventoried and not appearing in the inventory.

(j) To prevent unnecessary purchases, the county purchasing agent, with the approval of the commissioners court, shall transfer county supplies, materials, and equipment from a subdivision, department, officer, or employee of the county that are not needed or used to another subdivision, department, officer, or employee requiring the supplies or materials or the use of the equipment. The county purchasing agent shall furnish to the county auditor a list of transferred supplies, materials, and equipment.

(k) The board that appoints the county purchasing agent shall set the salary of the agent in an amount not less than \$5,000 a year, payable in equal monthly installments or by any other distribution at the option of the county. The salary shall be paid by an electronic transfer, check, or warrant drawn on funds in the county treasury.

(l) The county purchasing agent may have assistants to aid in the performance of the agent's duties. A person who is authorized by the county purchasing agent to use a county purchasing card while making a county purchase is considered an assistant of the county purchasing agent to the extent the person complies with the rules and procedures prescribed for the use of county purchasing cards as adopted by the county purchasing agent under Subsection (o). The county purchasing agent and assistants may have any help, equipment, supplies, and traveling expenses that are approved and considered advisable by the board that appointed the agent.

(m) A person, including an officer, agent, or employee of a county or of a subdivision or department of a county, commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$10 or more than \$100. Each act in violation of this section is a separate offense.

(n) This section applies to all purchases of supplies, materials, and equipment for the use of the county and its officers, including purchases made by officers paid out of fees of office or otherwise, regardless of whether the purchase contract is made by the commissioners court or any other officer authorized to bind the county by contract. An officer making a purchase out of fees of office in violation of this section may not deduct the amount of the purchase from the amount of any fees of office due the county.

(o) The county purchasing agent shall adopt the rules and procedures necessary to implement the agent's duties under this section subject to approval by the commissioners court. Notwithstanding Subsection (f) or other law, rules and procedures adopted under this subsection may include rules and procedures for persons to use county purchasing cards to pay for county

purchases under the direction and supervision of the county purchasing agent. Procedures for use of purchasing cards may not avoid the competitive bidding requirements of this chapter or other requirements of county financial law.

(p) During each two-year term of office, a county purchasing agent shall complete not less than 25 hours in courses relating to the duties of the county purchasing agent. The courses must be:

- (1) accredited by a nationally recognized college or university;
- (2) recognized by a national purchasing association, such as the National Association of Purchasing Management; or
- (3) courses offered by state agencies, or by state professional associations, related to purchasing.

(q) An electronic transfer under this chapter must provide the same level of internal controls and statutory authorizations as required for a check or warrant.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 87(q), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 561, Sec. 1, 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, Sec. 5, 6, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 13.02(a), (d), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 874, Sec. 4, eff. June 16, 1991; Acts 1993, 73rd Leg., ch. 367, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 505, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 57, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 321, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 1, eff. September 1, 2011.

Sec. 262.0115. PURCHASING AGENTS IN COUNTIES WITH POPULATION OF MORE THAN 100,000. (a) In a county with a population of more than 100,000, the commissioners court may employ a person to act as county purchasing agent. However, this section does not apply to a county that has appointed a purchasing agent under Section 262.011 and that has not abolished the position as authorized by law.

(b) A purchasing agent employed under this section serves at the pleasure of the commissioners court.

(c) The commissioners court may employ other persons necessary to assist the purchasing agent in performing the agent's functions.

(d) Under the supervision of the commissioners court, the purchasing agent shall carry out the functions prescribed by law for a purchasing agent under Section 262.011 and for any administrative function of the county auditor in regard to county purchases and contracts and shall administer the procedures

prescribed by law for notice and public bidding for county purchases and contracts.

(e) A county that has established the position of county purchasing agent under this section may abolish the position at any time. On the abolition of the position, the county auditor shall assume the functions previously performed by the purchasing agent regarding the notice for and opening of competitive bids or proposals under this chapter and Chapter 271.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 11(g), eff. Aug. 28, 1989. Amended by Acts 1995, 74th Leg., ch. 63, Sec. 1, eff. May 9, 1995; Acts 1999, 76th Leg., ch. 369, Sec. 1, eff. May 29, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 2, eff. September 1, 2011.

Sec. 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.

(b) In a county with a population of 41,680 to 42,100, the county auditor shall act as the purchasing agent for the county in addition to performing the regular duties of the auditor as required by law.

(c) This section applies only to a county in which a county purchasing agent has not been appointed under Section 262.011.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 561, Sec. 3, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, Sec. 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 204, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER C. COMPETITIVE BIDDING IN GENERAL

Sec. 262.021. SHORT TITLE. This subchapter may be cited as the County Purchasing Act.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.022. DEFINITIONS. In this subchapter:

(1) "Bond funds" means money in the county treasury received from the sale of bonds, and proceeds of bonds that have been voted but that have not been issued and delivered.

(2) "Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be purchased in one purchase.

(3) "Current funds" means funds in the county treasury that are available in the current tax year, revenue that may be anticipated with reasonable certainty to come into the county treasury during the current tax year, and emergency funds.

(4) "High technology item" means a service, equipment, or good of a highly technical nature, including:

(A) data processing equipment and software and firmware used in conjunction with data processing equipment;

(B) telecommunications, radio, and microwave systems;

(C) electronic distributed control systems, including building energy management systems; and

(D) technical services related to those items.

(5) "Item" means any service, equipment, good, or other tangible or intangible personal property, including insurance and high technology items. The term does not include professional services as defined by Section 2254.002, Government Code.

(5-a) "Lowest and best" means a bid or offer providing the best value considering associated direct and indirect costs, including transport, maintenance, reliability, life cycle, warranties, and customer service after a sale.

(5-b) "Normal purchasing practice" means:

(A) an accepted custom, practice, or standard for government procurement in the state; or

(B) a practice recognized by a national purchasing association regarding the purchase of a particular good or service.

(6) "Purchase" means any kind of acquisition, including by a lease or revenue contract.

(7) "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be purchased in one purchase.

(8) "Sequential purchases" means purchases, made over a period, of items that in normal purchasing practices would be purchased in one purchase.

(9) "Time warrant" means any warrant issued by a county that is not payable out of current funds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(b), eff. Aug. 28, 1989; Acts 1989, 71st. Leg., ch. 1250, Sec. 8(a), eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 3, eff. September 1, 2011.

Sec. 262.0225. ADDITIONAL COMPETITIVE PROCEDURES. (a) In the procedure for competitive bidding under this subchapter, the commissioners court of the county shall provide all bidders with the opportunity to bid on the same items on equal terms and have bids judged according to the same standards as set forth in the specifications.

(b) A county shall receive bids or proposals under this subchapter in a fair and confidential manner.

(c) A county may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. Except as provided by Subsection (c-1), a county shall accept any bids or proposals submitted in hard-copy format.

(c-1) The commissioners court of a county may by order require submission of bids or proposals under this subchapter through electronic transmission if the county makes available all technology necessary to submit a bid or proposal through electronic transmission to any person who submits a hard-copy bid or proposal in person.

(d) A county that complies in good faith with the competitive bidding requirements of this chapter and receives no responsive bids for an item may procure the item under Section 262.0245.

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 4, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 11 (H.B. 362), Sec. 1, eff. May 15, 2021.

Sec. 262.023. COMPETITIVE REQUIREMENTS FOR CERTAIN PURCHASES. (a) Before a county may purchase one or more items under a contract that will require an expenditure exceeding \$50,000, the commissioners court of the county must:

(1) comply with the competitive bidding or competitive proposal procedures prescribed by this subchapter;

(2) use the reverse auction procedure, as defined by Section 2155.062(d), Government Code, for purchasing; or

(3) comply with a method described by Chapter 2269, Government Code.

(b) The requirements established by Subsection (a) apply to contracts for which payment will be made from current funds or bond funds or through anticipation notes authorized by Chapter 1431, Government Code, or time warrants. Contracts for which payments will be made through certificates of obligation are governed by The Certificate of Obligation Act of 1971 (Subchapter C, Chapter 271).

(b-1) A county that complies with a method described by Chapter 2269, Government Code, as provided by Subsection (a)(3), to enter into a contract for which payment will be made through anticipation notes authorized by Chapter 1431, Government Code, may not issue anticipation notes for the payment of that contract in an amount that exceeds the lesser of:

- (1) 20 percent of the county's budget for the fiscal year in which the county enters into the contract; or
- (2) \$10 million.

(c) In applying the requirements established by Subsection (a), all separate, sequential, or component purchases of items ordered or purchased, with the intent of avoiding the requirements of this subchapter, from the same supplier by the same county officer, department, or institution are treated as if they are part of a single purchase and of a single contract. In applying this provision to the purchase of office supplies, separate purchases of supplies by an individual department are not considered to be part of a single purchase and single contract by the county if a specific intent to avoid the requirements of this subchapter is not present.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 57(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, Sec. 9, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 13.02(b), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 757, Sec. 13, 38, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 442, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 505, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 436, Sec. 4, eff. May 28, 2001; Acts 2001, 77th Leg., ch. 1063, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1409, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 12.004, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 689 (H.B. 1764), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.04, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(23), eff. September 1, 2013.

Sec. 262.0235. PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS FOR ELECTRONIC BIDS OR PROPOSALS. The county purchasing agent, before receiving electronic bids or proposals, shall adopt rules in conformance with Section 262.011(o) to ensure the identification, security, and confidentiality of electronic bids or proposals.

Added by Acts 2001, 77th Leg., ch. 1063, Sec. 3, eff. Sept. 1, 2001.

Sec. 262.024. DISCRETIONARY EXEMPTIONS. (a) A contract for the purchase of any of the following items is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption:

(1) an item that must be purchased in a case of public calamity if it is necessary to make the purchase promptly to relieve the necessity of the citizens or to preserve the property of the county;

(2) an item necessary to preserve or protect the public health or safety of the residents of the county;

(3) an item necessary because of unforeseen damage to public property;

(4) a personal or professional service;

(5) any individual work performed and paid for by the day, as the work progresses, provided that no individual is compensated under this subsection for more than 20 working days in any three month period;

(6) any land or right-of-way;

(7) an item that can be obtained from only one source, including:

(A) items for which competition is precluded because of the existence of patents, copyrights, secret processes, or monopolies;

(B) films, manuscripts, or books;

(C) electric power, gas, water, and other utility services; and

(D) captive replacement parts or components for equipment;

(8) an item of food;

(9) personal property sold:

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

(C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government;

(10) any work performed under a contract for community and economic development made by a county under Section 381.004; or

(11) vehicle and equipment repairs.

(b) The renewal or extension of a lease or of an equipment maintenance agreement is exempt from the requirement established by Section 262.023 if the commissioners court by order grants the exemption and if:

(1) the lease or agreement has gone through the competitive bidding procedure within the preceding year;

(2) the renewal or extension does not exceed one year; and

(3) the renewal or extension is the first renewal or extension of the lease or agreement.

(c) If an item exempted under Subsection (a)(7) is purchased, the commissioners court, after accepting a signed statement from the county official who makes purchases for the county as to the existence of only one source, must enter in its minutes a statement to that effect.

(d) The exemption granted under Subsection (a)(8) of this section shall apply only to the sealed competitive bidding requirements on food purchases. Counties shall solicit at least three bids for purchases of food items by telephone or written quotation at intervals specified by the commissioners court. Counties shall award food purchase contracts to the responsible bidder who submits the lowest and best bid or shall reject all bids and repeat the bidding process, as provided by this subsection. The purchasing officer taking telephone or written bids under this subsection shall maintain, on a form approved by the commissioners court, a record of all bids solicited and the vendors contacted. This record shall be kept in the purchasing office for a period of at least one year or until audited by the county auditor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 962, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1001, Sec. 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1060, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 13.03, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 442, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1065, Sec. 1, eff. June 15, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 3, eff. September 1, 2007.

Sec. 262.0241. MANDATORY EXEMPTIONS: CERTAIN RECREATIONAL SERVICES. (a) This section applies only to a county that:

- (1) has a population of 20,000 or less; and
- (2) owns not more than one golf course open for public use.

(b) The competitive bidding and competitive proposal procedures prescribed by this subchapter do not apply to the purchase of:

- (1) management services for:
 - (A) a county-owned golf course; or
 - (B) a retail facility owned by the county and located on the premises of the golf course; and
- (2) landscape maintenance services for a county-owned golf course.

Added by Acts 2001, 77th Leg., ch. 1065, Sec. 2, eff. June 15, 2001.

Sec. 262.0245. COMPETITIVE PROCUREMENT PROCEDURES ADOPTED BY COUNTY PURCHASING AGENTS OR COMMISSIONERS COURT. A county purchasing agent or, in a county without a purchasing agent, the commissioners court shall adopt procedures that provide for competitive procurement, to the extent practicable under the circumstances, for the county purchase of an item that is not subject to competitive procurement or for which the county receives no responsive bid.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 13.02(c), eff. Aug. 26, 1991.

Renumbered from Sec. 262.0241 by Acts 2001, 77th Leg., ch. 1065, Sec. 2, eff. June 15, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 5, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 5, eff. September 1, 2011.

Sec. 262.025. COMPETITIVE BIDDING NOTICE. (a) A notice of a proposed purchase must be published at least once a week for two consecutive weeks 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. If there is no newspaper of general circulation in the county, the notice must be posted in a prominent place in the courthouse for 14 days before the date of the bid opening. Notice published in a newspaper must include:

- (1) a general statement of the proposed purchase;
- (2) the name and telephone number of the purchasing agent; and
- (3) the county website address, if any.

(a-1) Subsection (a) does not require more than two notices in one newspaper or limit the county from providing additional notice for longer periods or in more locations.

(b) The notice must include:

- (1) the specifications describing the item to be purchased or a statement of where the specifications may be obtained;
- (2) the time and place for receiving and opening bids and the name and position of the county official or employee to whom the bids are to be sent;
- (3) whether the bidder should use lump-sum or unit pricing;
- (4) the method of payment by the county; and
- (5) the type of bond required by the bidder.

(c) If any part of the payment for a proposed purchase will be made through time warrants, the notice also must include a statement of the maximum amount of time warrant indebtedness, the rate of interest on the time warrants, and the maximum maturity date of the time warrants.

(d) In a county with a population of 3.3 million or more, the county and any district or authority created under Article XVI, Section 59, of the Texas Constitution of which the governing body is the commissioners court may require that a minimum of 25 percent of the work be performed by the bidder and, notwithstanding any other law to the contrary, may establish financial criteria for the surety companies that provide payment and performance bonds.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1019, Sec. 1, eff. Aug. 28, 1989; Acts 2001, 77th Leg., ch. 669, Sec. 78, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 6, eff. September 1, 2011.

Sec. 262.0255. ADDITIONAL NOTICE AND BOND PROVISIONS RELATING TO PURCHASE OF CERTAIN EQUIPMENT. (a) A notice of a proposed purchase of earth-moving, material-handling, road maintenance, or construction equipment under Section 262.025 may include a request for information about the costs of the repair, maintenance, or repurchase of the equipment.

(b) The commissioners court may require the bidder to furnish, to the county in a contract for the purchase of the equipment, a bond to cover the repurchase costs of the equipment.

(c) A commissioners court purchasing personal property under Section 271.083 of this code or Section 791.025, Government Code, may negotiate with a vendor awarded a cooperative contract under those sections an agreement for the vendor to purchase or accept as trade used equipment owned by the county.

Added by Acts 1991, 72nd Leg., ch. 416, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 7, eff. September 1, 2011.

Sec. 262.0256. PRE-BID CONFERENCE FOR CERTAIN COUNTIES OR A DISTRICT GOVERNED BY THOSE COUNTIES. (a) The commissioners court of the county or the governing body of a district or authority created under Section 59, Article XVI, Texas Constitution, if the governing body is the commissioners court of the county in which the district is located, may require a principal, officer, or employee of each prospective bidder to attend a mandatory pre-bid conference conducted for the purpose of discussing contract requirements and answering questions of prospective bidders.

(b) After a conference is conducted under Subsection (a), any additional required notice for the proposed purchase may be sent by certified mail, return

receipt requested, only to prospective bidders who attended the conference. Notice under this subsection is not subject to the requirements of Section 262.025.

Reenacted and amended by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 8, eff. September 1, 2011.

Sec. 262.026. OPENING OF BIDS. (a) The county official who makes purchases for the county shall open the bids on the date specified in the notice. The date specified in the notice may be extended if the commissioners court determines that the extension is in the best interest of the county. All bids, including those received before an extension is made, must be opened at the same time. The commissioners court may adopt an order that delegates the authority to make extensions under this subsection to the county official who makes purchases for the county.

(b) Opened bids shall be kept on file and available for inspection by anyone desiring to see them until the first anniversary of the date of opening. Opened bids are subject to disclosure under Chapter 552, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 505, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 9, eff. September 1, 2011.

Sec. 262.027. AWARDING OF CONTRACT. (a) The officer in charge of opening the bids shall present them to the commissioners court in session. Except as provided by Subsection (e), the court shall:

(1) award the contract to the responsible bidder who submits the lowest and best bid; or

(2) reject all bids and publish a new notice.

(b) If two responsible bidders submit the lowest and best bid, the commissioners court shall decide between the two by drawing lots in a manner prescribed by the county judge.

(c) A contract may not be awarded to a bidder who is not the lowest dollar bidder meeting specifications unless, before the award, each lower bidder is given:

(1) notice of the proposed award; and

(2) an opportunity to appear before the commissioners court and present previously unconsidered evidence concerning the lower bid as best, which may include evidence of the bidder's responsibility.

(d) In determining the lowest and best bid for a contract for the purchase of earth-moving, material-handling, road maintenance, or construction equipment, the commissioners court may consider the information submitted under Section 262.0255.

(e) In determining the lowest and best bid for a contract for the purchase of road construction material, the commissioners court may consider the pickup and delivery locations of the bidders and the cost to the county of delivering or hauling the material to be purchased. The commissioners court may award contracts for the purchase of road construction material to more than one bidder if each of the selected bidders submits the lowest and best bid for a particular location or type of material.

(f) Notwithstanding any other requirement of this section, the commissioners court may condition acceptance of a bid on compliance with a requirement for attendance at a mandatory pre-bid conference under Section 262.0256.

(g) If after the award the successful bidder fails to qualify for required bonds, or is otherwise unable to meet the requirements of the award, the commissioners court may award the contract to the next bidder in order of ranking as lowest and best bid.

(h) Before a contract is awarded, a bidder must give written notice to the officer authorized to open bids that the bidder intends to protest an award of the contract under Subsection (c). This subsection does not limit the ability of a bidder to speak at a public meeting of the commissioners court under rules established by the court.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 416, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 127, Sec. 1, eff. May 11, 1993; Acts 2001, 77th Leg., ch. 255, Sec. 2, eff. May 22, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 10, eff. September 1, 2011.

Sec. 262.0271. CONSIDERATION OF HEALTH INSURANCE PROVIDED BY BIDDER. (a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(b) In purchasing items under this chapter through a competitive bidding process, if a county receives one or more bids from a bidder who provides reasonable health insurance coverage to its employees and requires a subcontractor the bidder intends to use to provide reasonable health insurance coverage to the subcontractor's employees and whose bid is within five percent of the lowest and best bid price received by the county from a bidder who does

not provide or require reasonable health insurance coverage, the commissioners court of the county may give preference to the bidder who provides and requires reasonable health insurance coverage.

(c) This section does not prohibit a county from rejecting all bids.

Added by Acts 2005, 79th Leg., Ch. 1299 (H.B. 2695), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 11, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

Sec. 262.0275. SAFETY RECORD OF BIDDER CONSIDERED. In determining who is a responsible bidder, the commissioners court may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if:

- (1) the commissioners court has adopted a written definition and criteria for accurately determining the safety record of a bidder;
- (2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and
- (3) the determinations are not arbitrary and capricious.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 58(c), eff. Aug. 28, 1989.

Sec. 262.0276. CONTRACT WITH PERSON INDEBTED TO COUNTY. (a) By an order adopted and entered in the minutes of the commissioners court and after notice is published in a newspaper of general circulation in the county, the commissioners court may adopt rules permitting the county to refuse to enter into a contract or other transaction with a person who owes a debt to the county.

(b) It is not a violation of this subchapter for a county, under rules adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the county.

(c) In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the county requiring approval by the commissioners court.

(d) In this section, "debt" includes delinquent taxes, fines, fees, and delinquencies arising from written agreements with the county.

Added by Acts 2003, 78th Leg., ch. 156, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 12, eff. September 1, 2011.

Sec. 262.028. LUMP-SUM OR UNIT PRICE METHOD. A purchase may be proposed on a lump-sum or unit price basis. If the county chooses to use unit pricing in its notice, the information furnished bidders must specify the approximate quantities estimated on the best available information, but the compensation paid the bidder must be based on the actual quantities purchased.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.029. TIME WARRANT ELECTION. If before the date tentatively set for the authorization of the issuance of time warrants applying to a contract covered by this subchapter or if before that authorization a petition signed by at least five percent of the registered voters of the county is filed with the county clerk protesting the issuance of the time warrants, the county may not issue the time warrants unless the issuance is approved at an election ordered and conducted in the manner provided for county bond elections under Chapter 1251, Government Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.291, eff. Sept. 1, 2001.

Sec. 262.0295. ALTERNATIVE MULTISTEP COMPETITIVE PROPOSAL PROCEDURE. (a) (1) If the county official who makes purchases for the county determines that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, the official shall notify the commissioners court of such determination.

(2) Upon a finding by the commissioners court that it is impractical to prepare detailed specifications for an item to support the award of a purchase contract, after a notification of such determination by the county official who makes purchases for the county, the county official who makes purchases for the county may use the multistep competitive proposal procedure provided by this section.

(3) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as provided in the competitive bidding procedure, except that the notice may include a general description of the item to be purchased, instead of the specifications describing the item or a statement of where the specifications may be obtained, and may request the submission of unpriced proposals.

(c) On the date specified in the notice, the county official shall open the proposals and, within seven days after that date, solicit by mailed request priced bids from the persons who submitted proposals and who qualified under the criteria stated in the first solicitation.

(d) Within 30 days after the date the unpriced proposals are opened under Subsection (c), the county official shall present the priced bids to the commissioners court. The award of the contract shall be made to the responsible offeror whose bid is determined to be the lowest and best evaluated offer resulting from negotiation. All proposals and bids that have been submitted shall be available and open for public inspection after the contract is awarded.

(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussion may be conducted with responsible offerors who submit priced bids determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 10, eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 13, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

Sec. 262.030. ALTERNATIVE COMPETITIVE PROPOSAL PROCEDURE FOR CERTAIN GOODS AND SERVICES. (a) Except for Subsection (d) of this section, the competitive proposal procedure provided by this section may be used for the purchase of insurance, high technology items, and the following special services:

- (1) landscape maintenance;
- (2) travel management; or
- (3) recycling.

(b) Quotations must be solicited through a request for proposals. Public notice for the request for proposals must be made in the same manner as

provided in the competitive bidding procedure. The request for proposals must specify the relative importance of price and other evaluation factors. The award of the contract shall be made to the responsible offeror whose proposal is determined to be the lowest and best evaluated offer resulting from negotiation, taking into consideration the relative importance of price and other evaluation factors set forth in the request for proposals.

(c) If provided in the request for proposals, proposals shall be opened so as to avoid disclosure of contents to competing offerors and kept secret during the process of negotiation. All proposals that have been submitted shall be available and open for public inspection after the contract is awarded, except for trade secrets and confidential information contained in the proposals and identified as such.

(d) A county in which a purchasing agent has been appointed under Section 262.011 or employed under Section 262.0115 may use the competitive proposal purchasing method authorized by this section for the purchase of insurance or high technology items. In addition, the method may be used to purchase other items when the county official who makes purchases for the county determines, with the consent of the commissioners court, that it is in the best interest of the county to make a request for proposals.

(e) As provided in the request for proposals and under rules adopted by the commissioners court, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award. Offerors must be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submission and before award for the purpose of obtaining best and final offers.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(d), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 464, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 746, Sec. 3, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(85), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 640 (H.B. 2694), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1272 (H.B. 3517), Sec. 5, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 14, eff. September 1, 2011.

Sec. 262.0305. MODIFICATION AFTER AWARD. (a) After award of a contract but before the contract is made, the county official who makes purchases for the county may negotiate a modification of the contract if the modification is in the best interests of the county and does not substantially change the scope of the contract or cause the contract amount to exceed the next lowest bid.

(b) For the modified contract to be effective, the commissioners court must approve the contract.

Added by Acts 1989, 71st Leg., ch. 1250, Sec. 11, eff. Sept. 1, 1989.

Sec. 262.031. CHANGES IN PLANS AND SPECIFICATIONS. (a) If it becomes necessary to make changes in plans, specifications, or proposals after a contract is made or if it becomes necessary to increase or decrease the quantity of items purchased, the commissioners court may make the changes. However, the total contract price may not be increased unless the cost of the change can be paid from available funds.

(b) If a change order involves an increase or decrease in cost of \$50,000 or less, the commissioners court may grant general authority to an employee to approve the change orders. However, the original contract price may not be increased by more than 25 percent unless the change order is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the contract was made. The original contract price may not be decreased by 18 percent or more without the consent of the contractor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 104, Sec. 1, eff. May 7, 1993; Acts 1993, 73rd Leg., ch. 891, Sec. 1, eff. June 19, 1993; Acts 1995, 74th Leg., ch. 746, Sec. 4, eff. Aug. 28, 1995.

Sec. 262.032. BID OR PERFORMANCE BOND; PAYMENT UNDER CONTRACT. (a) If the contract is for the construction of public works or is under a contract exceeding \$100,000, the bid specifications or request for proposals may require the bidder to furnish a good and sufficient bid bond in the amount of five percent of the total contract price. A bid bond must be executed with a surety company authorized to do business in this state.

(b) Within 30 days after the date of the signing of a contract or issuance of a purchase order following the acceptance of a bid or proposal and prior to commencement of the actual work, the bidder or proposal offeror shall furnish a performance bond to the county, if required by the county, for the full amount of the contract if that contract exceeds \$50,000. This subsection

does not apply to a performance bond required to be furnished by Chapter 2253, Government Code.

(c) If the contract is for \$50,000 or less, the county may provide in the bid notice or request for proposals that no money will be paid to the contractor until completion and acceptance of the work or the fulfillment of the purchase obligation to the county.

(d) A bidder or proposal offeror whose rates are subject to regulation by a state agency may not be required to furnish a performance bond or a bid bond under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 59(e), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 109, Sec. 3, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 696, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 33, Sec. 1, eff. Aug. 30, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(17), eff. Sept. 1, 1995.

Sec. 262.033. INJUNCTION. Any property tax paying citizen of the county may enjoin performance under a contract made by a county in violation of this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 262.034. CRIMINAL PENALTIES. (a) A county officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 262.023. An offense under this subsection is a Class B misdemeanor.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 285, Sec. 24, eff. September 1, 2011.

(c) 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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1250, Sec. 12, eff. Sept. 1, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 15, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 24, eff. September 1, 2011.

Sec. 262.036. SELECTION AND RETENTION OF INSURANCE BROKER. (a)

Notwithstanding any other provision in this chapter, a county may select an appropriately licensed insurance agent as the sole broker of record to obtain proposals and coverages for insurance that provides necessary coverage and adequate limits of coverage in all areas of risk, including public official liability, property, casualty, workers' compensation, and specific and aggregate stop-loss coverage for self-funded health care.

(b) The county may retain a broker of record selected under this section only on a fee basis paid by the county. A broker of record retained in this manner may not directly or indirectly receive any other remuneration, compensation, or other form of payment from any other source for the placement of insurance business under the broker of record contract.

(c) A broker of record retained under this section may not submit any insurance carrier proposal to the county or direct any county insurance business to an insurance carrier if the broker has a business relationship or proposed business relationship with the carrier, including an appointment, unless the broker first discloses the nature of that relationship or proposed relationship, in writing, to the county.

(d) A broker who violates this section is subject to any disciplinary remedy available under Chapter 82, Insurance Code, or Section 4005.102, Insurance Code, including license revocation and fine.

Added by Acts 2005, 79th Leg., Ch. 353 (S.B. 1214), Sec. 1, eff. June 17, 2005.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 16, eff. September 1, 2011.

Sec. 262.037. QUALIFICATION. An officer authorized to make a purchase on behalf of a county or a county department or office may not make any purchase until providing to the county judge a signed acknowledgment that the officer has read and understands this chapter. This section does not apply in a county that has appointed a purchasing agent under Subchapter B.

Added by Acts 2011, 82nd Leg., R.S., Ch. 285 (H.B. 1694), Sec. 17, eff. September 1, 2011.