

Purchasing & Procurement 101

*TCAA Riley Fletcher
Basic Municipal Law
Seminar 2026*

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Purchasing & Procurement 101

Texas Municipal Procurement Laws Made-Easy

Web of
statutes

Broad
Applicability
[no instruction manual]

Lack of
Case Law

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Chapter 252: Purchasing and Contracting Authority of Municipalities

Broad Applicability - §252.021

- Expenditures of more than \$100,000 from one or more city funds
- May use:
 - Competitive Sealed Bidding or Competitive Sealed Proposals
 - Reverse Auction
 - Tex. Gov't Code ch. 2269
- Permits use of Competitive Sealed Proposals for goods or services, including technology and insurance
- Prior to bid, if not CSB, Council or Delegee must determine best value

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Ch. 252 Competitive Sealed Proposals

- **Best Value Considerations:**
 - Purchase Price
 - Reputation – of Goods or Services
 - Quality of Goods or Services
 - Extent to Which Both Meet City's Needs
 - Past Relationship
 - Impact to City's Ability to Comply with HUB Laws and Rules
 - Long-term Cost to City
 - Any Relevant Criteria
- **Must Specify Relative Importance of Price & Other Factors**

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Chapter 252 – Procedures, Etc.

Procedures

- Public Notice
 - Advertising Requirements
- RFB/RFP Methodology
 - Best Value
 - Lowest Responsible
- No post-bid modifications

ETC.

- Consider Safety record (but not experience modifier - 2023 change)
- Permits Unit Price Contract
- Change Orders - 25% limit +/-
- Lease-Purchase Real Property - limit to appraised FMV

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Ch. 252: Purchasing and Contracting Authority of Municipalities

*Limited Exemptions -
§252.022 List of 16 items*

Public
Calamity

Preserve or
Protect
Public Health
& Safety

Unforeseen
Damage to
Property

Single
source

Ch. 252 does not apply to either:
Expenditure by municipally owned gas and electric utilities; or
Expenditure made under 2269

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Ch. 271: Purchasing and Contracting Authority of Municipalities, Counties and Certain Other Local Governments

Applies to Multiple Types of Governmental Entities

- Subchapter F – allows participation in cooperative purchasing
- Subchapter I – Contract Claims
 - §271.152 Waiver of Immunity
 - §271.153 Limitations on Damages
- Subchapter Z – Misc.
 - §271.904 Limits Indemnity for Design Professionals
 - Defines Standard of Care
 - §271.908 - Permits Project Development Agreements – civil works

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Ch. 2251: Payment for Good & Services

Prompt Pay Act - Governs Timeliness

Payment by City due 30 days after:

- Date goods are received
- Date performance is completed
- Date an invoice is received

If governing body meets only once a month or less - Payment due by the 45th day following

Vendor & Subcontractor Payments due 10 days after Receipt from City

Interest = prime plus 1%

Bona Fide Dispute Exception

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Ch. 2252: Contracts with Governmental Entity

Addresses Nonresident Bidders, Retainage on Public Works Contracts, HUB Contracts, Buy American, Contingency Fee Lawyers, Conflicts of Interest and Experience Modifier Limitation

Retainage -

- 10% Max on Contracts < \$5M
- 5% Max on Contracts > \$5M
- Downstream Cannot Exceed Upstream
- Limits on City's Right to Withhold
 - Bona Fide Dispute
 - Nonconforming Work or Unpaid Subs

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§2253: Performance and Payment Bonds

Applies to City owned Public Works Contracts

Payment Bond for
Contracts => \$50k

Performance Bond for
Contracts => \$100k

- Corporate Surety
- Licensed by TDI
- Cannot Specify a Surety

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Ch. 2254: Professional Services Procurement Act

- Accounting
- Architecture
- Landscape architecture
- Land surveying
- Medicine
- Optometry
- Professional engineering
- Real estate appraising
- Professional nursing
- Forensic scientist

Qualification Based Awards

- Demonstrated Competence
- Fair & Reasonable Price

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Ch. 2254: Professional Services Procurement Act Cont.

Design Professionals & Lawyers

- A/E or Land Surveyor - must select the most highly qualified
- Contract made in violation of §2254 is VOID
- Subchapter C - Contingent Fee Legal Services Procedures

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Ch. 2258: Prevailing Wage Rates

Any worker employed on a public work contract be paid at least the general prevailing daily wage rate for work of a similar character performed in the same locality

- Includes overtime & respective overtime rates
- US Dept. of Labor

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Ch. 2269: Contracting and Delivery Procedure for Construction Project Methods

- Best-value competitive bidding
- Competitive sealed proposal
- Construction manager-agent
- Construction manager-at-risk
- Design-build
- Job order

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Ch. 2269 – Construction Procurement

- Prevails Over Other Law Relating to Public Work Contract
- Delegation or Council Determination Required for Use
- Facility – Any Improvement to Real Property
- Production of Documents Relating to Evaluation Required
- CSP – Price must be at least 50%
 - Can Lower to 36.9% if City Determines in Public Interest

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Questions?

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