



**RESOLUTION NO. 20250527-08**

**A RESOLUTION APPROVING A PURCHASING POLICY FOR TEXAMERICAS CENTER**

**WHEREAS**, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

**WHEREAS**, the Board of Directors finds that it is in the best interest of TexAmericas Center to be prepared to provide guidance for purchasing-related procedures not required by our enabling legislation; and

**WHEREAS**, the procedures in the policy comply with statutory requirements and policies as established by the TAC Board of Directors; and

**WHEREAS**, through these procedures, TAC's finance and purchasing-related functions will be managed and accounted for in a responsible and effective manner.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of TexAmericas Center that the attached Purchasing Policy is hereby approved in substantially the same form attached hereto and shall be implemented as of this date.

**PASSED and APPROVED** this 27th day of May, 2025

A handwritten signature in blue ink, appearing to read "Jim Roberts", is written above a horizontal line.

**Jim Roberts, Chairman of the Board**

**ATTEST:**

A handwritten signature in blue ink, appearing to read "Justin Powell", is written above a horizontal line.

**Justin Powell, Secretary**

Attached: Purchasing Policy



# Finance and Purchasing Policy

ADOPTED: May 27, 2025

Resolution #20250527-08

Finance and Purchasing Policy-v2-Clean-RWJ-051425

## About this Finance and Purchasing Policy Disclaimer

TexAmericas Center (TAC) is a political subdivision of the State of Texas and a special purpose district organized as provided by Chapter 3503 of the Special District Local Laws Code of the State of Texas. The organization was initially chartered in 1998 as the Red River Redevelopment authority in response to the realignment of Red River Army Depot (RRAD), Texas and the need for subsequent transition of surplus federal assets the private ownership for job producing and tax generating purposes. The economic development mission was expanded in 2005 with the further realignment of RRAD, the closure of the adjacent Lone Star Army Ammunition Plant, as well as the closure and realignment of the Watts-Guillot US Army Reserve Center. In 2011, the Texas State Legislature changed the name of the red River Redevelopment authority to TexAmericas Center, now commonly referred to as TAC. The organization now serves as the planning and economic redevelopment agency for over 12,000 acres of surplus military land, over three and a half million square feet of buildings, and thousands of items of personal property. Leveraging these assets to create jobs and tax base, while creating a “bridge” between Federal ownership and private/local ownership is the primary mission of TAC.

In connection with its duties and mission, TAC must periodically make expenditures of its funds for purchases of supplies, equipment, materials, construction and services. Although not required by its enabling legislation, TAC and its Board of Directors have sought to adopt comprehensive financial and purchasing policies to ensure that our organization operates efficiently and transparently and receives the best value.

This Policy has been prepared to provide guidance for finance and purchasing-related procedures. The procedures outlined in the Policy comply with statutory requirements and policies as established by the TAC Board of Directors. Through

these procedures, TAC's finance and purchasing-related functions will be managed and accounted for in a responsible and effective manner.

This Policy does not answer all finance and purchasing questions. It is intended to provide a basic understanding of finance and purchasing activities, the applicable federal and state laws, rules, and regulations in the financial process.

This Policy states only general TAC financial guidelines. TAC may, at any time, in its sole discretion, modify or vary from anything stated in this Policy.

The adoption of this Finance and Purchasing Policy and the approval of any subsequent revisions by the TexAmericas Center Board of Directors shall authorize the policies and procedures set forth herein for official use in TAC.

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## **Section 1 – Financial Polices and Guidelines**

### **1-1 Guidelines**

The budget process and format will be performance-based and focused on goals, objectives, and performance indicators.

The budget will provide adequate funding for maintenance and replacement of capital assets necessary to achieve the redevelopment goals of TAC. TAC has, by the nature of its primary mission, acquired extensive surplus military real estate and infrastructure holdings that are predominantly at the end of their life cycle. It is generally not the intent of TAC to rehabilitate or replace many of these assets unless and until market demand and financial feasibility dictate otherwise.

### **1-2 Interim and Annual Financial Reporting**

TAC Board of Directors will be provided with interim financial reports comparing actual versus budget revenue and expense activity at the end of each quarter. As an additional independent confirmation of the quality of TAC’s financial reporting, the Board of Directors will be provided with annually audited financial statements, which conform to Generally Accepted Accounting Principles for local governments.

### **1-3 Capitalization Policy**

A Capital Asset is defined as an asset, which has an acquisition cost of \$5,000, or greater, and a useful life of at least one year. GASB 34 further defines general capital assets as “capital assets of the government that are not specifically related to activities reported in proprietary or fiduciary funds.” This includes all land, buildings, vehicles, equipment, and computer equipment. These items will be included in TAC’s Comprehensive Annual Financial Report. Straight-line depreciation will be used to depreciate these items. (See TAC Fixed Assets Policy and Procedures for more detail).

#### **1-4 Debt Management Policy**

TAC does not have a formal, written debt policy. Any bonds and/or debts will be issued in accordance with the Constitution and statutes of the State of Texas. TAC will only issue Revenue Bonds and will comply with any applicable Bond Covenants. From time-to-time, TAC also utilizes loans from financial institutions (banks) if it is more fiscally advantageous than issuing bonds.

TAC understands that incurring debt is a serious matter, and TAC will confine long-term borrowing to capital improvements or projects that cannot be financed from current revenues. TAC will not use long-term debt for current operations.

TAC does not have any legal debt limits.

Whenever applicable, TAC will review any outstanding debt for the purpose of determining if the financial marketplace will afford TAC the opportunity to refund any bond issue(s) and lessen its debt service costs.

#### **1-5 Fixed Asset and Capital Improvement Policies**

TAC incorporates its fixed asset and capital improvement activities within the development of its yearly operating budget.

TAC will endeavor to maintain all its assets at a level adequate to protect its capital interest and to minimize future maintenance and replacement costs for those assets worthy of redevelopment or that are critical to day-to-day operations.

TAC will identify the estimated costs and potential funding sources for each capital project proposal before it is submitted for approval. All capital projects greater than \$100,000 require approval from the Board of Directors.

TAC will determine the least costly financing method for all new projects.

#### **1-6 Investment Policies**

TAC does comply with the Texas Public Funds Investment Act and has adopted an investment policy, which will be reviewed at a frequency specified by Texas Law.

The policy will be detailed and include components required by Texas Law which may include information on the pooling of funds, investment objectives, prudence and ethical standards, authorized investments, risk and diversification, authorized investment institutions and dealers, third-party custodial agreements, internal controls, and reporting.

### **1-7 Reserves Policy**

The informal reserves policy of TAC is to maintain sixty (60) days or greater of Cash on Hand. Cash on Hand is calculated by using unassigned fund balance and dividing it by the yearly operating budget.

### **1-8 Revenue Policies**

TAC will attempt to maintain a diversified and stable revenue system to shelter it from unforeseeable short-run fluctuations in any one revenue source.

TAC will project revenues for the next year and will update this projection at least annually. Each existing and potential revenue source will also be re-examined annually.

### **1-9 TAC Credit Cards**

TAC may provide credit cards for use by TAC employees and are restricted to TAC business use only. Each month the Finance Department will review the statements. The employee is responsible for the receipts of items charged throughout the month. Each amount on the monthly billing must have a receipt or some type of documentation to support it, which should be attached to the bill. If any charges are determined to be inaccurate or inappropriate they should be reported to the Executive Director/CEO.

### **1-10 Purchase Orders**

All Purchase Orders must be tied to a budget line item and should be pre-approved in the budget. The budgets have provided for certain items to be purchased and thus are pre-approved.

### **1-11 Non-recurring Payables**

In case of a need for repairs to an asset or system of TAC due to unforeseen and unforeseeable actions requiring immediate action to protect the property of TAC and/or the health and safety of its employees, contractors, lessees, and utility customers or to prevent an interruption of utility service to said persons and/or entities, the Executive Director/CEO may expend the funds necessary to restore the property, system and/or service in an amount not to exceed \$100,000.

### **1-12 Monthly Payables**

All monthly payables will require one signature, a pre-approved contract, or PO.

A summary of all payables in the form of a checkbook register will be submitted to the Treasurer at each Board meeting for the prior month period.

### **1-13 Cash Handling Policy**

All cash handling activities will follow the board approved Cash Handling Policy.

### **1-14 Check Writing Policy**

The Accounting Manager will keep all checks in the safe. The Accounting Manager and the Bookkeeper will have access to the safe. The Bookkeeper will print checks. In the event the Bookkeeper is not able to print a check, the Accounting Manager will issue and print checks. The Vice President of Finance will not be allowed to sign a check that he/she printed. The Executive Director/CEO, Vice President of Finance or authorized Board Member will sign all checks not to exceed \$100,000. All checks over \$100,000 will require two signature and must be signed by the Executive Director/CEO, Vice President of Finance or an authorized Board Member.

### **1-15 Check Signing And Inter-Fund Transfers**

TAC will maintain a policy on limits regarding check signing. The Vice President of Finance may sign checks for routine payables in an amount up to \$100,000. The Executive

Director/CEO may sign checks for routine payables, contracts, authorized through the Board of Directors' approval, bond funded capital improvements, and debt service in an amount up to \$100,000.

TAC requires dual signatures on all checks over \$100,000, which will include the signatures of the Executive Director/CEO and/or the Vice President of Finance, and/or any Board Members that are authorized signatories.

Inter-fund transfers, necessary to comply with the budget, may be approved by the Executive Director/CEO in any amount without prior approval of the Board of Directors.

## **Section 2 – Procurement And Purchasing Policies**

Pursuant to the provisions of Section 3503.101(b) of the Special District Local Laws Code, TAC may undertake a project described in Section 3503.003(a) by competitive bidding or by negotiated contract, all as the Board of Directors considers appropriate, desirable and in the best interests of TAC and the accomplishment of its purposes.

It is the general policy of TAC to use competitive procedures to acquire goods and services requiring an expenditure of more than \$100,000.00. This general Policy does not require competitive procedures for major construction projects which are governed by Section 2-4 of this Policy.

### **2-1 Introduction To Competitive Bidding**

TAC may follow the general competitive bidding procedures established for municipalities. This general competitive bidding statute for municipalities is found in Subchapter C of Chapter 252 of the Texas Local Government Code. This section contains a summary of some of the most notable tenets of the Statute but is not meant to cover every competitive bidding law codified in Texas. As such this isn't meant to be taken as an all-inclusive reference.

Local Government Code §252-021 requires a purchase of one or more items that requires an expenditure of more than \$50,000.00 to go through one of the following processes:

- The competitive bid or competitive proposal procedures outlined in the Statute;
- Use the reverse auction procedure in §2155.062(d), Government Code; or
- Comply with Chapter 2269, Government Code.

The Texas Legislature has passed legislation increasing the competitive bid threshold to \$100,000.00 effective September 1, 2025. As of said date, this policy shall reflect that changed amount.

### **2-2 Competitive Bid Versus Competitive Proposal**

These terms are often used interchangeably, but in general, a request for bids is used when TAC 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. Here, TAC asks responsive vendors to propose solutions to meet all requirements. Cost or price is one factor but may not be the only factor.

### **2-3 Alternative Competitive Proposal Procedures**

Competitive proposals (as opposed to competitive bids) may be sought under Local Government Code §252.021(b) for the purchase of insurance, high-technology items, landscape maintenance, travel management, or recycling.

TAC recognizes the Executive Director/CEO as the purchasing agent for TAC. The Executive Director/CEO may, with the consent of the TAC Board of Directors, solicit proposals, rather than bids, for items other than insurance and high-tech items if the Executive Director/CEO determines that it is in the best interests of TAC to make a request for proposals.

TAC may purchase items without competitive procedures which are exempt from the provisions of Section 252.021 by the General Exemptions set forth in Section 252.022 of the Local Government Code.

### **2-4 Construction Projects Procedures**

Construction projects may be conducted by either competitive procurement procedures or by negotiated contracts as determined by the Board of Directors. While it is the general policy of TAC to use competitive procedures, there are situations where negotiated contracts are preferred, such as construction of facilities similar to previously constructed facilities in which the experience, abilities, uniqueness and completion history of a particular contractor are known to TAC. Construction projects paid for in whole or in part by Federal and/or State grants, loans or bonds shall comply with any competitive acquisition requirements of the Federal or State government program providing the funding of the Project.

When required by applicable law, TAC may use alternative contracting and delivery procedures for a construction project or public work contract pursuant to Government Code Chapter 2269. A public work contract includes any contract for constructing,

altering, or repairing a public building, or carrying out or completing any public work. TAC may use a method other than competitive bidding provided in Chapter 2269, but before advertising the procurement, the governing body must make a determination on which alternative method provides the best value for TAC. The criteria, value, and scoring methodology must be published in the Request for Proposals (RFP) or Request for Qualifications (RFQ).

TAC may consider price, experience and reputation, quality of goods or services, impact on historically underutilized business, safety record, personnel, financial capability, and any other relevant factors.

The alternative delivery methods available include competitive sealed proposals, construction manager-agent, construction manager-at-risk, design-build, and job order contracting. Each method has specified procurement requirements and may be limited in its applicability to a particular project. General requirements for each type of alternative delivery method are as follows:

- **Competitive Sealed Bidding (CSB).** A CSB may be utilized for the construction, alteration, rehabilitation, or repair of a facility. Construction documents must be prepared by an architect or engineer prior to the bid process. The criteria for award is the lowest responsible bidder. A bid package must include construction documents, estimated budget, project scope, estimated completion date, and any other necessary information.
- **Competitive Sealed Proposal (CSP).** A CSP may be utilized for the construction, alteration, rehabilitation, or repair of a facility. Construction documents must be prepared by an architect or engineer prior to the proposal process. The criteria for award is the best value proposal based upon the selection criteria and weighted value published in the proposal request. The CSP must include construction documents, selection criteria and weights, estimated budget, project scope, estimated completion date, and any other necessary information. TAC may negotiate with the highest ranked vendor regarding options for scope or time modifications.
- **Construction Manager-Agent (CMA).** A CMA may be utilized for the construction, alteration, rehabilitation, or repair of a facility. A CMA manages multiple contracts

with various prime contractors on behalf of TAC. It may provide personnel, equipment, and on-site management, but cannot self-perform any construction work. A CMA is procured in the manner prescribed by Government Code §2254, The Professional Services Procurement Act.

- **Construction Manager-at-Risk (CMAR).** A CMAR may be utilized for any public work contract which includes the construction, altering, or repairing or carrying out or completing any public work. An architect is selected prior to procuring a CMAR. The CMAR serves as the general contractor during both the design and construction phase of the project. TAC may use a one-step or two-tstep procurement process. The one-step includes a qualification round and a second round with five or less vendors selected to submit pricing. The proposal documents must include project site, project scope, schedule, selection criteria and weights, and estimated budget and time and place for receipt of proposals as well as any other necessary information.
- **Design-Build (DB).** A DB process selects a single entity to provide both the design and construction components of a project. It may be used for the construction, rehabilitation, alteration, or repair of a building or an associated structure. DB may not be used for civil engineering construction projects such as highways, roads, or water. An RFQ should include project site, project scope, budget, special systems, selection criteria and weights, and any other necessary information. Evaluation criteria shall include experience, competence, capability to perform, past performance, and other appropriate factors. Five proposals shall be chosen based on qualifications and asked to submit additional information proposals. Vendors are then ranked and chosen based on the best value to TAC.
- **Design-Build Civil Works (DB-CW).** DB-CW may be used for other civil works projects including roads, streets, and bridges. A DB-CW may be used for a single integrated project and not for aggregated projects. DB-CW must be determined as the best delivery method for the project based on required elements including the project requirements, time constraints, timing for procurement, and capability to oversee the project. Entities are limited to six DB-CW projects in a year. TAC must determine qualified vendors and then request a proposal that includes technical components. Cost proposals are subsequently evaluated and scored.

- **Job Order Contracting (JOC).** JOC may be utilized for maintenance, repair, alteration, renovation, remediation, or minor construction of a facility when the work required are indefinite. It applies only to a facility that is building subject to building codes or a structure or land associated with buildings. A JOC solicitation method shall be used based on contractual unit prices by specifying one or more published construction unit price books or providing a list of work items and requiring a coefficient. Multiple vendors may be selected. Individual job orders may be a fixed price based on contractual until pricing or a unit price order based on quantities and line items delivered.

## **2-5 Requirements For Using State or Federal Funds**

There are special requirements when using state or federal funds. For every purchase it is important to identify the funding source and confirm whether there are any special procurement requirements. Federal funds are subject to the purchasing requirements of the Uniform Administrative Requires, Cost Principles, and Audit Requirements for federal awards (“Uniform Guidance”). The focus of federal procurement is on providing full and open competition compliant with the Uniform Guidance.

There are multiple methods of procurement that may be used under a federal award. These include both informal and formal methods. Informal procurements include micro-purchases. Micro-purchases generally apply to acquisitions under \$10,000 or the amount set in 48 C.F.F. Part 2, subpart 2.1. Micro-purchases don’t require a formal bid or quote, so long as TAC determines the price to be reasonable. Small purchases are those under \$250,000 or the amount as set in 48 C.F.R. Part 2, subpart 2.1. For small purchases, price or rate quotations must be obtained to select a qualified vendor. Purchases made with federal dollars between the State threshold amount of \$50,000 and the small purchase amount must follow applicable State procurement laws.

Formal procurement methods apply to contracts greater than \$250,000 and include sealed bids and proposals. There are also a number of noncompetitive procurement options available, including single source, exigency or emergency, express authorization from federal entity, or following a determination that the competition is inadequate.

There are a number of other requirements when utilizing federal funds, including mandatory contract terms, that make it essential to consult the Uniform Guidance before conducting procurements. Remedies for noncompliance can include withholding of payments, suspension, or termination of the federal award.

## **2-6 Notice Provisions**

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 Bowie County, Texas, with the first date of publication occurring at least 14 days before the date of the bid opening.

Bids may not be opened early. The notice for bids must specifically advertise the time and place bids are to be publicly opened.

## **2-7 Contracts**

Contracts can be awarded for multiple years. There is no statute that expressly authorizes multiple-year awards; however, multi-year contracts must include a Current Revenue Clause.

Local Government Code §271.903 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 effort 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.

## **2-8 Bonding Requirements**

A bid bond (sometimes called a proposal bond) guarantees a vendor submitted an accurate proposal and can 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.

TAC may require bidders to furnish a bid bond for 5% of the total contract price for public works contracts or for contracts exceeding \$100,000.

A bid bond provides some assurance that TAC 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 isn't a penalty for failing to perform. It is similar to a liquidated damages clause where default is acknowledged to cause damages, but those damages aren't easily ascertained.

Performance Bonds are required for public works contracts in excess of \$100,000.00.

Payment Bonds are required for public works contracts in excess of \$25,000.00; provided, however if the Texas Legislature passes HB 643, payment bonds for contracts solicited or advertised after September 1, 2025, shall be required for contracts in excess of \$100,000.00.

## **2-9 Alternatives To Competitive Bidding**

Below are several alternatives to competitive bidding:

- **Interlocal Cooperation Act.** Chapter 791 of the Government Code authorizes TAC to contract with counties, 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.

- **Cooperative Purchasing Program.** Chapter 271, Local Government Code, Subchapter F authorizes TAC 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. TAC should make efforts to confirm the components of a cooperative purchase and ensure competitive processes are used when possible.
- **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 (TASB). 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](http://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. For more information, visit [txsmartbuy.com](http://txsmartbuy.com).
- **Texas Department of Information Resources.** Certain IT products and services can be ordered from the Texas Department of Information Resources (DIR). Purchases from DIR's cooperative and shared contacts are deemed to satisfy competitive bid requirements. For more information, visit [dir.texas.gov](http://dir.texas.gov).
- **Federal Supply Schedule Sources.** TAC 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. For more information, visit [gsa.gov](http://gsa.gov).
- **Public-Private Partnerships.** TAC may utilize public-private partnerships for qualifying projects under Government Code Chapter 2267. The Texas Legislature passed Chapter 2267 to encourage investment and provide flexibility for local governments contracting with private entities on a broad array of infrastructure projects. Before TAC may employ Chapter 2267

provisions, its Board of Directors must first approve a resolution electing to participate under the Chapter's scope. It must also adopt reasonable guidelines that, among other specific requirements, encourage competition and guide TAC's selection of projects before TAC may request or consider a proposal for a qualifying project. Other requirements including the specific procurement procedures for public-private partnerships, are outlined in Chapter 2267.

## **2-10 Mandatory Exceptions To Competitive Bidding**

Under Government Code Chapter 2254, Subchapter A, TAC 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, a registered nurse, an interior designer, or a forensic analyst or forensic science expert. The selection of a professional services provider should be on the basis of demonstrated competence and qualifications of the vendor and for a fair and reasonable price.

Contracts for the professional services of an architect, engineer, or surveyor have a specific statutorily prescribed selection method under Government Code §2254.004. Selection is based upon the most highly qualified provider of the architectural, engineering, or surveying services.

Contracts for the professional services of physicians, optometrists and registered nurses may be selected and awarded on the basis of the provider's agreement to payment of a set fee, as a range or lump-sum amount and the provider's affirmation and TAC's verification that the provider has the necessary occupational licenses and experience if the number of contracts to be awarded is not otherwise limited.

Under Chapter 2254, subchapter C of the Government Code, TAC may not completely bid for legal services provided on a contingent fee basis. A contingent fee contract for legal services must be awarded to a well-qualified attorney or law firm on the basis of demonstrated competence, qualifications and experience in the requested services after negotiation of a fair and reasonable price. A "contingent fee contract" means a contract for legal services under which the amount or the payment of the fee for the services is

contingent in whole or in part on the outcome of the matter for which the services were obtained. The term “contingent fee contract” includes an amendment to a contract for legal services if the amendment changes the scope of representation or may result in the filing of an action or amending of a petition in an existing action.

There are a number of statutory procedural requirements attached to the award of a contract for contingent fee legal services, including written notice to the public at least 72 hours in advance of an open meeting of the reasons for and the desired outcome of the litigation, the qualifications and competencies of the attorney or law firm to be the reasons the litigation can’t be pursued on a non-contingent, hourly basis, the nature of any relationship between the attorney or law firm and TAC, and the reason why a contingent fee contract for legal services must be submitted to the Texas Attorney General for review and approval with a copy of the written notice to the public required by Government Code §2254.1036.

## **2-11 Discretionary Exceptions To Competitive Bidding**

Local Government Code §252.022 contains a list of items that are exempted from competitive bidding. This list includes:

- **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 TAC.
- **Public Health or Safety.** An item necessary to preserve or protect public health or safety of the residents of TAC. Whether an item is “necessary to preserve or protect the public health or safety of the residents of TAC” is a question left to the TAC Board of Directors’ discretion, subject to judicial review under an abuse of discretion standard.
- **Unforeseen Damage.** An item necessary because of unforeseen damage to public property.
- **Personal or Professional Service.** The discretionary exemption in Local Government Code §262.024(4) doesn’t have the same meaning or effect as the term “professional services” in Chapter 2254 of the Government Code. If TAC wishes to

procure services listed in Chapter 2254, TAC may NOT use sealed bids to acquire those services. Instead, TAC issues a Request For Qualifications and negotiates a proposal price after selecting the most qualified professional or firm responding to TAC's request for qualifications.

- **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, or monopolies; creative works such as films, manuscripts or books; electric power, gas, water and other utilities; and captive replacement parts. TAC should maintain documentation justifying the use of sole source, including verification from vendors especially when utilizing federal funds.
- **Personal Property Sold at Auction.** Personal property sold at auction by a state licensed auctioneer; at a liquidation sale held in compliance with Business & Commerce Code, Subchapter F, Chapter 17; 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 TAC under Local Government Code §381.004.
- **Vehicle and Equipment Repairs.** Any repairs on TAC vehicles or equipment.