

(c) A county may receive bids or proposals under this subchapter in hard-copy format or through electronic transmission. A county shall accept any bids or proposals submitted in hard-copy format.

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

§ 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 Subchapter H, Chapter 271.

(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).¹

(b-1) A county that complies with a method described by Subchapter H, Chapter 271, 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, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 57(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1250, § 9, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 16, § 13.02(b), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 757, §§ 13, 38, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 442, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 505, § 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 436, § 4, eff. May 23, 2001; Acts 2001, 77th Leg., ch. 1063, § 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1409, § 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, § 12.004, eff. Sept. 1, 2003; Acts 2007, 80th Leg., ch. 689, § 1, eff. Sept. 1, 2007; Acts 2009, 81st Leg., ch. 1266, § 4, eff. June 19, 2009.

¹ V.T.C.A., Local Government Code § 271.041 et seq.

Section 2 of Acts 2007, 80th Leg., ch. 689 provides:

"The changes in law made by this Act apply only to a contract entered into on or after the effective date [Sept. 1, 2007] of this Act. A contract entered into before the effective date of this Act is governed by the law in effect when the contract was entered into, and the former law is continued in effect for that purpose."

Section 17 of Acts 2009, 81st Leg., ch. 1266 provides:

"The change in law made by this Act applies only to a claim that arises under a contract executed on or after the effective date of this Act. A claim that arises under a contract executed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose."

§ 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, § 3, eff. Sept. 1, 2001.

§ 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;¹ 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, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 59(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 962, § 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1001, § 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1060, § 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, § 13.03, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 442, § 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1065, § 1, eff. June 15, 2001; Acts 2007, 80th Leg., ch. 1272, § 3, eff. Sept. 1, 2007.

¹ V.T.C.A., Bus. & Com. Code § 17.81 et. seq.

§ 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, § 2, eff. June 15, 2001.