

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.

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.