



**CENTRAL TEXAS  
Regional Mobility Authority**

## AGENDA ITEM #7 SUMMARY

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Approve an amendment to the Policy Code to adopt the exceptions authorized by state law from procurement requirements for a county.

Strategic Plan Relevance:	Regional Mobility
Department:	Law
Associated Costs:	None
Funding Source:	N/A
Board Action Required:	Yes

Description of Matter: The Procurement Policies adopted in the Policy Code require a competitive bidding or competitive proposal process for all goods and services that cost more than \$50,000 if not otherwise subject to a specific procurement process established by state law or the Policy Code. This amendment to the Policy Code authorizes the board, in its discretion, to approve an exemption from a competitive bidding or competitive proposal process for those goods or services the Legislature has authorized a county to exempt from competitive bidding or proposal requirements established by the County Purchasing Act.

The list of discretionary exemptions from Section 262.024, Local Government Code, is incorporated into the Policy Code by reference (copy attached for reference). The discretionary exemptions most likely to be relevant to the Mobility Authority are those purchases needed to preserve public health or safety, necessary because of unforeseen damage to public property, for personal services, or for a professional services not subject to the Professional Services Procurement Act.

Reference documentation:	Draft Resolution Section 262.024, Local Government Code
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Contact for further information: Andrew Martin, General Counsel

**GENERAL MEETING OF THE BOARD OF DIRECTORS  
OF THE  
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

**RESOLUTION NO. 14-\_\_\_**

**APPROVING AN AMENDMENT TO THE POLICY CODE TO ADOPT  
THE EXCEPTIONS AUTHORIZED BY STATE LAW FROM  
PROCUREMENT REQUIREMENTS FOR A COUNTY.**

WHEREAS, by Resolution No. 08-64 adopted December 17, 2008, the Board amended the Mobility Authority Procurement Policies to ensure conformity with applicable federal rules and regulations; and

WHEREAS, by Resolution No. 12-016 adopted February 29, 2012, the Board adopted the Mobility Authority Policy Code ("Policy Code") as a non-substantive codification of all policy resolutions adopted by the Board since 2003; and

WHEREAS, the Executive Director recommends amending the Policy Code to incorporate by reference those exemptions to state law procurement requirements that apply to a Texas county.

NOW THEREFORE, BE IT RESOLVED, that the Board hereby amends the Policy Code to add a new Section 401.0061 (Discretionary Exemptions) to read as set forth in Exhibit 1 to this resolution.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 28<sup>th</sup> day of August, 2013.

Submitted and reviewed by:

Approved:

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Andrew Martin  
General Counsel for the Central  
Texas Regional Mobility Authority

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Ray A. Wilkerson  
Chairman, Board of Directors  
Resolution Number: 14-\_\_\_  
Date Passed: 2/26/2014

**EXHIBIT 1 TO RESOLUTION NO. 14-**

A new Section 401.0061 of the Policy Code is amended to read as follows:

**401.0061 Discretionary Exemptions**

A contract to purchase general goods or services that may be exempted under Section 262.024, Local Government Code, from competitive bidding or competitive proposal requirements otherwise made applicable to a county by the County Purchasing Act may be exempted from competitive bidding or competitive proposal requirements established by Article 3 of this chapter if the board exempts the contract by motion or resolution.

## Texas 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 C. Competitive Bidding in General

### § 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;<sup>1</sup> 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.