

Contracting with the Government? How, When, & What (to look out for)

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UT Land Use Conference

- Basic Assumptions –
 - Vast Majority of Development & Land use is local
 - Procurement Code varies
 - Municipalities, Counties, Schools (local ISDs, charter schools & University Systems), Texas Facilities Commission
 - Disclosure Rules vary
 - Ethical Considerations are relatively constant



The Procurement Code

- Local Government Code
 - Chapter 252 — Municipalities
 - Chapter 262 — Counties
 - Chapter 271 — Municipalities, Counties, and Other Local Governmental Entities



The Procurement Code – cont.

- Texas Government Code
 - Chapter 2254. Professional & Consulting Services
 - Chapter 2269. Contracting and Delivery Procedures for Construction Projects (Alternative Project Delivery Methods)



Contracting with Design Professionals

- Government Code Chapter 2254
 - Contracts with Architects and Engineers
 - Contracts with Consultants
- May not use competitive bids
 - Does not require RFQ, but implies it for A/E
- Selection based on
 - Demonstrated Competence
 - Qualifications to Perform Services Sought
 - Fair & Reasonable Price



A Balanced Approach to Construction Law.

Public Construction Procurement

- Traditional Public Procurement
 - Design/Bid/Build
 - Required for Expenditures over \$50,000
 - Competitive Sealed Bidding
 - Or Alternative Delivery Method
 - Local Gov' t Code chapter 27I
 - Allows for Traditional Pure Competitive Bidding
 - Lowest Responsible Bidder
 - Safety Record may be considered



A Balanced Approach to Construction Law.

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"Contracts with Government Entities: Fundamentals and Ethical Considerations in Contracting"