

# 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"