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## **Title IV. Operations**

### **Chapter 20. Buildings, Facilities & Property Use**

#### **§ 20.001. Building, Facility & Property Use**

The buildings, facilities, and property owned or controlled by Dallas County Schools shall be used only in a manner consistent with the constitutional use of public facilities and property.

*Adopted 11/18/04*

#### **§ 20.002. Employee Union and Association Notices**

DCS permits employee unions and employee associations to post notices on DCS bulletin boards.

*Adopted 6/29/05*

#### **§ 20.003. Employee Union and Association Discussion**

DCS permits access for employee unions and employee associations to discuss work related matters and membership related matters in non-working areas during non-working hours.

*Adopted 6/29/05; amended 8/30/07*

#### **§ 20.004. Long-Range Energy Plan**

- (a) The board of trustees of a school district shall establish a long-range energy plan to reduce the district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan.
- (b) The plan required under Subsection (a) must include:
  - (1) strategies for achieving energy efficiency that:
    - (A) result in net savings for the district; or
    - (B) can be achieved without financial cost to the district; and
  - (2) for each strategy identified under Subdivision (1), the initial, short-term capital costs and lifetime costs and savings that may result from implementation of the strategy.

- (c) In determining under Subsection (b) whether a strategy may result in financial cost to the district, the board of trustees shall consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy.
- (d) The board of trustees may submit the plan required under Subsection (a) to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office are available to the district.

**Texas Education Code § 44.902**

**§ 20.005. Multihazard Emergency Operations Plan**

- (a) Each school district ... shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address mitigation, preparedness, response, and recovery as defined by the commissioner of education ... in conjunction with the governor's office of homeland security. The plan must provide for:
  - (1) district employee training in responding to an emergency;
  - (2) ... mandatory school drills and exercises to prepare district students and employees for responding to an emergency;
  - (3) measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and
  - (4) the implementation of a safety and security audit as required by Subsection (b).
- (b) At least once every three years, each school district ... shall conduct a safety and security audit of the district's facilities. To the extent possible, a district shall follow safety and security audit procedures developed by the Texas School Safety Center or a comparable public or private entity.
- (c) A school district ... shall report the results of the safety and security audit conducted under Subsection (b) to the district's board of trustees and, in the manner required by the Texas School Safety Center, to the Texas School Safety Center.

**Texas Education Code §§ 37.108(a)-(c)**

**§ 20.006. School Safety and Security Committee**

- (a) In accordance with guidelines established by the Texas School Safety Center, each school district shall establish a school safety and security committee.
- (b) The committee shall:
  - (1) participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan required by Section 37.108(a) to ensure that the plans reflect specific campus, facility, or support services needs;
  - (2) provide the district with any campus, facility, or support services information required in connection with a safety and security audit required by Section 37.108(b), a safety and security audit report required by Section 37.108(c), or another report required to be submitted by the district to the Texas School Safety Center; and
  - (3) review each report required to be submitted by the district to the Texas School Safety Center to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center.

**Texas Education Code § 37.109****§ 20.007. Police Department**

- (a) The board of trustees of any school district may employ security personnel and may commission peace officers to carry out this subchapter. If a board of trustees authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer. The jurisdiction of a peace officer or security personnel under this section shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ the peace officer or security personnel.
- (b) In a peace officer's jurisdiction, a peace officer commissioned under this section:
  - (1) has the powers, privileges, and immunities of peace officers;
  - (2) may enforce all laws, including municipal ordinances, county ordinances, and state laws; and
  - (3) may, in accordance with Chapter 52, Family Code, take a juvenile into custody.

- (c) A school district peace officer may provide assistance to another law enforcement agency. A school district may contract with a political subdivision for the jurisdiction of a school district peace officer to include all territory in the jurisdiction of the political subdivision.
- (d) A school district peace officer shall perform administrative and law enforcement duties for the school district as determined by the board of trustees of the school district. Those duties must include protecting:
  - (1) the safety and welfare of any person in the jurisdiction of the peace officer; and
  - (2) the property of the school district.
- (e) The board of trustees of the district shall determine the scope of the on-duty and off-duty law enforcement activities of school district peace officers. A school district must authorize in writing any off-duty law enforcement activities performed by a school district peace officer.
- (f) The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent or the superintendent's designee. School district police officers shall be supervised by the chief of police of the school district or the chief of police's designee and shall be licensed by the Commission on Law Enforcement Officer Standards and Education.
- (g) A school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies.
- (h) A peace officer assigned to duty and commissioned under this section shall take and file the oath required of peace officers and shall execute and file a bond in the sum of \$1,000, payable to the board of trustees, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Commission on Law Enforcement Officer Standards and Education.

**Texas Education Code § 37.081**

- (a) The Dallas County Schools Police Department is under the general control and supervision of the DCS Chief of Police. The Chief of Police is accountable to the Superintendent and reports to the Superintendent or the Superintendent's designee. The Chief of Police shall
  - (1) employ, commission, supervise, and discharge all DCS police officers;

- (2) prescribe administrative rules, regulations, and procedures for the DCS Police Department, subject to the approval of the Superintendent; and
  - (3) carry out the duties of the DCS Police Department within its jurisdiction.
- (b) The jurisdiction of the DCS Police Department extends to:
  - (1) Dallas County;
  - (2) all property outside Dallas County that is owned, leased, or rented by or otherwise under the control of DCS; and
  - (3) all territory in the jurisdiction of any political subdivision that has contracted with DCS to include such territory within the jurisdiction of the DCS Police Department.
- (c) The DCS Police Department has the following duties:
  - (1) protecting the safety and welfare of any person in its jurisdiction;
  - (2) protecting DCS property;
  - (3) providing assistance to other law enforcement agencies to the extent deemed appropriate by the DCS Chief of Police; and
  - (4) carrying out law enforcement functions pursuant to interlocal agreements between DCS and other political subdivisions.
- (d) DCS police officers:
  - (1) must be commissioned peace officers;
  - (2) must be licensed by the Commission on Law Enforcement Officer Standards and Education;
  - (3) must take and file the oath required by Texas Education Code § 37.081(h) and must execute and file the bond required by that section;
  - (4) are authorized to carry weapons, subject to rules and regulations prescribed by the DCS Chief of Police;
  - (5) shall perform on-duty law enforcement activities to carry out the duties of the DCS Police Department, under the direction of the DCS Chief of Police; and
  - (6) are authorized to perform off-duty law enforcement activities, subject to rules and regulations prescribed by the DCS Chief of Police.

*Adopted 4/19/12*

## Chapter 21. Purchasing and Acquisition

### § 21.001. Purchasing Contracts of \$50,000 or More

- (a) Except as provided by this subchapter, all school district contracts for the purchase of goods or services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method, of the following methods, that provides the best value for the district:
  - (1) competitive bidding for services other than construction services;
  - (2) competitive sealed proposals for services other than construction services;
  - (3) a request for proposals, for services other than construction services;
  - (4) an interlocal contract;
  - (5) a method provided by Chapter 2267, for construction services;
  - (6) the reverse auction procedure as defined by Section 2155.062(d), Government Code; or
  - (7) the formation of a political subdivision corporation under Section 304.001, Local Government Code.
- (b) Except as provided by this subchapter, in determining to whom to award a contract, the district may consider:
  - (1) the purchase price;
  - (2) the reputation of the vendor and of the vendor's goods or services;
  - (3) the quality of the vendor's goods or services;
  - (4) the extent to which the goods or services meet the district's needs;
  - (5) the vendor's past relationship with the district;
  - (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses;
  - (7) the total long-term cost to the district to acquire the vendor's goods or services;
  - (8) for a contract for goods and services, other than goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner:
    - (A) has its principal place of business in this state; or

(B) employs at least 500 persons in this state; and

- (9) any other relevant factor specifically listed in the request for bids or proposals.

\* \* \*

- (c) The state auditor may audit purchases of goods or services by the district.
- (d) The board of trustees of the district may adopt rules and procedures for the acquisition of goods or services.
- (e) To the extent of any conflict, this subchapter prevails over any other law relating to the purchasing of goods and services except a law relating to contracting with historically underutilized businesses.
- (f) This section does not apply to a contract for professional services rendered, including services of an architect, attorney, certified public accountant, engineer, or fiscal agent. A school district may, at its option, contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Section 2254.003, Government Code, in lieu of the methods provided by this section.
- (g) Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately.

\* \* \*

- (l) Each contract proposed to be made by a school district for the purchase or lease of one or more school buses, including a lease with an option to purchase, must be submitted to competitive bidding when the contract is valued at \$20,000 or more.

**Texas Education Code §§ 44.031(a)-(g), (l)**

- (a) All authority of the Board of Trustees with respect to procurement matters is delegated to the Superintendent or his designee, except:
  - (1) Board approval of purchasing contracts is required when State law requires the board to make or approve a purchase.
  - (2) Board approval of purchasing contracts is required when the cost to DCS

exceeds \$50,000, subject to the following exceptions:

- A. A purchase of regulated utility services;
  - B. A continuing or periodic purchase of goods or services under a board-approved contract;
  - C. A purchase of fuel; or
  - D. An emergency purchase of goods or services to meet an unanticipated need that must be addressed before the next scheduled board meeting.
- (3) Purchasing contracts falling within the exceptions in Policy 21.001(a)(2) must be reported to the board no later than 30 days after the purchase is incurred, and be included on the financial statements that are presented to the board for approval.
- (b) Third parties such as architects, engineers, and other consultants may participate in the procurement process at the discretion of the Superintendent or his designee, provided that all procurement decisions are ultimately made by DCS personnel.

*See also* Texas Education Code §§ 44.0351<sup>1</sup> & 44.0352;<sup>2</sup> Texas Local Government Code §§ 271.027<sup>3</sup> & 271.0275.<sup>4</sup>

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1

- (a) Except to the extent prohibited by other law and to the extent consistent with this subchapter, a school district may use competitive bidding to select a vendor as authorized by section 44.031(a)(1).
- (b) Except as provided by this subsection, subchapter b, chapter 271, local government code, does not apply to a competitive bidding process under this subchapter. Sections 271.026, 271.027(a), and 271.0275, local government code, apply to a competitive bidding process under this subchapter.
- (c) A school district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in section 44.031(b).

**Texas Education Code § 44.0351**

2

- (a) In selecting a vendor through competitive sealed proposals as authorized by section 44.031(a)(2), a school district shall follow the procedures prescribed by this section.

(footnote continued on next page ...)

*Adopted 9/15/11; amended 1/19/12, 2/21/17*

(... footnote continued from previous page)

- (b) The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.
- (c) The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.
- (d) The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.
- (e) In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

**Texas Education Code § 44.0352**

3

- (a) The governmental entity is entitled to reject any and all bids.
- (b) The contract must be awarded to the lowest responsible bidder, but the contract may not be awarded to a bidder who is not the lowest bidder unless before the award each lower bidder is given notice of the proposed award and is given an opportunity to appear before the governing body of the governmental entity or the designated representative of the governing body and present evidence concerning the bidder's responsibility.

**Texas Local Government Code § 271.027**

4

- In determining who is a responsible bidder, the governmental entity may take into account the safety record of the bidder, of the firm, corporation, partnership, or institution represented by the bidder, or of anyone acting for such a firm, corporation, partnership, or institution if
- (1) the governing body of the governmental entity has adopted a written definition and criteria for accurately determining the safety record of a bidder;
  - (2) the governing body has given notice to prospective bidders in the bid specifications that the safety record of a bidder may be considered in determining the responsibility of the bidder; and
  - (3) the determinations are not arbitrary and capricious.

**Texas Local Government Code § 271.0275**

**§ 21.002. Damaged or Destroyed Equipment**

If school equipment or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the board of trustees determines that the delay posed by the methods provided for in this section would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment or the part of the school facility may be made by methods other than those required by this section [44.031].

**Texas Education Code § 44.031(h)**

**§ 21.003. Computers and Software**

A school district may acquire computers and computer-related equipment, including computer software, through the General Services Commission under contracts entered into in accordance with Chapter 2157, Government Code. Before issuing an invitation for bids, the commission shall consult with the agency concerning the computer and computer-related equipment needs of school districts. To the extent possible the resulting contract shall provide for such needs.

**Texas Education Code § 44.031(i)**

**§ 21.004. Single Source Procurement**

- (j) Without complying with Subsection (a) [Texas Education Code § 44.031(a)], a school district may purchase an item that is available from only one source, including:
  - (1) an item for which competition is precluded because of the existence of a patent, copyright, secret process, or monopoly;
  - (2) a film, manuscript, or book;
  - (3) a utility service, including electricity, gas, or water; and
  - (4) a captive replacement part or component for equipment.
- (k) The exceptions provided by Subsection (j) do not apply to mainframe data-processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

**Texas Education Code §§ 44.031(j) & (k)**

**§ 21.005. Lease-Purchase of School Buses**

- (a) As an alternative to purchasing a school bus, a board of county school trustees ... may contract with any person for use, acquisition, or lease with option to purchase of a school bus if the county or school district board determines the contract to be economically advantageous to the county or district. A contract in the form of an installment purchase or any form other than a lease or lease with option to purchase is subject to [Texas Education Code] Section 34.001.
- (b) A school bus that is leased or leased with an option to purchase under this section must meet or exceed the safety standards for school buses established under Section 34.002, Education Code.
- (c) Each contract that reserves to the county or school district board the continuing right to terminate the contract at the expiration of each budget period of the board during the term of the contract is considered to be a commitment of current revenues only.
- (d) Termination penalties may not be included in any contract under this section. The net effective interest rate on any contract must comply with Chapter 1204, Government Code.
- (e) The competitive bidding requirements of Subchapter B, Chapter 44, apply to a contract under this section.
- (f) The commissioner shall adopt a recommended contract form for the use, acquisition, or lease with option to purchase of school buses. A district is not required to use the contract.
- (g) After a contract providing for payment aggregating \$100,000 or more by a school district is authorized by the board of trustees, the board may submit the contract and the record relating to the contract to the attorney general for the attorney general's examination as to the validity of the contract. The approval is not required as a term of the contract. If the contract has been made in accordance with the constitution and laws of the state, the attorney general shall approve the contract, and the comptroller shall register the contract. After the contract has been approved by the attorney general and registered by the comptroller, the validity of the contract is incontestable for any cause. The legal obligations of the lessor, vendor, or supplier of the property to the board are not diminished in any respect by the approval and registration of a contract.
- (h) The decision of a board of county school trustees ... to use an alternative form of use, acquisition, or purchase of a school bus does not affect a district's eligibility for participation in the transportation funding provisions of the Foundation School Program or any other state funding program.

- (j) A contract under this section may have any lawful term of not less than two or more than 10 years.
- (k) A school district may use the provisions of any other law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section.
- (l) A contract entered into under this section is a legal and authorized investment for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees and for the sinking funds of school districts.

**Texas Education Code § 34.009**

Each contract proposed to be made by a school district for the purchase or lease of one or more school buses, including a lease with an option to purchase, must be submitted to competitive bidding when the contract is valued at \$20,000 or more.

**Texas Education Code § 44.031(l)**

**§ 21.006. Contract with Persons Indebted to Schools**

- (a) The board of trustees of a school district by resolution may establish regulations permitting the school district to refuse to enter into a contract or other transaction with a person<sup>5</sup> indebted to the school district.
- (b) It is not a violation of this subchapter for a school district, under regulations adopted under Subsection (a), to refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the school district.

**Texas Education Code §§ 44.044(a) & (b)**

The Superintendent or Board of Trustees may refuse to enter into a contract or other transaction with a person indebted to Dallas County Schools.

*Adopted 11/18/04; amended 4/15/10*

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<sup>5</sup>

In this section, "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with the school district requiring approval by the board.

**Texas Education Code § 44.044(c)**

### § 21.007. Energy Conservation Performance Contracts

- (c) Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding Subsection (a), an energy savings performance contract<sup>6</sup> may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

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6

In this section, “energy savings performance contract” means a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period. The term includes a contract for the installation or implementation of::

- (1) insulation of a building structure and systems within the building;
- (2) storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated windows or door systems, or other window or door system modifications that reduce energy consumption;
- (3) automatic energy control systems, including computer software and technical data licenses;
- (4) heating, ventilating, or air conditioning system modifications or replacements that reduce energy or water consumption;
- (5) lighting fixtures that increase energy efficiency;
- (6) energy recovery systems;
- (7) electric systems improvements;
- (8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;
- (9) water-conserving landscape irrigation equipment;
- (10) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
  - (A) landscape contouring, including the use of berms, swales, and terraces; and
  - (B) the use of soil amendments that increase the water-holding capacity of the soil, including compost;
- (11) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;

(footnote continued on next page ...)

- (d) The board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.
- (e) Before entering into an energy savings performance contract, the board shall require the provider of the energy or water conservation measures to file with the board a payment and performance bond relating to the installation of the measures in accordance with Chapter 2253, Government Code. The board may also require a separate bond to cover the value of the guaranteed savings on the contract.
- (f) An energy savings performance contract may be financed:
  - (1) under a lease/purchase contract that has a term not to exceed 15 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing;
  - (2) with the proceeds of bonds; or
  - (3) under a contract with the provider of the energy or water conservation measures that has a term not to exceed 15 years from the final date of installation.

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(... footnote continued from previous page)

- (12) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
- (13) equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
- (14) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
- (15) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

**Texas Education Code § 44.901(a)**

- (g) An energy savings performance contract shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by the school district under the contract. If the term of an energy savings performance contract exceeds one year, the school district's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures, as determined by the school district in this subsection, divided by the number of years in the contract term.
- (h) An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Section 2254.004, Government Code. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.
- (i) Before entering into an energy savings performance contract, the board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract or the offeror. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections 1001.053 and 1001.407, Occupations Code, apply to work performed under the contract.
- (j) Chapter 2267, Government Code, does not apply to this section.

Texas Education Code §§ 44.901(c)-(j)

### § 21.008. Out-of-Cycle Budget Requests

Requests from districts for additional budget items after the adoption of the DCS budget must be based on extraordinary circumstances that could not have been anticipated during the regular budget formulation process. Such requests must be approved by the Board of Trustees. If a request is approved, purchases will be funded 60% by the requesting district and 40% by Dallas County Schools.

*Adopted 11/17/05*

### § 21.009. E-Rate Procurement Policy

In selecting service providers for all eligible goods and services for which Universal Service Fund ("E-Rate") support will be requested, Dallas County Schools will:

- (a) Make a request for competitive bids for all eligible goods and services for which Universal Service Fund support will be requested, and comply with applicable state and local procurement processes included in its documented policies and procedures.

- (b) Wait at least four weeks after the posting date of the FCC Form 470 on the USAC Schools and Libraries website before making commitments with the selected service providers.
- (c) Consider all bids submitted, and select the most cost-effective service offering, with price being the primary factor considered.
- (d) Keep control of the competitive bidding process by not surrendering control to a service provider who is participating in the bidding process and not including service provider contact information on the FCC Forms 470.

*Adopted 7/16/09*

### **§ 21.010. Construction Contracts**

A governmental entity may adopt rules as necessary to implement this chapter.

**Texas Government Code § 2267.051**

- (a) A governmental entity shall advertise or publish notice of requests for bids, proposals, or qualifications in a manner prescribed by law.
- (b) For a contract entered into by a governmental entity under a method provided by this chapter, the governmental entity shall publish notice of the time and place the bid or proposal or request for qualifications will be received and opened in a manner prescribed by law.

**Texas Government Code §§ 2267.052(a)-(b)**

- (a) The governing body of a governmental entity may delegate its authority under this chapter regarding an action authorized or required by this chapter to a designated representative, committee, or other person.
- (b) The governmental entity shall provide notice of the delegation, the limits of the delegation, and the name or title of each person designated under Subsection (a) by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

**Texas Government Code § 2267.053**

- (a) This section applies to a governmental entity when the governmental entity is engaged in:
  - (1) procuring goods or services under this chapter;
  - (2) awarding a contract under this chapter; or

- (3) overseeing procurement or construction for a public work or public improvement under this chapter.
- (b) In engaging in an activity to which this section applies, a governmental entity:
  - (1) may not consider whether a person is a member of or has another relationship with any organization; and
  - (2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

**Texas Government Code § 2267.054**

- (a) In determining the award of a contract under this chapter, the governmental entity may consider:
  - (1) the price;
  - (2) the offeror's experience and reputation;
  - (3) the quality of the offeror's goods or services;
  - (4) the impact on the ability of the governmental entity to comply with rules relating to historically underutilized businesses;
  - (5) the offeror's safety record;
  - (6) the offeror's proposed personnel;
  - (7) whether the offeror's financial capability is appropriate to the size and scope of the project; and
  - (8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.
- (b) In determining the award of a contract under this chapter, the governmental entity shall:
  - (1) consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and
  - (2) consider and apply any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

**Texas Government Code § 2267.055**

- (a) The governing body of a governmental entity that considers a construction contract using a method authorized by this chapter other than competitive bidding must, before advertising, determine which method provides the best value for the governmental entity.
- (b) The governmental entity shall base its selection among offerors on applicable criteria listed for the particular method used. The governmental entity shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors, and the applicable weighted value for each criterion.
- (c) The governmental entity shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

**Texas Government Code § 2267.056**

- (a) An architect<sup>7</sup> or engineer<sup>8</sup> required to be selected or designated under this chapter has full responsibility for complying with Chapter 1051 or 1001, Occupations Code, as applicable.
- (b) If the selected or designated architect or engineer is not a full-time employee of the governmental entity, the governmental entity shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Section 2254.004.

**Texas Government Code § 2267.057**

- (a) Independently of the contractor, construction manager-at-risk, or design-build firm, the governmental entity shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the governmental entity.

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"Architect" means an individual registered as an architect under Chapter 1051, Occupations Code.

**Texas Government Code § 2267.001(1)**

8

"Engineer" means an individual licensed as an engineer under Chapter 1001, Occupations Code.

**Texas Government Code § 2267.001(2)**

(b) The governmental entity shall select the services for which it contracts under this section in accordance with Section 2254.004.

**Texas Government Code § 2267.058**

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery.

**Texas Government Code § 2267.059**

For provisions regarding specific procurement methods for construction contracts, *see*:

Texas Government Code §§ 2267.101-06 (competitive bidding method)

Texas Government Code §§ 2267.151-55 (competitive sealed proposal method)

Texas Government Code §§ 2267.201-08 (construction manager-agent method)

Texas Government Code §§ 2267.251-58 (construction manager at risk method)

Texas Government Code §§ 2267.301-11 (design-build method)

Texas Government Code §§ 2267.401-11 (job order contracts method)

## Chapter 22. Contract for Professional Services

### § 22.001. Selection of Professional Service Provider

- (a) A governmental entity may not select a provider of professional services<sup>9</sup> or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

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“Professional services” means services:

- (A) within the scope of the practice, as defined by state law, of:
  - (i) accounting;
  - (ii) architecture;
  - (iii) landscape architecture;
  - (iv) land surveying;
  - (v) medicine;
  - (vi) optometry;
  - (vii) professional engineering;
  - (viii) real estate appraising; or
  - (ix) professional nursing; or
- (B) provided in connection with the professional employment or practice of a person who is licensed or registered as:
  - (i) a certified public accountant;
  - (ii) an architect;
  - (iii) a landscape architect;
  - (iv) a land surveyor;
  - (v) a physician, including a surgeon;
  - (vi) an optometrist;
  - (vii) a professional engineer;
  - (viii) a state certified or state licensed real estate appraiser; or
  - (ix) a registered nurse.

**Texas Government Code § 2254.002(2)**

- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>(1) on the basis of demonstrated competence and qualifications to perform the services; and</li><li>(2) for a fair and reasonable price.</li><li>(b) The professional fees under the contract:<ul style="list-style-type: none"><li>(1) must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and</li><li>(2) may not exceed any maximum provided by law.</li></ul></li></ul> |
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**Texas Government Code § 2254.003**

- (a) To select architectural, engineering and land survey services, the Superintendent or Board of Trustees must first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications and then attempt to negotiate a fair and reasonable price.
- (b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of services, the Superintendent or Board of Trustees shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price.
- (c) This procedure shall continue until a contract is entered into.
- (d) Any contract for a professional service that is not in compliance with these policies is void.

*Adopted 11/18/04; amended 4/15/10*

## Chapter 23. Motor Vehicles

### § 23.001. Public School Transportation System

- (a) A board of county school trustees or a school district board of trustees may establish and operate an economical public school transportation system:
  - (1) in the county or district, as applicable; or
  - (2) outside the county or district, as applicable, if the county or school district enters into an interlocal contract as provided by Chapter 791, Government Code.
- (b) In establishing and operating the transportation system, the county or school district board shall:
  - (1) employ school bus drivers certified in accordance with standards and qualifications adopted by the Department of Public Safety; and
  - (2) on determining eligibility for transportation services, allow a parent to designate one of the following locations instead of the child's residence as the regular location for purposes of obtaining transportation under the system to and from the child's school, if the location is an approved stop on an approved route:
    - (A) a child-care facility, as defined by Section 42.002, Human Resources Code; or
    - (B) the residence of a grandparent of the child.

Texas Education Code § 34.007

Dallas County Schools establishes and operates an economical public school transportation system.

*Adopted 11/18/04*

### § 23.002. School Bus Purchase and Acquisition

A school district may purchase school motor vehicles through the [Texas Building and Procurement Commission] or through competitive bidding under Subchapter B, Chapter 44.

Texas Education Code § 34.001(a)

- (a) A school district financially unable to immediately pay for a school motor vehicle, including a bus, bus body, or bus chassis, the district purchases may, as prescribed by this section, issue interest-bearing time warrants in amounts sufficient to make the purchase.
- (b) The warrants must mature in serial installments not later than the fifth anniversary of the date of issue and bear interest at a rate not to exceed the maximum rate provided by Section 1204.006, Government Code. The warrants shall be issued and sold at not less than their face value.
- (c) The proceeds of the sale of the warrants shall be used to provide the funds required for the purchase.
- (d) The warrants, on maturity and in the order of their maturity dates, are payable out of any available funds of the school district and, as they become due, are entitled to first and prior payment out of those funds.
- (e) Full records of all warrants issued and sold shall be kept by the school district.

**Texas Education Code § 34.005**

See:

DCS Policy § 21.001 for legal rules regarding purchasing contracts of \$50,000 or more;

DCS Policy § 21.003 for legal rules regarding the replacement or repair of damaged or destroyed equipment; and

DCS Policy § 21.006 for legal rules regarding lease-purchase of school buses.

**§ 23.003. School Bus Safety Standards**

- (a) The Department of Public Safety, with the advice of the Texas Education Agency, shall establish safety standards for school buses used to transport students in accordance with [Texas Education Code] Section 34.003.
- (b) Each school district shall meet or exceed the safety standards for school buses established under Subsection (a).
- (c) A school district that fails or refuses to meet the safety standards for school buses established under this section is ineligible to share in the transportation allotment under [Texas Education Code] Section 42.155 until the first anniversary of the date the district begins complying with the safety standards.

**Texas Education Code § 34.002**

- (a) School buses or mass transit authority motor buses shall be used for the transportation of students to and from schools on routes having 10 or more students. On those routes having fewer than 10 students, passenger cars may be used for the transportation of students to and from school.
- (b) To transport students in connection with school activities other than on routes to and from school:
  - (1) only school buses or motor buses may be used to transport 15 or more students in any one vehicle; and
  - (2) passenger cars or passenger vans<sup>10</sup> may be used to transport fewer than 15 students.
- (c) In all circumstances in which passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that the number of passengers in the vehicle does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt.

Texas Education Code §§ 34.003(a)-(c)

#### § 23.004. Transportation Services for Nonprofit -School Organizations

A ... board of county school trustees governing a countywide transportation system may contract with nonschool organizations for the use of school buses. The county or school district board may provide services relating to the maintenance and operation of the buses in accordance with the contract.

Texas Education Code § 34.010(a)

The county school trustees ... may perform any other act consistent with law for the promotion of education in the county.

Texas Education Code § 17.31(a) (preserved)

The board of trustees of a school district may operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district.

Texas Education Code § 11.167

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<sup>10</sup>

In this section, “passenger van” means a motor vehicle other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.

Texas Education Code § 34.003(d)

- (a) Dallas County Schools provides transportation on a fee-for-service basis to the following categories of nonprofit organizations:
- (1) Nonprofit organizations contracting for transportation to or from an event or activity sponsored or approved by a school district or public or private school;
  - (2) Governmental entities, including campus or campus program charter schools; and
  - (3) Nonprofit organizations qualified under I.R.C. §§ 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(8), 501(c)(10), or 501(c)(19).<sup>11</sup>
- (b) Transportation services will not be provided to or from:
- (1) events or activities involving gambling, sexually-oriented conduct, or illegal activity;
  - (2) destinations primarily devoted to the sale of alcoholic beverages; or
  - (3) any events, activities, or destinations that in the Superintendent's judgment

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- (3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition ..., or for the prevention of cruelty to children or animals ....
- (4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.
- (5) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues ....
- (8) Fraternal beneficiary societies, orders, or associations – (A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and (B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.
- (10) Domestic fraternal societies, orders, or associations, operating under the lodge system – (A) the net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and (B) which do not provide for the payment of life, sick, accident, or other benefits.
- (19) A post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization .....

**Internal Revenue Code §§ 501(c)(3), (4), (6), (8), (10), & (19)**

would reflect negatively on the reputation and public image of Dallas County Schools.

- (c) Transportation services for nonprofit organizations are subject to availability of equipment and personnel and other operational constraints. Transportation services are limited to the State of Texas.
- (d) The Superintendent shall determine the fees to be charged for transportation services for non-school organizations. Fees shall be at least sufficient to fully recoup Dallas County Schools' costs in providing such services.
- (e) Passengers receiving transportation services must conduct themselves in accordance with the Bus Rider Code of Conduct.

*Adopted 10/19/06; amended 7/21/11*

#### **§ 23.005. Reporting of Bus Accidents**

A school district shall report annually to the Texas Education Agency the number of accidents in which the district's buses are involved. The agency by rule shall determine the information to be reported, including:

- (1) the type of bus involved in the accident;
- (2) whether the bus was equipped with seat belts;
- (3) the number of students and adults involved in the accident;
- (4) the number and types of injuries sustained by bus passengers in the accident; and
- (5) whether the injured passengers were wearing seat belts at the time of the accident.

**Texas Education Code § 34.015(b)**

## Chapter 24. Investment of Public Funds

### § 24.001. Selection of Investments

- (a) Each governing body of the following entities may purchase, sell, and invest its funds and funds under its control in investments authorized under this subchapter in compliance with investment policies approved by the governing body and according to the standard of care prescribed by Section 2256.006:
  - (1) a local government;
  - (2) a state agency;
  - (3) a nonprofit corporation acting on behalf of a local government or a state agency; or
  - (4) an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.
- (b) In the exercise of its powers under Subsection (a), the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made under authority of this subsection may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of the investing entity by order, ordinance, or resolution.
- (c) This chapter does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under this chapter.

#### Texas Government Code § 2256.003

- (a) The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control.
- (b) The investment policies must:
  - (1) be written;
  - (2) primarily emphasize safety of principal and liquidity;
  - (3) address investment diversification, yield, and maturity and the quality and capability of investment management; and
  - (4) include:

- (A) a list of the types of authorized investments in which the investing entity's funds may be invested;
- (B) the maximum allowable stated maturity of any individual investment owned by the entity;
- (C) for pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date for the portfolio;
- (D) methods to monitor the market price of investments acquired with public funds; and
- (E) a requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis.

**Texas Government Code § 2256.005(a)-(b)**

Before any investment is recommended to the Board, the Superintendent or his delegate shall carefully consider and report upon the investment diversification, yield, maturity, and quality and capability of investment management, and determine the types of authorized investments and the maximum allowable stated maturity, quality, and capability of investment management for pooled funds.

*Adopted 11/18/04*

**§ 24.002. Bids for Certificates of Deposit**

The investment policies may provide that bids for certificates of deposit be solicited:

- (1) orally;
- (2) in writing;
- (3) electronically; or
- (4) in any combination of those methods.

**Texas Government Code § 2256.005(c)**

**§ 24.003. Investment Strategy**

As an integral part of an investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

- (1) understanding of the suitability of the investment to the financial requirements of the entity;

- (2) preservation and safety of principal;
- (3) liquidity;
- (4) marketability of the investment if the need arises to liquidate the investment before maturity;
- (5) diversification of the investment portfolio; and
- (6) yield.

Texas Government Code § 2256.005(d)

#### **§ 24.004. Review of Investment Policy and Strategies**

The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies.

Texas Government Code § 2256.005(e)

#### **§ 24.005. Investment Officer**

Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees of the state agency, local government, or investment pool as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of this chapter. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains ultimate responsibility as fiduciaries of the assets of the entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity.

Texas Government Code § 2256.005(f)

The Board of Trustees designates as its investment officer the Superintendent, or his designee, who shall have the authority to deposit, withdraw, invest, transfer, and otherwise manage DCS funds.

*Adopted 11/18/04*

**§ 24.006. Nepotism by Investment Officer**

An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A statement required under this subsection must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this subsection, an investment officer has a personal business relationship with a business organization if:

- (1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
- (2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or
- (3) the investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

**Texas Government Code § 2256.005(i)**

- (a) If a member of the Board of Trustees has a personal business relationship or a relationship by blood or marriage within a prohibited degree with any person seeking to sell an investment to Dallas County Schools, the Board member shall file a statement disclosing that business interest or relationship with the Board of Trustees and the Texas Ethics Commission.
- (b) The Superintendent shall not enter into any investment relationship involving DCS funds with any person designated by a Board member under subsection (a) above, without the majority vote of the remaining Board members.

*Adopted 11/18/04*

**§ 24.007. Compliance Audit**

An investing entity other than a state agency, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the entity's established investment policies.

Texas Government Code § 2256.005(m)

**§ 24.008. Training Regarding Investment Responsibilities**

(a) [T]he treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government<sup>12</sup> shall:

- (1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and
- (2) ... attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

\* \* \*

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

Texas Government Code § 2256.008

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"Local government" means ... a school district ....

Texas Government Code § 2256.002(7)

**§ 24.009. Safety of Investments**

- (a) Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following investment objectives, in order of priority:
  - (1) preservation and safety of principal;
  - (2) liquidity; and
  - (3) yield.
- (b) In determining whether an investment officer has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:
  - (1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
  - (2) whether the investment decision was consistent with the written investment policy of the entity.

Texas Government Code § 2256.006

**§ 24.010. Types of Investments**

Except as provided by Subsection (b), the following are authorized investments under this subchapter:

- (1) obligations, including letters of credit, of the United States or its agencies and instrumentalities;
- (2) direct obligations of this state or its agencies and instrumentalities;
- (3) collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
- (4) other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state or the United States or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation or by the explicit full faith and credit of the United States;

- (5) obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent; and
- (6) bonds issued, assumed, or guaranteed by the State of Israel.

**Texas Government Code § 2256.009(a)**

#### **§ 24.011. Unauthorized Investments**

The following are not authorized investments under this section:

- (1) obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal;
- (2) obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest;
- (3) collateralized mortgage obligations that have a stated final maturity date of greater than 10 years; and
- (4) collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

**Texas Government Code § 2256.009(b)**

#### **§ 24.012. Authorized Investments**

- (a) A certificate of deposit or share certificate is an authorized investment under this subchapter if the certificate is issued by a depository institution that has its main office or a branch office in this state and is:
  - (1) guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor;
  - (2) secured by obligations that are described by Section 2256.009(a), including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities of the nature described by Section 2256.009(b); or
  - (3) secured in any other manner and amount provided by law for deposits of the investing entity.

- (b) In addition to the authority to invest funds in certificates of deposit under Subsection (a), an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under this subchapter:
- (1) the funds are invested by an investing entity through
    - (A) a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Section 2256.025; or
    - (B) a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;
  - (2) the broker or the depository institution selected by the investing entity under Subdivision (1) arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;
  - (3) the full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
  - (4) the investing entity appoints the depository institution selected by the investing entity under Subdivision (1), an entity described by Section 2257.041(d), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

**Texas Government Code § 2256.010**

- (a) A fully collateralized repurchase agreement is an authorized investment under this subchapter if the repurchase agreement:
- (1) has a defined termination date;
  - (2) is secured by a combination of cash and obligations described by [Texas Government Code] Section 2256.009(a)(1); and
  - (3) requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity, held in the entity's name, and deposited at the time the investment is made with the entity or with a third party selected and approved by the entity; and
  - (4) is placed through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in this state.

- (b) In this section, “repurchase agreement” means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations described by [Texas Government Code] Section 2256.009(a)(1), at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.
- (c) Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered.
- (d) Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

**Texas Government Code § 2256.011**

- (a) A securities lending program is an authorized investment under this subchapter if it meets the conditions provided by this section.
- (b) To qualify as an authorized investment under this subchapter:
  - (1) the value of securities loaned under the program must be not less than 100 percent collateralized, including accrued income;
  - (2) a loan made under the program must allow for termination at any time;
  - (3) a loan made under the program must be secured by:
    - (A) pledged securities described by [Texas Government Code] Section 2256.009;
    - (B) pledged irrevocable letters of credit issued by a bank that is:
      - (i) organized and existing under the laws of the United States or any other state; and
      - (ii) continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
    - (C) cash invested in accordance with Section:
      - (i) 2256.009;
      - (ii) 2256.013;
      - (iii) 2256.014; or
      - (iv) 2256.016;

- (4) the terms of a loan made under the program must require that the securities being held as collateral be:
  - (A) pledged to the investing entity;
  - (B) held in the investing entity's name; and
  - (C) deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity;
- (5) a loan made under the program must be placed through:
  - (A) a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003; or
  - (B) a financial institution doing business in this state; and
- (6) an agreement to lend securities that is executed under this section must have a term of one year or less.

**Texas Government Code § 2256.0115**

A bankers' acceptance is an authorized investment under this subchapter if the bankers' acceptance:

- (1) has a stated maturity of 270 days or fewer from the date of its issuance;
- (2) will be, in accordance with its terms, liquidated in full at maturity;
- (3) is eligible for collateral for borrowing from a Federal Reserve Bank; and
- (4) is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

**Texas Government Code § 2256.012**

Commercial paper is an authorized investment under this subchapter if the commercial paper:

- (1) has a stated maturity of 270 days or fewer from the date of its issuance; and
- (2) is rated not less than A-1 or P-1 or an equivalent rating by at least:
  - (A) two nationally recognized credit rating agencies; or

- (B) one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

**Texas Government Code § 2256.013**

- (a) A no-load money market mutual fund is an authorized investment under this subchapter if the mutual fund:
- (1) is registered with and regulated by the Securities and Exchange Commission;
  - (2) provides the investing entity with a prospectus and other information required by the Securities Exchange Act of 1934 ... or the Investment Company Act of 1940 ...;
  - (3) has a dollar-weighted average stated maturity of 90 days or fewer; and
  - (4) includes in its investment objectives the maintenance of a stable net asset value of \$1 for each share.
- (b) In addition to a no-load money market mutual fund permitted as an authorized investment in Subsection (a), a no-load mutual fund is an authorized investment under this subchapter if the mutual fund:
- (1) is registered with the Securities and Exchange Commission;
  - (2) has an average weighted maturity of less than two years;
  - (3) is invested exclusively in obligations approved by this subchapter;
  - (4) is continuously rated as to investment quality by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
  - (5) conforms to the requirements set forth in Sections 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.
- (c) An entity is not authorized by this section to:
- (1) invest in the aggregate more than 15 percent of its monthly average fund balance, excluding bond proceeds and reserves and other funds held for debt service, in mutual funds described in Subsection (b);
  - (2) invest any portion of bond proceeds, reserves and funds held for debt service, in mutual funds described in Subsection (b); or

- (3) invest its funds or funds under its control, including bond proceeds and reserves and other funds held for debt service, in any one mutual fund described in Subsection (a) or (b) in an amount that exceeds 10 percent of the total assets of the mutual fund.

**Texas Government Code § 2256.014**

- (a) A guaranteed investment contract is an authorized investment for bond proceeds under this subchapter if the guaranteed investment contract:
  - (1) has a defined termination date;
  - (2) is secured by obligations described by Section 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and
  - (3) is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.
- (b) Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested under this subchapter in a guaranteed investment contract with a term of longer than five years from the date of issuance of the bonds.
- (c) To be eligible as an authorized investment:
  - (1) the governing body of the entity must specifically authorize guaranteed investment contracts as an eligible investment in the order, ordinance, or resolution authorizing the issuance of bonds;
  - (2) the entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;
  - (3) the entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;
  - (4) the price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and
  - (5) the provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

**Texas Government Code § 2256.015**

- (a) An entity may invest its funds and funds under its control through an eligible investment pool if the governing body of the entity by rule, order, ordinance, or resolution, as appropriate, authorizes investment in the particular pool. An investment pool shall invest the funds it receives from entities in authorized investments permitted by this subchapter. An investment pool may invest its funds in money market mutual funds to the extent permitted by and consistent with this subchapter and the investment policies and objectives adopted by the investment pool.
- (b) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity an offering circular or other similar disclosure instrument that contains, at a minimum, the following information:
  - (1) the types of investments in which money is allowed to be invested;
  - (2) the maximum average dollar-weighted maturity allowed, based on the stated maturity date, of the pool;
  - (3) the maximum stated maturity date any investment security within the portfolio has;
  - (4) the objectives of the pool;
  - (5) the size of the pool;
  - (6) the names of the members of the advisory board of the pool and the dates their terms expire;
  - (7) the custodian bank that will safe keep the pool's assets;
  - (8) whether the intent of the pool is to maintain a net asset value of one dollar and the risk of market price fluctuation;
  - (9) whether the only source of payment is the assets of the pool at market value or whether there is a secondary source of payment, such as insurance or guarantees, and a description of the secondary source of payment;
  - (10) the name and address of the independent auditor of the pool;
  - (11) the requirements to be satisfied for an entity to deposit funds in and withdraw funds from the pool and any deadlines or other operating policies required for the entity to invest funds in and withdraw funds from the pool; and
  - (12) the performance history of the pool, including yield, average dollar-weighted maturities, and expense ratios.

- (c) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must furnish to the investment officer or other authorized representative of the entity:
  - (1) investment transaction confirmations; and
  - (2) a monthly report that contains, at a minimum, the following information:
    - (A) the types and percentage breakdown of securities in which the pool is invested;
    - (B) the current average dollar-weighted maturity, based on the stated maturity date, of the pool;
    - (C) the current percentage of the pool's portfolio in investments that have stated maturities of more than one year;
    - (D) the book value versus the market value of the pool's portfolio, using amortized cost valuation;
    - (E) the size of the pool;
    - (F) the number of participants in the pool;
    - (G) the custodian bank that is safekeeping the assets of the pool;
    - (H) a listing of daily transaction activity of the entity participating in the pool;
    - (I) the yield and expense ratio of the pool, including a statement regarding how yield is calculated;
    - (J) the portfolio managers of the pool; and
    - (K) any changes or addenda to the offering circular.
- (d) An entity by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds.
- (e) In this section, "yield" shall be calculated in accordance with regulations governing the registration of open-end management investment companies under the Investment Company Act of 1940, as promulgated from time to time by the federal Securities and Exchange Commission.

- (f) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool created to function as a money market mutual fund must mark its portfolio to market daily, and, to the extent reasonably possible, stabilize at a \$1 net asset value. If the ratio of the market value of the portfolio divided by the book value of the portfolio is less than 0.995 or greater than 1.005, portfolio holdings shall be sold as necessary to maintain the ratio between 0.995 and 1.005. In addition to the requirements of its investment policy and any other forms of reporting, a public funds investment pool created to function as a money market mutual fund shall report yield to its investors in accordance with regulations of the federal Securities and Exchange Commission applicable to reporting by money market funds.
- (g) To be eligible to receive funds from and invest funds on behalf of an entity under this chapter, a public funds investment pool must have an advisory board composed:
  - (1) equally of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for a public funds investment pool created under Chapter 791 and managed by a state agency; or
  - (2) of participants in the pool and other persons who do not have a business relationship with the pool and are qualified to advise the pool, for other investment pools.
- (h) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.
- (i) If the investment pool operates an Internet website, the information in a disclosure instrument or report described in Subsections (b), (c)(2), and (f) must be posted on the website.
- (j) To maintain eligibility to receive funds from and invest funds on behalf of an entity under this chapter, an investment pool must make available to the entity an annual audited financial statement of the investment pool in which the entity has funds invested.
- (k) If an investment pool offers fee breakpoints based on fund balances invested, the investment pool in advertising investment rates must include either all levels of return based on the breakpoints provided or state the lowest possible level of return based on the smallest level of funds invested.

**Texas Government Code § 2256.016**

- (a) The Board of Trustees may not invest more than eighty percent of its monthly average fund balance, excluding proceeds from the sale of bonds and reserves and funds maintained for debt service purposes, in money market mutual funds

either separately or collectively.

- (b) The authorized investment pools are MBIA Texas CLASS, TexPOOL, and Credit Suisse.

*Adopted 10/19/06*

## Chapter 25. Sale or Lease of Real Property

### § 25.001. Sale of Land

- (a) The board of trustees of [a] school district may, by resolution, authorize the sale of any property, other than minerals, held in trust for public school purposes.
- (b) The president of the board of trustees shall execute a deed to the purchaser of the property reciting the resolution of the board of trustees authorizing the sale.
- (c) A school district may employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property.

#### Texas Education Code § 11.154

- (a) Except for the types of land and interests covered by Subsection (b), (g), (h), (i), or (j), and except as provided by [Texas Local Government Code] Section 253.008 [sale of real property by public auction], before land owned by a political subdivision of the state may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication.
- (d) This section does not require the governing body of a political subdivision to accept any bid or offer or to complete a sale or exchange.

#### Texas Local Government Code §§ 272.001(a) & (d)

Fair market value must be determined by an appraisal obtained by Dallas County Schools.<sup>13</sup>

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13

(footnote continued on next page ...)

See also Texas Local Government Code §§ 272.001(b)-(c),<sup>14</sup> 272.001(g),<sup>15</sup> 272.001(i),<sup>16</sup> and 272.001(j).<sup>17</sup>

(... footnote continued from previous page)

The fair market value of land, an easement, or other real property interest in exchange for land, an easement, or other real property interest ... is conclusively determined by an appraisal obtained by the political subdivision. The cost of any streets, utilities, or other improvements constructed on the affected land or to be constructed by an entity other than the political subdivision on the affected land may be considered in determining that fair market value.

**Texas Local Government Code § 272.001(f)**

14

(b) The notice and bidding requirements of Subsection (a) do not apply to the types of land and real property interests described by this subsection and owned by a political subdivision. The land and those interests described by this subsection may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple. The fair market value is determined by an appraisal obtained by the political subdivision that owns the land or interest .... The notice of the auction must include, instead of the content required by Subsection (a), a description of the land, including its location, the date, time, and location of the auction, and the procedures to be followed at the auction. The appraisal or public auction price is conclusive of the fair market value of the land or interest .... This subsection applies to:

- (1) narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
- (2) streets or alleys, owned in fee or used by easement;
- (3) land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;
- (4) land that the political subdivision wants to have developed by contract with an independent foundation;
- (5) a real property interest conveyed to a governmental entity that has the power of eminent domain;

\* \* \*

(c) The land or interests described by Subsections (b)(1) and (2) may be sold to:

- (1) abutting property owners in the same subdivision if the land has been subdivided; or
- (2) abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

**Texas Local Government Code §§ 272.001(b)-(c)**

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(footnote continued on next page ...)

*Adopted 11/18/04*

**§ 25.002. [reserved]**

**§ 25.003. Lease to Governmental Entity**

- (a) To promote a public purpose of the political subdivision, a political subdivision may:
- (1) lease property owned by the political subdivision to another political subdivision or an agency of the state or federal government; or
  - (2) make an agreement to provide office space in property owned by the political subdivision to the other political subdivision or agency.

(... footnote continued from previous page)

A political subdivision may acquire or assemble land or real property interest, except by condemnation, and sell, exchange, or otherwise convey the land or interests to an entity for the development of low-income or moderate-income housing. The political subdivision shall determine the terms and conditions of the transactions so as to effectuate and maintain the public purpose. If conveyance of land under this subsection serves a public purpose, the land may be conveyed for less than its fair market value. In this subsection, "entity" means an individual, corporation, partnership, or other legal entity.

**Texas Local Government Code § 272.001**

16

A political subdivision that acquires land or a real property interest with funds received for economic development purposes from the community development block grant nonentitlement program authorized by Title I of the Housing and Community Development Act of 1974 ... may lease or convey the land or interest, without the solicitation of bids, to a private, for-profit entity or a nonprofit entity that is a party to a contract with the political subdivision if the land or interest will be used by the private, for-profit entity or the nonprofit entity in carrying out the purpose of the entity's grant or contract. The land or interest may be leased or conveyed without the solicitation of bids if the political subdivision adopts a resolution stating the conditions and circumstances for the lease or conveyance and the public purpose that will be achieved by the lease or conveyance.

**Texas Local Government Code § 272.001(i)**

17

A political subdivision may donate, exchange, convey, sell, or lease land, improvements, or any other interest in real property to an institution of higher education ... to promote a public purpose related to higher education. The political subdivision shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. A political subdivision may donate, exchange, convey, sell, or lease the real property interest for less than its fair market value and without complying with the notice and bidding requirements of Subsection (a).

**Texas Local Government Code § 272.001(j)**

- (b) In acting under Subsection (a), the political subdivision:
- (1) shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;
  - (2) may provide for the lease of the property or provision of the office space at less than fair market value; and
  - (3) is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by this chapter or other law.

**Texas Local Government Code § 272.005**

#### **§ 25.004. Sale or Lease of Minerals**

- (a) Minerals in land belonging to [a] school district may be sold to any person under this section.
- (b) The sale must be authorized by a resolution adopted by majority vote of the board of trustees of the school district.
- (c) After adoption of a resolution under Subsection (b), the president of the board of trustees may execute an oil or gas lease or sell, exchange, and convey the minerals. The mineral deed or lease must recite the approval of the resolution of the board authorizing the sale.

**Texas Education Code § 11.153**

Before a lease is made under this subchapter, notice must be given and a public hearing must be held for consideration of bids.

**Texas Natural Resources Code § 71.004**

- (a) After the governing body determines that it is advisable to lease land belonging to the political subdivision, it shall give notice of the intention to lease the land.
- (b) The notice shall describe the land to be leased and designate the time and place at which the governing body will receive and consider bids for the lease.
- (c) The notice shall be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county.

**Texas Natural Resources Code § 71.005**

On the date specified in the notice, the governing body of the political subdivision shall receive and consider bids submitted for leasing all or part of the land that was advertised for lease, and the governing body may award the lease to the highest and best bidder who submits a bid.

**Texas Natural Resources Code § 71.006**

In each lease other than a lease for coal and lignite executed under this subchapter, the lessor shall retain at least a one-eighth royalty.

**Texas Natural Resources Code § 71.009(a)**

No primary term of a lease other than a lease for coal and lignite made under this subchapter may be for a period of more than 10 years from the date of the execution and approval of the lease.

**Texas Natural Resources Code § 71.010(a)**

*See also* Texas Natural Resources Code §§ 71.002,<sup>18</sup> 71.003,<sup>19</sup> 71.007,<sup>20</sup> and 71.008.<sup>21</sup> For provisions regarding pooling of mineral leases, *see* Texas Natural Resources Code §§ 71.051-057.

18

A political subdivision may lease land owned by it for mineral development, including development of coal and lignite.

**Texas Natural Resources Code § 71.002**

19

The governing body of the political subdivision which is vested by law with management, control, and supervision of the political subdivision shall exercise the right to lease the land.

**Texas Natural Resources Code § 71.003**

20

If the governing body believes that the bids submitted to it do not represent the fair value of the leases, the governing body may reject the bids, give notice, and call for additional bids.

**Texas Natural Resources Code § 71.007**

21

A lease made under this subchapter, including leases for coal and lignite, may be granted by public auction.

**Texas Natural Resources Code § 71.008**

## Chapter 26. Public Records

### § 26.001. Access

#### *i. Philosophy of Access*

- (a) Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.
- (b) This chapter shall be liberally construed in favor of granting a request for information.

#### **Texas Government Code § 552.001**

#### *ii. Information Subject to Public Access*

- (a) In this chapter, “public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:
  - (1) by a governmental body; or
  - (2) for a governmental body and the governmental body owns the information or has a right of access to it.
- (b) The media on which public information is recorded include:
  - (1) paper;
  - (2) film;
  - (3) a magnetic, optical, or solid state device that can store an electronic signal;
  - (4) tape;
  - (5) Mylar;
  - (6) linen;
  - (7) silk; and

- (8) vellum.
- (c) The general forms in which the media containing public information exist include a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

**Texas Government Code § 552.002**

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:
  - (1) a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by [Texas Government Code] Section 552.108;
  - (2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body;
  - (3) information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds by a governmental body;
  - (4) the name of each official and the final record of voting on all proceedings in a governmental body;
  - (5) all working papers, research material, and information used to estimate the need for or expenditure of public funds or taxes by a governmental body, on completion of the estimate;
  - (6) the name, place of business, and the name of the municipality to which local sales and use taxes are credited, if any, for the named person, of a person reporting or paying sales and use taxes under Chapter 151, Tax Code;
  - (7) a description of an agency's central and field organizations, including:
    - (A) the established places at which the public may obtain information, submit information or requests, or obtain decisions;
    - (B) the employees from whom the public may obtain information, submit information or requests, or obtain decisions;
    - (C) in the case of a uniformed service, the members from whom the public may obtain information, submit information or requests, or obtain decisions; and
    - (D) the methods by which the public may obtain information, submit information or requests, or obtain decisions;

- (8) a statement of the general course and method by which an agency's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;
  - (9) a rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations;
  - (10) a substantive rule of general applicability adopted or issued by an agency as authorized by law, and a statement of general policy or interpretation of general applicability formulated and adopted by an agency;
  - (11) each amendment, revision, or repeal of information described by Subdivisions (7)-(10);
  - (12) final opinions, including concurring and dissenting opinions, and orders issued in the adjudication of cases;
  - (13) a policy statement or interpretation that has been adopted or issued by an agency;
  - (14) administrative staff manuals and instructions to staff that affect a member of the public;
  - (15) information regarded as open to the public under an agency's policies;
  - (16) information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege;
  - (17) information that is also contained in a public court record; and
  - (18) a settlement agreement to which a governmental body is a party.
- (b) A court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is expressly made confidential under other law.

**Texas Government Code § 552.022**

- (a) Under the fundamental philosophy of American government described by Section 552.001, it is the policy of this state that investments of government are investments of and for the people and the people are entitled to information regarding those investments. The provisions of this section shall be liberally construed to implement this policy.
- (b) The following categories of information held by a governmental body relating to its investments are public information and not excepted from disclosure under this chapter:

- (1) the name of any fund or investment entity the governmental body is or has invested in;
- (2) the date that a fund or investment entity described by Subdivision (1) was established;
- (3) each date the governmental body invested in a fund or investment entity described by Subdivision (1);
- (4) the amount of money, expressed in dollars, the governmental body has committed to a fund or investment entity;
- (5) the amount of money, expressed in dollars, the governmental body is investing or has invested in any fund or investment entity;
- (6) the total amount of money, expressed in dollars, the governmental body received from any fund or investment entity in connection with an investment;
- (7) the internal rate of return or other standard used by a governmental body in connection with each fund or investment entity it is or has invested in and the date on which the return or other standard was calculated;
- (8) the remaining value of any fund or investment entity the governmental body is or has invested in;
- (9) the total amount of fees, including expenses, charges, and other compensation, assessed against the governmental body by, or paid by the governmental body to, any fund or investment entity or principal of any fund or investment entity in which the governmental body is or has invested;
- (10) the names of the principals responsible for managing any fund or investment entity in which the governmental body is or has invested;
- (11) each recusal filed by a member of the governing board in connection with a deliberation or action of the governmental body relating to an investment;
- (12) a description of all of the types of businesses a governmental body is or has invested in through a fund or investment entity;
- (13) the minutes and audio or video recordings of each open portion of a meeting of the governmental body at which an item described by this subsection was discussed;
- (14) the governmental body's percentage ownership interest in a fund or investment entity the governmental body is or has invested in;

- (15) any annual ethics disclosure report submitted to the governmental body by a fund or investment entity the governmental body is or has invested in; and
- (16) the cash-on-cash return realized by the governmental body for a fund or investment entity the governmental body is or has invested in.

\* \* \*

**Texas Government Code § 552.0225**

For exceptions to access for certain categories of information, *see* DCS Policy § 26.002

*iii. Information Subject to Personal Access*

- (a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.
- (b) A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy interests.
- (c) A release of information under Subsections (a) and (b) is not an offense under Section 552.352.
- (d) A person who receives information under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.
- (e) Access to information under this section shall be provided in the manner prescribed by Sections 552.229 and 552.307.

**Texas Government Code § 552.023**

- (a) Consent for the release of information excepted from disclosure to the general public but available to a specific person under Sections 552.023 and 552.307 must be in writing and signed by the specific person or the person's authorized representative.

- (b) An individual under 18 years of age may consent to the release of information under this section only with the additional written authorization of the individual's parent or guardian.
- (c) An individual who has been adjudicated incompetent to manage the individual's personal affairs or for whom an attorney ad litem has been appointed may consent to the release of information under this section only by the written authorization of the designated legal guardian or attorney ad litem.

**Texas Government Code § 552.229**

- (a) Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared to be public property ....
- (b) A local government officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a local government record even though the officer or employee developed or compiled it.

**Texas Local Government Code § 201.005**

An employee of a school district ... or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement may request from the employer a copy of any criminal history record information relating to that employee that the employer has obtained as provided by Subchapter C, Chapter 22, Education Code. The employer may charge a fee to an employee requesting a copy of the information in an amount not to exceed the actual cost of copying the requested criminal history record information.

**Texas Government Code § 411.097(f)**

*iv. Right to Control Access to Personal Information*

- (a) Each employee or official of a governmental body and each former employee or official of a governmental body shall choose whether to allow public access to the information in the custody of the governmental body that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.
- (b) Each employee and official and each former employee and official shall state that person's choice under Subsection (a) to the main personnel officer of the governmental body in a signed writing not later than the 14th day after the date on which:
  - (1) the employee begins employment with the governmental body;

- (2) the official is elected or appointed; or
- (3) the former employee or official ends service with the governmental body.
- (c) If the employee or official or former employee or official chooses not to allow public access to the information:
  - (1) the information is protected under Subchapter C; and
  - (2) the governmental body may redact the information from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

\* \* \*

- (d) If an employee or official or a former employee or official fails to state the person's choice within the period established by this section, the information is subject to public access.
- (e) An employee or official or former employee or official of a governmental body who wishes to close or open public access to the information may request in writing that the main personnel officer of the governmental body close or open access.
- (f) This section does not apply to a [peace officer].

**Texas Government Code § 552.024**

*v. Procedures for Access*

The chief administrative officer of a governmental body is the officer for public information ....

**Texas Government Code § 552.201(a)**

Each department head is an agent of the officer for public information for the purposes of complying with this chapter.

**Texas Government Code § 552.202**

Each officer for public information ... shall:

- (1) make public information available for public inspection and copying.

**Texas Government Code § 552.203(1)**

Public information is available to the public at a minimum during the normal business hours of the governmental body.

**Texas Government Code § 552.021**

- (a) An officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. In this subsection, “promptly” means as soon as possible under the circumstances, that is, within a reasonable time, without delay.
- (b) An officer for public information complies with Subsection (a) by:
  - (1) providing the public information for inspection or duplication in the offices of the governmental body; or
  - (2) sending copies of the public information by first class United States mail if the person requesting the information requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F.
- (c) If the requested information is unavailable at the time of the request to examine because it is in active use or in storage, the officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.
- (d) If an officer for public information cannot produce public information for inspection or duplication within 10 business days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

**Texas Government Code § 552.221**

- (a) The officer for public information and the officer’s agent may not make an inquiry of a requestor except to establish proper identification or except as provided by Subsection (b) or (c).
- (b) If what information is requested is unclear to the governmental body, the governmental body may ask the requestor to clarify the request. If a large amount of information has been requested, the governmental body may discuss with the requestor how the scope of a request might be narrowed, but the governmental body may not inquire into the purpose for which information will be used.

- (c) If the information requested relates to a motor vehicle record, the officer for public information or the officer's agent may require the requestor to provide additional identifying information sufficient for the officer or the officer's agent to determine whether the requestor is eligible to receive the information under Chapter 730, Transportation Code. In this subsection, "motor vehicle record" has the meaning assigned that term by Section 730.003, Transportation Code.

**Texas Government Code § 552.222**

The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.

**Texas Government Code § 552.223**

The officer for public information or the officer's agent shall give to a requestor all reasonable comfort and facility for the full exercise of the right granted by this chapter.

**Texas Government Code § 552.224**

This chapter does not authorize a requestor to remove an original copy of a public record from the office of a governmental body.

**Texas Government Code § 552.226**

- (a) It shall be a policy of a governmental body to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.
- (b) If public information exists in an electronic or magnetic medium, the requestor may request a copy either on paper or in an electronic medium, such as on diskette or on magnetic tape. A governmental body shall provide a copy in the requested medium if:
- (1) the governmental body has the technological ability to produce a copy of the requested information in the requested medium;
  - (2) the governmental body is not required to purchase any software or hardware to accommodate the request; and
  - (3) provision of a copy of the information in the requested medium will not violate the terms of any copyright agreement between the governmental body and a third party.

- (c) If a governmental body is unable to comply with a request to produce a copy of information in a requested medium for any of the reasons described by this section, the governmental body shall provide a copy in another medium that is acceptable to the requestor. A governmental body is not required to copy information onto a diskette or other material provided by the requestor but may use its own supplies.

**Texas Government Code § 552.228**

- (a) A governmental body may establish a reasonable limit on the amount of time that personnel of the governmental body are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time.
- (b) A time limit established under Subsection (a) may not be less than 36 hours for a requestor during the 12-month period that corresponds to the fiscal year of the governmental body.
- (c) In determining whether a time limit established under Subsection (a) applies, any time spent complying with a request for public information submitted in the name of a minor, as defined by Section 101.003(a), Family Code, is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.
- (d) If a governmental body establishes a time limit under Subsection (a), each time the governmental body complies with a request for public information, the governmental body shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of time spent preparing the written statement may not be included in the amount of time included in the statement provided to the requestor under this subsection.

- (e) If in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the limit established by the governmental body under Subsection (a), the governmental body shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information was requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general under Sections 552.262(a) and (b).
- (f) If the governmental body determines that additional time is required to prepare the written estimate under Subsection (e) and provides the requestor with a written statement of that determination, the governmental body must provide the written statement under that subsection as soon as practicable, but on or before the 10th day after the date the governmental body provided the statement under this subsection.
- (g) If a governmental body provides a requestor with the written statement under Subsection (e), the governmental body is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the governmental body provided the written statement under that subsection, the requestor submits a statement in writing to the governmental body in which the requestor commits to pay the lesser of:
  - (1) the actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead; or
  - (2) the amount stated in the written statement provided under Subsection (e).
- (h) If the requestor fails or refuses to submit the written statement under Subsection (g), the requestor is considered to have withdrawn the requestor's pending request for public information.
- (i) This section does not prohibit a governmental body from providing a copy of public information without charge or at a reduced rate under Section 552.267 or from waiving a charge for providing a copy of public information under that section.
- (j) This section does not apply if the requestor is a representative of:
  - (1) a radio or television station that holds a license issued by the Federal Communications Commission; or

- (2) a newspaper that is qualified under Section 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news.
- (k) This section does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state.
- (l) This section does not apply if the requestor is a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

**Tex. Government Code § 552.275**

For other provisions regarding procedures for access to public records, *see*:

Texas Government Code § 552.231 (responding to requests for information that require programming or manipulation of data)

Texas Government Code § 552.232 (responding to repetitious or redundant requests)

Texas Government Code § 552.2615 (required itemized estimate of charges over \$40)

Texas Government Code § 552.263 (bond for payment of costs or cash prepayment for preparation of copy of public information)

Texas Government Code § 552.271 (inspection of public information in paper record if copy not requested)

Texas Government Code § 552.272 (inspection of electronic record if copy not requested)

- (a) Dallas County Schools will notify an employee in writing of any request for information specifically relating to the employee or from the employee's employee or personnel file, except where the request was made by a DCS employee acting within the scope of the employee's duties.
- (b) Pursuant to Tex. Gov't Code § 552.275, Dallas County Schools establishes 36 hours per requestor per fiscal year as the limit of personnel time to be spent producing or providing copies of public information to a requestor, without recovering DCS's costs attributable to that personnel time.

See also Texas Government Code §§ 552.205,<sup>22</sup> 552.225,<sup>23</sup> and 552.261.<sup>24</sup>

22

- (a) An officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter. The officer shall display the sign at one or more places in the administrative offices of the governmental body where it is plainly visible to:
  - (1) members of the public who request public information in person under this chapter; and
  - (2) employees of the governmental body whose duties include receiving or responding to requests under this chapter.
- (b) The attorney general by rule shall prescribe the content of the sign and the size, shape, and other physical characteristics of the sign. In prescribing the content of the sign, the attorney general shall include plainly written basic information about the rights of a requestor, the responsibilities of a governmental body, and the procedures for inspecting or obtaining a copy of public information under this chapter that, in the opinion of the attorney general, is most useful for requestors to know and for employees of governmental bodies who receive or respond to requests for public information to know.

**Texas Government Code § 552.205**

23

- (a) A requestor must complete the examination of the information not later than the 10th business day after the date the custodian of the information makes it available. If the requestor does not complete the examination of the information within 10 business days after the date the custodian of the information makes the information available and does not file a request for additional time under Subsection (b), the requestor is considered to have withdrawn the request.
- (b) The officer for public information shall extend the initial examination period by an additional 10 business days if, within the initial period, the requestor files with the officer for public information a written request for additional time. The officer for public information shall extend an additional examination period by another 10 business days if, within the additional period, the requestor files with the officer for public information a written request for more additional time.
- (c) The time during which a person may examine information may be interrupted by the officer for public information if the information is needed for use by the governmental body. The period of interruption is not considered to be a part of the time during which the person may examine the information.

**Texas Government Code § 552.225**

24

- (a) The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in:

(footnote continued on next page ...)

*vi. Training Regarding Access*

- (a) This section applies to an elected or appointed public official who is:
  - (1) a member of a multimember governmental body;
  - \* \* \*
  - (3) the officer for public information of a governmental body, without regard to whether the officer is elected or appointed to a specific term.
- (b) Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its officers and employees under this chapter not later than the 90th day after the date the public official:
  - (1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a public official; or
  - (2) otherwise assumes the person's duties as a public official, if the person is not required to take an oath of office to assume the person's duties.

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(... footnote continued from previous page)

- (1) two or more separate buildings that are not physically connected with each other; or
- (2) a remote storage facility.
- (b) If the charge for providing a copy of public information includes costs of labor, the requestor may require the governmental body's officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer for public information or the officer's agent and the officer's or the agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.
- (c) For purposes of Subsection (a), a connection of two buildings by a covered or open sidewalk, an elevated or underground passageway, or a similar facility is insufficient to cause the buildings to be considered separate buildings.
- (d) Charges for providing a copy of public information are considered to accrue at the time the governmental body advises the requestor that the copy is available on payment of the applicable charges.

**Texas Government Code § 552.261**

- (c) A public official may designate a public information coordinator to satisfy the training requirements of this section for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under this chapter. Designation of a public information coordinator under this subsection does not relieve a public official from the duty to comply with any other requirement of this chapter that applies to the public official. The designated public information coordinator shall complete the training course regarding the responsibilities of the governmental body with which the coordinator serves and of its officers and employees under this chapter not later than the 90th day after the date the coordinator assumes the person's duties as coordinator.
- (d) The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any acceptable course of training offered by a governmental body or other entity. The attorney general shall ensure that at least one course of training approved or provided by the attorney general is available on videotape or a functionally similar and widely available medium at no cost. The training must include instruction in:
  - (1) the general background of the legal requirements for open records and public information;
  - (2) the applicability of this chapter to governmental bodies;
  - (3) procedures and requirements regarding complying with a request for information under this chapter;
  - (4) the role of the attorney general under this chapter; and
  - (5) penalties and other consequences for failure to comply with this chapter.
- (e) The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training required by this section. A governmental body shall maintain and make available for public inspection the record of its public officials' or, if applicable, the public information coordinator's completion of the training.
- (f) Completing the required training as a public official of the governmental body satisfies the requirements of this section with regard to the public official's service on a committee or subcommittee of the governmental body and the public official's ex officio service on any other governmental body.
- (g) The training required by this section may be used to satisfy any corresponding training requirements concerning this chapter or open records required by law for a public official or public information coordinator. The attorney general shall attempt to coordinate the training required by this section with training required by other law to the extent practicable.

Texas Government Code §§ 552.012(a)-(g)

*Adopted 11/18/04; amended 8/30/07, 4/15/10*

**§ 26.002. Restrictions on Access**

*i. Exceptions to Right of Access: General*

Information is excepted from the requirements of [Texas Government Code] Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

**Texas Government Code § 552.101**

- (a) Information is excepted from the requirements of Section 552.021 if it is information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party.
- (b) For purposes of this section, the state or a political subdivision is considered to be a party to litigation of a criminal nature until the applicable statute of limitations has expired or until the defendant has exhausted all appellate and postconviction remedies in state and federal court.
- (c) Information relating to litigation involving a governmental body or an officer or employee of a governmental body is excepted from disclosure under Subsection (a) only if the litigation is pending or reasonably anticipated on the date that the requestor applies to the officer for public information for access to or duplication of the information.

**Texas Government Code § 552.103**

- (a) Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder.
- (b) The requirement of Section 552.022 that a category of information listed under Section 552.022(a) is public information and not excepted from required disclosure under this chapter unless expressly confidential under law does not apply to information that is excepted from required disclosure under this section.

**Texas Government Code § 552.104**

Information is excepted from the requirements of Section 552.021 if it is information relating to:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or

- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

**Texas Government Code § 552.105**

Information is excepted from the requirements of Section 552.021 if:

- (1) it is information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct; or
- (2) a court by order has prohibited disclosure of the information.

**Texas Government Code § 552.107**

- (a) A trade secret obtained from a person and privileged or confidential by statute or judicial decision is excepted from the requirements of Section 552.021.
- (b) Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is excepted from the requirements of Section 552.021.

**Texas Government Code § 552.110**

An interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency is excepted from the requirements of Section 552.021.

**Texas Government Code § 552.111**

- (a) A test item developed by an educational institution that is funded wholly or in part by state revenue is excepted from the requirements of Section 552.021.
- (b) A test item developed by a licensing agency or governmental body is excepted from the requirements of Section 552.021.

**Texas Government Code § 552.122**

- (a) Information submitted by a potential vendor or contractor to a governmental body in connection with an application for certification as a historically underutilized or disadvantaged business under a local, state, or federal certification program is excepted from the requirements of Section 552.021, except as provided by this section.

- (b) Notwithstanding Section 552.007 and except as provided by Subsection (c), the information may be disclosed only:
  - (1) to a state or local governmental entity in this state, and the state or local governmental entity may use the information only:
    - (A) for purposes related to verifying an applicant's status as a historically underutilized or disadvantaged business; or
    - (B) for the purpose of conducting a study of a public purchasing program established under state law for historically underutilized or disadvantaged businesses; or
  - (2) with the express written permission of the applicant or the applicant's agent.
- (c) Information submitted by a vendor or contractor or a potential vendor or contractor to a governmental body in connection with a specific proposed contractual relationship, a specific contract, or an application to be placed on a bidders list, including information that may also have been submitted in connection with an application for certification as a historically underutilized or disadvantaged business, is subject to required disclosure, excepted from required disclosure, or confidential in accordance with other law.

**Texas Government Code § 552.128**

- (a) This chapter does not prohibit a governmental body or its officer for public information from voluntarily making part or all of its information available to the public, unless the disclosure is expressly prohibited by law or the information is confidential under law.
- (b) Public information made available under Subsection (a) must be made available to any person.

**Texas Government Code § 552.007**

Information or records which by law are made confidential or otherwise excepted from disclosure shall not be made available to the public or accessed or used for other than official DCS business.

*ii. Exceptions to Right of Access: Privacy*

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, § 513, Pub. L. No. 93-380, 20 U.S.C. § 1232g.

**Texas Government Code § 552.026**

- (a) Information is excepted from the requirements of Section 552.021 if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the personnel file of an employee of a governmental body is to be made available to that employee or the employee's designated representative as public information is made available under this chapter. The exception to public disclosure created by this subsection is in addition to any exception created by Section 552.024. Public access to personnel information covered by Section 552.024 is denied to the extent provided by that section.
- (b) Information is excepted from the requirements of Section 552.021 if it is a transcript from an institution of higher education maintained in the personnel file of a professional public school employee, except that this section does not exempt from disclosure the degree obtained or the curriculum on a transcript in the personnel file of the employee.

**Texas Government Code § 552.102**

Private correspondence or communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from the requirements of Section 552.021.

**Texas Government Code § 552.109**

- (a) Information is excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or partly by state revenue.
- (b) A record under Subsection (a) shall be made available on the request of:
  - (1) educational institution personnel;
  - (2) the student involved or the student's parent, legal guardian, or spouse; or
  - (3) a person conducting a child abuse investigation required by Subchapter D, Chapter 261, Family Code.

**Texas Government Code § 552.114**

- (a) Information is excepted from the requirements of Section 552.021 if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following person or that reveals whether the person has family members:
  - (1) a current or former official or employee of a governmental body, except as otherwise provided by Section 552.024;

**Texas Government Code § 552.117(a)(1)**

The name of an applicant for the position of superintendent of a public school district is excepted from the requirements of Section 552.021, except that the board of trustees must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

**Texas Government Code § 552.126**

- (a) Information is excepted from the requirements of Section 552.021 if the information relates to:
  - (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
  - (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
  - (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.
- (b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

**Texas Government Code § 552.130**

- (a) "Informer" means a student or a former student or an employee or former employee of a school district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the school district or the proper regulatory enforcement authority.
- (b) An informer's name or information that would substantially reveal the identity of an informer is excepted from the requirements of Section 552.021.
- (c) Subsection (b) does not apply:
  - (1) if the informer is a student or former student, and the student or former student, or the legal guardian, or spouse of the student or former student consents to disclosure of the student's or former student's name; or
  - (2) if the informer is an employee or former employee who consents to disclosure of the employee's or former employee's name; or
  - (3) if the informer planned, initiated, or participated in the possible violation.

- (d) Information excepted under Subsection (b) may be made available to a law enforcement agency or prosecutor for official purposes of the agency or prosecutor upon proper request made in compliance with applicable law and procedure.
- (e) This section does not infringe on or impair the confidentiality of information considered to be confidential by law, whether it be constitutional, statutory, or by judicial decision, including information excepted from the requirements of Section 552.021.

**Texas Government Code § 552.135**

Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device<sup>25</sup> number that is collected, assembled, or maintained by or for a governmental body is confidential.

**Texas Government Code § 552.136(b)**

- (a) Except as otherwise provided by this section, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.
- (b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release.
- (c) Subsection (a) does not apply to an e-mail address:
  - (1) provided to a governmental body by a person who has a contractual relationship with the governmental body or by the contractor's agent;
  - (2) provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent;

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In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

- (1) obtain money, goods, services, or another thing of value; or
- (2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

**Texas Government Code § 552.136(a)**

- (3) contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a governmental body in the course of negotiating the terms of a contract or potential contract;
  - (4) provided to a governmental body on a letterhead, coversheet, printed document, or other document made available to the public; or
  - (5) provided to a governmental body for the purpose of ... receiving orders or decisions from a governmental body.
- (d) Subsection (a) does not prevent a governmental body from disclosing an e-mail address for any reason to another governmental body or to a federal agency.

**Texas Government Code § 552.137**

- (a) The social security number of a living person is excepted from the requirements of Section 552.021.
- (b) A governmental body may redact the social security number of a living person from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

**Texas Government Code § 552.147<sup>26</sup>**

- (a) Information collected about a person to comply with [Texas Education Code ch. 22, subch. C, dealing with criminal history records], including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:
 

\* \* \*
- (2) is not subject to disclosure as provided by Chapter 552, Government Code ....

**Texas Education Code § 22.08391(a)(2)**

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Texas Att'y Gen. Op. No. GA-519 (2007) concludes that the social security number of a living person is confidential and the exception from required disclosure under this statutory provision is mandatory.

Criminal history record information obtained by a school district ... or shared services arrangement in the original form or any subsequent form:

\* \* \*

- (2) is not subject to disclosure as provided by Chapter 552 ....

**Texas Government Code § 411.097(d)(2)**

*iii. Exceptions to Right of Access: Security*

- (a) Information is excepted from the requirements of Section 552.021 if it is information that relates to computer network security or to the design, operation, or defense of a computer network.
- (b) The following information is confidential:
  - (1) a computer network vulnerability report;
  - (2) any other assessment of the extent to which data processing operations, a computer, or a computer program, network, system, or software of a governmental body or of a contractor of a governmental body is vulnerable to unauthorized access or harm, including an assessment of the extent to which the governmental body's or contractor's electronically stored information is vulnerable to alteration, damage, or erasure; and
  - (3) a photocopy or other copy of an identification badge issued to an official or employee of a governmental body.

**Texas Government Code § 552.139**

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

**Texas Government Code § 552.151**

- (c-1) Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure under Chapter 552, Government Code.
- (c-2) A document relating to a school district's ... multihazard emergency operations plan is subject to disclosure if the document enables a person to:

- (1) verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including the Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;
- (2) verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;
- (3) verify that the plan addresses the four phases of emergency management under Subsection (a);
- (4) verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
- (5) verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
- (6) ... verify that the district has established a plan for responding to a train derailment if required under Subsection (d);
- (7) verify that the district has completed a safety and security audit under Subsection (b) and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the district's board of trustees;
- (8) verify that the district has addressed any recommendations by the district's board of trustees for improvement of the plan and determine the district's progress within the last 12 months; and
- (9) ... verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

**Texas Government Code §§ 37.108(c-1)-(c-2)**

*iv. Procedures for Invoking Exceptions*

- (a) A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions.

- (b) The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business day after the date of receiving the written request.
- (c) For purposes of this subchapter, a written request includes a request made in writing that is sent to the officer for public information, or the person designated by that officer, by electronic mail or facsimile transmission.
- (d) A governmental body that requests an attorney general decision under Subsection (a) must provide to the requestor within a reasonable time but not later than the 10th business day after the date of receiving the requestor's written request:
  - (1) a written statement that the governmental body wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and
  - (2) a copy of the governmental body's written communication to the attorney general asking for the decision or, if the governmental body's written communication to the attorney general discloses the requested information, a redacted copy of that written communication.
- (e) A governmental body that requests an attorney general decision under Subsection (a) must within a reasonable time but not later than the 15th business day after the date of receiving the written request:
  - (1) submit to the attorney general:
    - (A) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;
    - (B) a copy of the written request for information;
    - (C) a signed statement as to the date on which the written request for information was received by the governmental body or evidence sufficient to establish that date; and
    - (D) a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested; and
  - (2) label that copy of the specific information, or of the representative samples, to indicate which exceptions apply to which parts of the copy.

- (e-1) A governmental body that submits written comments to the attorney general under Subsection (e)(1)(A) shall send a copy of those comments to the person who requested the information from the governmental body not later than the 15th business day after the date of receiving the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the person must be a redacted copy.
- (f) A governmental body must release the requested information and is prohibited from asking for a decision from the attorney general about whether information requested under this chapter is within an exception under Subchapter C if:
- (1) the governmental body has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request; and
  - (2) the attorney general or a court determined that the information is public information under this chapter that is not excepted by Subchapter C.

**Texas Government Code § 552.301**

[A] governmental body [need not request an attorney general's opinion] to withhold the following information under the following exceptions:

- (1) a direct deposit authorization form under section 552.101 in conjunction with the common-law right to privacy;
- (2) a Form I-9 and attachments under section 552.101 in conjunction with section 1324a of title 8 of the United States Code;
- (3) W-2 and W-4 forms under section 552.101 in conjunction with section 6103( a) of title 26 of the United States Code;
- (4) a certified agenda and tape of a closed meeting under section 552.101 in conjunction with section 551.104 of the Government Code;
- (5) a fingerprint under section 552.101 in conjunction with section 560.003 of the Government Code;
- (6) L-2 and L-3 declarations under section 552.101 in conjunction with section 1701.306 of the Occupations Code;
- (7) a Texas driver's license number, a copy of a Texas driver's license, a Texas license plate number, the portion of a photograph that reveals a Texas license plate number, and the portion of any video depicting a discernible Texas license plate number under section 552.130;

- (8) a credit card number, debit card number, charge card number, insurance policy number, bank account number, and bank routing number under section 552.136;
- (9) an e-mail address of a member of the public under section 552.137; and
- (10) a Form DD-214 or other military discharge record that is first recorded or first comes into the possession of a governmental body on or after September 1, 2003.

**Texas Attorney General's Opinion ORD 684**

If a governmental body does not request an attorney general decision as provided by Section 552.301 and provide the requestor with the information required by Sections 552.301(d) and (e-1), the information requested in writing is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.

**Texas Government Code § 552.302**

For other provisions regarding procedures for invoking exceptions to access, *see*:

Texas Government Code § 552.303 (delivery of requested information to Attorney General; disclosure of requested information; Attorney General request for submission of additional information)

Texas Government Code § 552.305 (request for Attorney General opinion in case of information involving privacy or property interests of third party)

Texas Government Code § 552.307 (request for Attorney General opinion in case of information subject to Special Right Of Access)

*Adopted 11/18/04; amended 8/30/07*

### **§ 26.003. Records Retention Policy**

#### *i. Responsibility for Records*

The governing body of a local government ... shall:

- (1) establish, promote, and support an active and continuing program for the efficient and economical management of all local government records;<sup>27</sup>;

<sup>27</sup>

(footnote continued on next page ...)

- (2) cause policies and procedures to be developed for the administration of the program under the direction of the records management officer<sup>28</sup>;
- (3) facilitate the creation and maintenance of local government records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the local government and designed to furnish the information necessary to protect the legal and financial rights of the local government, the state, and persons affected by the activities of the local government;
- (4) facilitate the identification and preservation of local government records that are of permanent value<sup>29</sup>;

(... footnote continued from previous page)

“Local government record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

- (A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
- (B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer’s or employee’s personal convenience;
- (C) blank forms;
- (D) stocks of publications;
- (E) library and museum materials acquired solely for the purposes of reference or display;
- (F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, Government Code, or other state law; or
- (G) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), Government Code, associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

**Texas Local Government Code § 201.003(8)**

28

“Records management officer” means the person identified under Section 203.001 or designated under Section 203.025 as the records management officer.

**Texas Local Government Code § 201.003(14)**

29

(footnote continued on next page ...)

- (5) facilitate the identification and protection of essential local government records<sup>30</sup>; and
- (6) cooperate with the commission<sup>31</sup> in its conduct of statewide records management<sup>32</sup> surveys.

**Texas Local Government Code § 203.021**

- (a) Custodians<sup>33</sup> of records in each local government shall:

(... footnote continued from previous page)

“Permanent record” or “record of permanent value” means any local government record for which the retention period on a records retention schedule issued by the commission is given as permanent.

**Texas Local Government Code § 201.003(10)**

30

“Essential record” means any local government record necessary to the resumption or continuation of government operations in an emergency or disaster, to the re-creation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the state.

**Texas Local Government Code § 201.003(5)**

31

“Commission” means the Texas State Library and Archives Commission.

**Texas Local Government Code § 201.003(1)**

32

“Records management” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

**Texas Local Government Code § 201.003(13)**

33

“Custodian” means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

**Texas Local Government Code § 201.003(2)**

- (1) cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records and in carrying out the requirements of this subtitle;
  - (2) adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and
  - (3) maintain the records in the custodian's care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it.
- (b) State law relating to the duties, other responsibilities, or recordkeeping requirements of a custodian of local government records do not exempt the custodian or the records in the custodian's care from the application of this subtitle and rules adopted under it and may not be used by the custodian as a basis for refusal to participate in the records management program of the local government whose establishment is required by this chapter.

**Texas Local Government Code § 203.022**

- (a) On or before June 1, 1990, the governing body of each local government shall designate a records management officer by:
  - (1) designating an individual; or
  - (2) designating an office<sup>34</sup> or position, the holder of which shall be the records management officer.
- (b) The name, office, or position of the records management officer shall be entered on the minutes of the governing body.
- (c) The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian<sup>35</sup> within 30 days after the date of the designation.

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<sup>34</sup>

“Office” means any office, department, division, program, commission, bureau, board, committee, or similar entity of a local government.

<sup>35</sup>

**Texas Local Government Code § 201.003(9)**

(footnote continued on next page ...)

- (d) The designation of a new individual or a new office or position shall be entered on the minutes and reported by the records management officer to the director and librarian in the same manner as the original designation.
- (e) If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with the director and librarian within 30 days after the date of assuming the office or position.

**Texas Local Government Code §§ 203.025(a)-(e)**

The records management officer in each local government shall:

- (1) assist in establishing and developing policies and procedures for a records management program for the local government;
- (2) administer the records management program and provide assistance to custodians for the purposes of reducing the costs and improving the efficiency of recordkeeping;
- (3) in cooperation with the custodians of the records:
  - (A) prepare and file with the director and librarian the records control schedules<sup>36</sup> and amended schedules required by Section 203.041 and the list of obsolete records as provided by Section 203.044; and
  - (B) prepare or direct the preparation of requests for authorization to destroy records not on an approved control schedule as provided by Section 203.045, of requests to destroy the originals of permanent records that have been microfilmed as provided by Section 204.008, and of electronic storage authorization requests as provided by Section 205.007;

(... footnote continued from previous page)

“Director and librarian” means the executive and administrative officer of the Texas State Library and Archives Commission.

**Texas Local Government Code § 201.003(4)**

36

“Records control schedule” means a document prepared by or under the authority of a records management officer listing the records maintained by a local government or an elective county office, their retention periods, and other records disposition information that the records management program in each local government or elective county office may require.

**Texas Local Government Code § 201.003(12)**

- (4) in cooperation with custodians, identify and take adequate steps to preserve local government records that are of permanent value;
- (5) in cooperation with custodians, identify and take adequate steps to protect essential local government records;
- (6) in cooperation with custodians, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures of the local government's records management program and the requirements of this subtitle and rules adopted under it;
- (7) disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies of the government relating to local government records; and
- (8) in cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for:
  - (A) the duties and responsibilities of custodians that may be imposed by law; and
  - (B) the confidentiality of information in records to which access is restricted by law.

**Texas Local Government Code § 203.023**

- (a) The Board designates the Superintendent or his designee to act as the Records Management Officer for Dallas County Schools.

*ii. Maintenance and Management of Records*

A governmental body ... may determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of state and local government records or public information.

**Texas Government Code § 552.004**

- (a) On or before January 1, 1991, each governing body by ordinance or order, as appropriate, shall establish a records management program to be administered by the records management officer.

- (b) The ordinance or order must provide methods and procedures to enable the governing body, custodians, and the records management officer to fulfill the duties and responsibilities set out in Sections 203.021, 203.022, and 203.023 concerning the management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of this subtitle and rules adopted under it.
- (c) A copy of the ordinance or order must be filed by the records management officer with the director and librarian within 30 days after the date of its adoption.
- (d) An ordinance or order establishing or relating to a records management program adopted before September 1, 1989, must be amended if any provision of the ordinance or order is in conflict with this subtitle or a rule adopted under it. A copy of the amended ordinance or order shall be filed with the director and librarian as provided by Subsection (c).
- (e) A copy of an amended ordinance or revised order relating to the establishment or operation of the records management program must be filed by the governing body with the director and librarian within 30 days after the date of its adoption.
- (f) The director and librarian or the designee of the director and librarian shall within a reasonable time bring to the attention of the governing body in writing any aspect of an ordinance or order filed in the office of the director and librarian or that otherwise comes to the attention of the director and librarian that is inconsistent with the requirements of this subtitle or rules adopted under it.

**Texas Local Government Code §§ 203.026(a)-(f)**

Each officer for public information, subject to penalties provided in this chapter, shall:

\* \* \*

- (2) carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal; and
- (3) repair, renovate, or rebind public information as necessary to maintain it properly.

**Texas Government Code §§ 552.203(2) & (3)**

Any local government record may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of this chapter and rules adopted under it.

**Texas Local Government Code § 204.002**

Any local government record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of this chapter and rules adopted under it.

**Texas Local Government Code § 205.002**

The following records retention schedules<sup>37</sup> ... are adopted by reference. Copies of the schedules are available from the State and Local Records Management Division, Texas State Library, P.O. Box 12927, Austin, Texas 78711-2927; (512) 452-9242.

- (4) Local Schedule SD: Records of Public School Districts.

**13 Texas Administrative Code § 7.125(a)(4)**

For other provisions regarding the maintenance and management of records, *see*:

Texas Local Government Code § 201.003 (definitions)

Texas Local Government Code § 203.041 (preparation and filing of records control schedules)

Texas Local Government Code § 203.042 (retention periods)

Texas Local Government Code § 203.043 (filing of records control schedules)

Texas Local Government Code § 203.048 (care of records of permanent value)

Texas Local Government Code § 203.050 (inspection of permanent records)

- (b) E-Rate records will be retained for a period of ten years after the last date of service in accordance with FCC E-Rate Modernization Order (Para. 262, FCC-14-99, Adopted July 11, 2014).

<sup>37</sup>

“Records retention schedule” means a document issued by the Texas State Library and Archives Commission under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.

**Texas Local Government Code § 201.003(15)**

*iii. Destruction or Transfer of Records*

The governing body in a records management program established under this section may require the mandatory destruction of any record of the local government when its retention period<sup>38</sup> has expired on a records control schedule developed under Section 203.041.

**Texas Local Government Code § 203.026(g)**

- (a) A local government record may be destroyed if:
- (1) the record is listed on a records control schedule accepted for filing by the director and librarian as provided by Section 203.041 and either its retention period has expired or it has been microfilmed or stored electronically in accordance with the requirements of Chapters 204 and 205;
  - (2) the record appears on a list of obsolete records approved by the director and librarian as provided by Section 203.044; or
  - (3) a destruction request is filed with and approved by the director and librarian as provided by Section 203.045 for a record not listed on an approved control schedule.
- (b) The following records may be destroyed without meeting the conditions of Subsection (a):
- (1) records the destruction or obliteration of which is directed by an expunction order issued by a district court pursuant to state law; and
  - (2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

**Texas Local Government Code § 202.001**

- (a) Regardless of any other provision of this subtitle or rules adopted under it, a local government record the subject matter of which is known by the custodian to be in litigation may not be destroyed until the litigation is settled.

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<sup>38</sup>

“Retention period” means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

**Texas Local Government Code § 201.003(16)**

- (b) Regardless of any other provision of this subtitle or rules adopted under it, a local government record subject to a request under Chapter 552, Government Code, may not be destroyed until the request is resolved.

**Texas Local Government Code § 202.002**

Criminal history record information obtained by a school district ... or shared services arrangement in the original form or any subsequent form:

\* \* \*

- (3) shall be destroyed by the school district ... or shared services arrangement on the earlier of:
- (A) the first anniversary of the date the information was originally obtained; or
  - (B) the date the information is used for the authorized purpose.

**Texas Government Code § 411.097(d)(3)**

- (a) Information collected about a person to comply with [Texas Education Code ch. 22, subch. C, dealing with criminal history records], including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

\* \* \*

- (3) shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

\* \* \*

- (d) Any criminal history record information received by a school district ... or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by this subchapter is subject to Section 411.097(d), Government Code.

**Texas Education Code §§ 22.08391(a)(3), (d)**

For other provisions regarding the destruction and transfer of records, *see*:

Texas Local Government Code § 201.003 (definitions)

Texas Local Government Code § 203.044 (initial destruction of obsolete records)

Texas Local Government Code § 203.045 (destruction of unscheduled records)

Texas Local Government Code § 203.046 (recordkeeping requirements regarding destruction of records)

Texas Local Government Code § 203.049 (transfer of records of permanent value)

- (c) The destruction of any DCS local government record is prohibited unless such destruction is authorized by the Records Management Officer pursuant to a records management program.

*See also* Texas Local Government Code §§ 202.003<sup>39</sup> and 202.004.<sup>40</sup>

*Adopted 11/18/04; amended 8/30/07, 7/16/09, 11/15/16*

39

- (a) A local government record may be destroyed by burning, shredding, pulping, or burial in a landfill or by sale or donation for recycling purposes except as provided by Subsection (b).
- (b) Records to which public access is restricted under Chapter 552, Government Code, or other state law may be destroyed only by burning, pulping, or shredding.
- (c) A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler.
- (d) The director and librarian may approve other methods of destruction that render the records unrecognizable as local government records.

**Texas Local Government Code § 202.003**

40

- (a) A local government record may be sold or donated, loaned, transferred, or otherwise passed out of the custody of a local government to any public institution of higher education, public museum, public library, or other public entity with the approval of the local government's records management officer and after the expiration of the record's retention period under the local government's records control schedule.
- (b) A local government record may not be sold or donated (except for the purposes of recycling), loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the director and librarian and after the expiration of its retention period under the local government's records control schedule.
- (c) A records management officer or custodian may temporarily transfer a local government record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

**Texas Local Government Code § 202.004**

## Chapter 27. Intergovernmental Agreements

### § 27.001. Interlocal Agreements

- (a) A local government<sup>41</sup> may contract or agree with another local government or a federally recognized Indian tribe ... whose reservation is located within the boundaries of this state to perform governmental functions and services in accordance with this chapter.
- (b) A party to an interlocal contract may contract with a:
  - (1) state agency, as that term is defined by Section 771.002; or
  - (2) similar agency of another state.
- (b-1) A local government that is authorized to enter into an interlocal contract under this section may not contract with an Indian tribe that is not federally recognized or whose reservation is not located within the boundaries of this state.
- (c) An interlocal contract may be to:
  - (1) study the feasibility of the performance of a governmental function or service<sup>42</sup> by an interlocal contract; or

41

“Local government” means a:

- (A) county, municipality, special district, junior college district, or other political subdivision of this state or another state;
- (B) local government corporation created under Subchapter D, Chapter 431, Transportation Code;
- (C) political subdivision corporation created under Chapter 304, Local Government Code;
- (D) local workforce development board created under Section 2308.253; or
- (E) combination of two or more entities described by Paragraph (A), (B), (C), or (D).

**Texas Government Code § 791.003(4)**

“Political subdivision” includes any corporate and political entity organized under state law.

**Texas Government Code § 791.003(4)**

42

“Governmental functions and services” means all or part of a function or service in any of the following areas:

- (A) police protection and detention services;

(footnote continued on next page ...)

- (2) provide a governmental function or service that each party to the contract is authorized to perform individually.
- (d) An interlocal contract must:
  - (1) be authorized by the governing body of each party to the contract ...;
  - (2) state the purpose, terms, rights, and duties of the contracting parties; and
  - (3) specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.
- (e) An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract.
- (f) An interlocal contract may be renewed annually.
- (g) A governmental entity of this state or another state that makes purchases or provides purchasing services under an interlocal contract for a state agency, as that term is defined by Section 771.002, must comply with Chapter 2161 in making the purchases or providing the services.

(... footnote continued from previous page)

\* \* \*

- (G) records center services;
- (H) waste disposal;
- (I) planning;
- (J) engineering;
- (K) administrative functions;
- (L) public funds investment;
- (M) comprehensive health care and hospital services; or
- (N) other governmental functions in which the contracting parties are mutually interested.

**Texas Government Code § 791.003(3)**

“Administrative functions” means functions normally associated with the routine operation of government, including tax assessment and collection, personnel services, purchasing, records management services, data processing, warehousing, equipment repair, and printing.

**Texas Government Code § 791.003(1)**

- (h) An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services.

**Texas Government Code § 791.011**

- (a) A local government, including a council of governments, may agree with another local government or with the state or a state agency, including the comptroller, to purchase goods and services.
- (b) A local government, including a council of governments, may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and any services reasonably required for the installation, operation, or maintenance of the goods. This subsection does not apply to services provided by firefighters, police officers, or emergency medical personnel.
- (c) A local government that purchases goods and services under this section satisfies the requirement of the local government to seek competitive bids for the purchase of the goods and services.
- (d) In this section, “council of governments” means a regional planning commission created under Chapter 391, Local Government Code.

**Texas Government Code § 791.025**

See also Texas Government Code §§ 791.012<sup>43</sup> & 791.013.<sup>44</sup>

43

Local governments that are parties to an interlocal contract for the performance of a service may, in performing the service, apply the law applicable to a party as agreed by the parties.

**Texas Government Code § 791.012**

44

- (a) To supervise the performance of an interlocal contract, the parties to the contract may:
- (1) create an administrative agency;
  - (2) designate an existing local government; or
  - (3) contract with an organization that qualifies for exemption from federal income tax under Section 501(c), Internal Revenue Code of 1986, as amended, that provides services on behalf of political subdivisions or combinations of political subdivisions and derives more than 50 percent of its gross revenues from grants, funding, or other income from political subdivisions or combinations of subdivisions.

(footnote continued on next page ...)

An interlocal agreement under which Dallas County Schools provides services to a client governmental entity may contain provisions inconsistent with DCS policies. Any such agreement must be reviewed by the Policy Committee and approved by the Board of Trustees. The provisions of a Board-approved interlocal agreement prevail over DCS policies to the extent of any inconsistency.

*Adopted 4/19/12*

### **§ 27.002. Shared Services Arrangements**

(c) Each regional education service center shall assist a school district board of trustees in entering into an agreement with another district or political subdivision ... for a cooperative shared services arrangement regarding administrative services, including transportation, food service, purchasing, and payroll functions.

(d) The commissioner may require a district to enter into a cooperative shared services arrangement for administrative services if the commissioner determines:

- (1) that the district has failed to satisfy a financial accountability standard as determined by commissioner rule under Subchapter I, Chapter 39; and
- (2) that entering into a cooperative shared services arrangement would:

(... footnote continued from previous page)

- (b) The agency, designated local government, or organization described by Subsection (a)(3) may employ personnel, perform administrative activities, and provide administrative services necessary to perform the interlocal contract.
- (c) All property that is held and used for a public purpose by the administrative agency or designated local government is exempt from or subject to taxation in the same manner as if the property were held and used by the participating political subdivisions.
- (d) An administrative agency created under this section may acquire, apply for, register, secure, hold, protect, and renew under the laws of this state, another state, the United States, or any other nation:
  - (1) [certain patents];
  - (2) a copyright of an original work of authorship fixed in any tangible medium of expression, now known or later developed, from which the work may be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device;
  - (3) a trademark, service mark, collective mark, or certification mark for a word, name, symbol, device, or slogan that the agency uses to identify and distinguish the agency's goods and services from other goods and services; and
  - (4) other evidence of protection of exclusivity issued for intellectual property.

**Texas Government Code § 791.013**

- (A) enable the district to enhance its performance on the financial accountability standard identified under Subdivision (1); and
- (B) promote the efficient operation of the district.

**Tex. Educ. Code §§ 11.003(c)-(e)**

School districts may enter into a written contract to jointly operate their special education programs. The contract must be approved by the commissioner. Funds to which the cooperating districts are entitled may be allocated to the districts jointly as shared services arrangement units or shared services arrangement funds in accordance with the shared services arrangement districts' agreement.

**Tex. Educ. Code § 29.007**

Using criteria established by the State Board of Education, each school district shall adopt a process for identifying and serving gifted and talented students in the district and shall establish a program for those students in each grade level. A district may establish a shared services arrangement program with one or more other districts.

**Tex. Educ. Code § 29.122**

### **§ 27.003. Mutual Aid Agreements**

- (a) The [Texas School Safety Center] shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.
- (b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:
  - (1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;
  - (2) may include sample language for those provisions; and
  - (3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.
- (c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

- (d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide the following information to the center:
- (1) the name of each entity with which the school district has entered into a memorandum of understanding or mutual aid agreement;
  - (2) the effective date of each memorandum or agreement; and
  - (3) a summary of each memorandum or agreement.

**Texas Education Code §§ 37.2121(a)-(d)**

- (a) A local government may provide emergency assistance to another local government, whether or not the local governments have previously agreed or contracted to provide that kind of assistance, if:
- (1) in the opinion of the presiding officer of the governing body of the local government desiring emergency assistance, a state of civil emergency exists in the local government that requires assistance from another local government and the presiding officer requests the assistance; and
  - (2) before the emergency assistance is provided, the governing body of the local government that is to provide the assistance authorizes that local government to provide the assistance by resolution or other official action.

**Texas Government Code § 791.027(a)**