

Texas Unified Procurement Code TxUPC

Texas Municipal League

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Presented By: David K. Setzer, CPSM, C.P.M., CWE

Past President, Texas Public Purchasing Association (TxPPA)



Who is TxPPA

www.txppa.org

MEMBERSHIP

- Counties
- Cities
- Schools
- Colleges
- Universities
- Special Districts
- State Agencies

GOALS and OBJECTIVES

- Establish cooperative relationships among its members
- Promote the highest ethical standards in our profession
- ***Promote uniform public purchasing laws and simplified standards and specifications***
- Provide informed counsel to those who are responsible for the promulgation of public purchasing policies, rules and laws
- Collect and disseminate useful information to its members
- Encourage research & investigation; sponsor activities that promote best practices and efficient procurement



What is the TxUPC effort?

An effort to standardize the purchasing statutes that govern the various government agencies that we represent.

A sample of the 35 various procurement statutes currently utilized:

- *Government Code, Title 10, Subtitle D, State Purchasing and General Services*
- *Education Code, Chapter 44, Subchapter B, Purchases; Contracts*
- *Local Government Code, Chapter 252, Purchasing and Contracting Authority of Municipalities*
- *Local Government Code, Chapter 262, Purchasing and Contracting Authority of Counties*
- *Local Government Code, Chapter 271, Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments*
- *Government Code, Chapter 2254, Professional Services Procurement Act*
- *Government Code, Chapter 2253, Bonding (requirements for certain public works contracts)*
- *Government Code, Chapter 2267, Contracting and Delivery Procedures for Construction (NEW HB 628)*
- *Government Code, Chapter 2269, Contracting and Delivery Procedures for Construction (NEW HB 628)*
- *Financial Management of Grants and Contracts-Texas Workforce Commission*
- *Water Code, Title 4, Chapter 49-Water Districts*



TxUPC Initiative

- Started in February 1996
 - TML, TAC, TASB, TEA, AG Office, Comptroller's Office
- Continued February 2008
 - TxPPA's First Spring Workshop where Legislative goals were established
- Continuing today
 - TxPPA members have established a base document created from the New Mexico UPC to begin editing to meet the needs of governmental entities in Texas



Model Procurement Code for State and Local Governments

- Approved by American Bar Association in 1979
- Model rather than Uniform Procurement Code
- Contains statutory principles, policy guidance, administrative & judicial remedies and ethical standards
- Revised and updated in 2000



Model Procurement Code Structure

- Article 1 – Overview
- Article 2 – Procurement Organization
- Article 3 - Source Selection & Contract Formation
- Article 4 – Specifications
- Article 5 - Construction, A/E & Land Surveying Services
- Article 6 - Modification & Termination of Contracts
- Article 7 - Cost Principles
- Article 8 - Supply Management
- Article 9 - Legal & Contractual Remedies
- Article 10 – Intergovernmental Relations
- Article 11 - Assistance to Small & Disadvantaged Businesses
- Article 12 - Ethics



TxUPC Key Elements

- *Establishes centralized procurement within a **local governmental** entity;*
- *Describes source selection and contract formation;*
- *Contains standards for developing, monitoring and using specifications;*
- *Covers construction, architectural/engineering and land surveying procurement standards;*
- *Provides for contract modifications and termination of contracts;*
- *Discusses cost principles for determining reimbursable costs under a contract;*
- *Contains provisions for supply issues and the disposal of surplus property;*
- *Creates legal and contractual remedies in the case of protest or disputes;*
- ***Encourages intergovernmental relations through cooperative purchasing;***
- ***Offers assistance to small and disadvantaged businesses;***
- *Establishes standards for ethical conduct; and*
- *Fosters a framework for universal certification of public purchasing employees.*



Advantages of a TxUPC

- *Establishes like standards for all governmental agencies thus making it easier for elected officials, contractors, taxpayers, and public procurement officials to use and understand;*
- *Combines language from all the separate chapters into a single purchasing statute*
- *Facilitates cooperative purchasing through intergovernmental relations;*
- *Surveys of businesses indicate that as much as 4% is added to their bids to account for non-standard procurements rules*



Why Now?

We're behind in this effort – with 16 other States preceding us in establishing a Unified Procurement Code

- 1979 Arkansas, Kentucky
- 1980 Louisiana, Utah
- 1981 Maryland, South Carolina
- 1982 Colorado, Indiana
- 1983 Montana, Virginia, Guam
- 1984 New Mexico
- 1985 Arizona
- 1988 Alaska
- 1989 Rhode Island
- 1994 Hawaii
- 1998 Pennsylvania



Texas History (1 of 4)

Purchasing officials from cities, counties, school districts, special districts and representatives from the Texas Municipal League, Texas Association of Counties, Texas Association of School Boards, the Attorney General's Office, State Comptroller's Office and the Texas Education Agency attended a meeting in Austin at TML on February 13, 1996 to discuss consolidation of procurement laws into a single state-wide procurement code.



Texas History (2 of 4)

- TxPPA held its first spring workshop in Austin February 26-28, 2008. Short term legislative goals were established and a long term goal of consolidation of procurement laws was discussed.
- TxPPA held its first fall workshop in Odessa November 5-7 2008. Approximately forty persons attended the session devoted to discussion of consolidation of procurement laws. Copies of the New Mexico Procurement Code (2006) were furnished to all in attendance.



Texas History (3 of 4)

- The TxPPA membership approved a resolution in support of a Unified Procurement Code in November 2010.
- A letter to Governor Perry soliciting support for the concept and asking that he appoint a committee to pursue this goal was sent by President Kay Foster on 1/25/11. A follow up letter was sent by President Mark Vechione to Governor Perry on 10/8/12, with one from President David Setzer to Governor Abbott in 2015.



Texas History (4 of 4)

- Members were asked to select a basis for a Texas code from the procurement codes from Arizona, Arkansas, Colorado and New Mexico at the Spring 2011 Conference in Austin. Links to each of these state model procurement codes were placed on the TxPPA website along with a brief description of the initiative and advantages of a unified procurement code for Texas.
- The membership voted to use the New Mexico code as the base document
- By the Spring 2013 TxPPA conference, the membership had reviewed all 199 sections of the New Mexico UPC.



Path forward

- Educate elected officials and local entities about the initiative ★
- Have local governmental entities pass a resolution supporting the creation of a uniform procurement code
- Establish entity specific teams to add in the elements that currently exist in various sections of LGC and GC ★
- Teams will meet, discuss and insert language that mirrors existing statutes
- Teams will supply edited version to UPC chairs
- UPC Chairs will merge individual team documents into draft document
- Draft document will be circulated among TxPPA members and further input received by UPC Chairs
- Final version will be presented to TxPPA Board for adoption as the recommendation to the legislature



UPC Chairs

- County Government - open
- City Government - Mario Garcia, City of Del Rio
- Education K-12, Higher Ed - Phillip Ellison, Spring ISD
- Special Districts - Kay Foster, DFW Airport
- Other Stakeholders - TWC, Comptroller, other State Agencies with statutory purchasing laws - David Setzer, NCTCOG



What does this effort need now?

- Identify leadership and/or advocates that will:
 - Provide critical input in the development of a Unified Code for Texas;
 - Attend conference calls and meetings with other advocates;
 - Win support from management and elected officials;
 - Endorse and promote a Texas Unified Procurement Code
 - Have your City adopt a resolution supporting this effort



Goal

To have a document that can be used as basis for submission of a bill for a future legislative session.



For more information or to join this
effort

David K. Setzer

Director of Workforce Development

NCTCOG

Email: dsetzer@dfwjobs.com

817-695-9144

www.txppa.org



Questions?

