

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose amendments to §9.21 relating to Purchase of Service to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed amendments, attached to this minute order as Exhibits A and B, are incorporated by reference as though set forth verbatim in this minute order, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the commission that the amendments to §9.21 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

Scott O. Binford  
Director, General Services Division

Recommended by:

Amelia Soy  
Executive Director

**112752 JUL 28 11**

Minute  
Number

Date  
Passed

1 Proposed Preamble

2 The Texas Department of Transportation (department) proposes  
3 amendments to §9.21, concerning Purchase of Service.

4

5 EXPLANATION OF PROPOSED AMENDMENTS

6 House Bill 3730, 82nd Legislature, Regular Session, 2011,  
7 amended Transportation Code, §223.042 by allowing the department  
8 to award a contract as a purchase of service under Subtitle D,  
9 Title 10, Government Code, if the department estimates that the  
10 contract will involve an amount for which formal bids for the  
11 purchase of services are not required and determines that the  
12 competitive bidding procedure is not practical.

13

14 Amendments to §9.21 change the dollar limit for informal  
15 purchases for maintenance contracts awarded as a purchase of  
16 service from amounts estimated as less than \$15,000 to the  
17 amount of the Comptroller of Public Account's delegated purchase  
18 limits for informal bidding (currently \$25,000). These changes  
19 allow the department to provide a more expedient means to  
20 acquire services for highway and building maintenance.

21

22 FISCAL NOTE

23 James Bass, Chief Financial Officer, has determined that for  
24 each of the first five years the amendments as proposed are in  
25 effect, there will be no fiscal implications for state or local

1 governments as a result of enforcing or administering the  
2 amendments.

3  
4 Scott Burford, Director, General Services Division, has  
5 certified that there will be no significant impact on local  
6 economies or overall employment as a result of enforcing or  
7 administering the amendments.

8

9 PUBLIC BENEFIT AND COST

10 Mr. Burford has also determined that for each year of the first  
11 five years in which the sections are in effect, the public  
12 benefit anticipated as a result of enforcing or administering  
13 the amendments will be a savings in processing time to the  
14 department, resulting in greater efficiencies in service to the  
15 public. There are no anticipated economic costs for persons  
16 required to comply with the sections as proposed. There will be  
17 no adverse economic effect on small businesses.

18

19 SUBMITTAL OF COMMENTS

20 Written comments on the proposed amendments to §9.21 may be  
21 submitted to Scott Burford, Director, General Services Division,  
22 Texas Department of Transportation, 125 East 11th Street,  
23 Austin, Texas 78701-2483. The deadline for receipt of comments  
24 is 5:00 p.m. on September 12, 2011.

25

1 STATUTORY AUTHORITY

2 The amendments are proposed under Transportation Code, §201.101,  
3 which provides the Texas Transportation Commission with the  
4 authority to establish rules for the conduct of the work of the  
5 department, and more specifically, Transportation Code,  
6 §223.042, which requires the department to adopt rules regarding  
7 the privatization of maintenance contracts.

8

9 CROSS REFERENCE TO STATUTE

10 Transportation Code, §223.042.

1 SUBCHAPTER B. HIGHWAY IMPROVEMENT CONTRACTS

2 §9.21. Purchase of Service. The department may award a  
3 maintenance contract under this section [~~estimated at less than~~  
4 ~~\$15,000~~] as a purchase of service under the State Purchasing and  
5 General Services Act, Government Code, Title 10, Subtitle D, if  
6 the department [~~instead of using the letting procedures~~  
7 ~~described in this subchapter when the department determines~~  
8 ~~that~~]:

9 (1) estimates the contract will involve an amount for  
10 which formal bids for the purchase of service are not required  
11 under rules adopted by the Texas Comptroller of Public Accounts  
12 under Government Code, Chapter 2155, Subchapter C [~~the project~~  
13 ~~does not require detailed specifications~~];and

14 (2) determines that it would be impractical to use the  
15 letting procedures described in this subchapter. [~~there is a~~  
16 ~~need to expedite the project; or~~]

17 [~~(3) it would be otherwise impractical to use the letting~~  
18 ~~procedures.~~]