

**Emergency Management Legal Q&A Prepared by TML Staff Questions? Contact Evelyn Njuguna, Assistant General Counsel, at [evelyn@tml.org](mailto:evelyn@tml.org) Updated March 13, 2020**

**Q. What is the process for procuring goods or services during or after a disaster?**

A. Generally, a city must competitively procure goods or services that require an expenditure of more than \$50,000. Tex. Local Gov't Code §252.021(a). However, state law allows a city to procure goods or services without following a competitive procurement process if: (1) the procurement is made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the city's residents or to preserve the property of the city; (2) the procurement is necessary to preserve or protect the public health or safety or the city's residents; or (3) the procurement is necessary because of unforeseen damage to public machinery, equipment or other property. Id. §252.022(a)(1)-(3). 14 Although Section 252.022 of the Local Government Code relieves the city from complying with the regular competitive procurement process, it does not exempt the city from complying with the requirements related to performance and payment bonds. Performance bonds are required for construction projects that exceed \$100,000, and payment bonds are required for construction projects that exceed \$50,000. Tex. Gov't Code §2253.021.

**Q. Are purchases made in response to a disaster eligible for reimbursement?**

A. To be eligible for reimbursement, purchases made by a city must comply with federal procurement laws. Although a city may procure goods and services without competitive bidding as an emergency under state law, such exception does not necessarily result in compliance with federal procurement rules. Federal law may be more stringent than state law with respect to procurement and emergency exceptions. The Federal Emergency Management Agency's (FEMA) Procurement Disaster Assistance Team (PDAT) provides assistance with adhering to federal procurement standards and FEMA policies and guidance associated with FEMA's Public Assistance grants. If a city plans on filing a reimbursement claim with FEMA, the city should work with FEMA and its city attorney to competitively procure goods and services in accordance with federal regulations to reduce the likelihood of disallowance of such claim.