



**CITY OF FORT WORTH
CHAPTER 252 EXEMPTION FORM**

Instructions: Fill out the entire form with detailed information. Once you have completed this form, provide it to the Purchasing attorney for review. The attorney will review the information you have provided to determine whether an exemption to Chapter 252's bidding requirements is defensible. If you are printing this form to provide to Legal, please do not provide the Primer portion. Failure to provide sufficient information may result in follow up questions and cause a delay in the attorney's determination.

Section 1: General Information

Requesting Department: Police

Name of Contract Manager: Sgt. Vincent Brown

Department's Attorney: Taylor Paris

Item or Service sought:

 Goods:

 Service:

 Anticipated Amount: \$70,000,000

Vendor: Axon Enterprise

Current/Prior Agreement for item/service: Yes No

 CSC or Purchase Order #: CSCO#45452 (A1, R2, R3), #48941 (A1), #51314, #55053

 Amount: see below

 Projected M&C Date: M&C C-27567 - \$869,857.00, M&C 19-0230 - \$1,600,000.00, M&C C-28163 - \$15,649,012, M&C P-12254 - \$2,000,000.00

How will this item or service be used? Contract for purchase of Taser 7 CEW's, body worn cameras, in car dash cameras, cloud based evidence management system, drones, interview room recording systems, use of force reporting and tracking, virtual reality training systems, and report management system.

Has your department started a requisition or otherwise contacted the Purchasing Division related to obtaining this good/service? Yes No

If yes, please provide requisition number or brief explanation of contact with Purchasing Division: FWPD has had several meeting with City Purchasing (Cynthia Garcia) to discuss the current status of the several Axon Contracts.

Section 2: Claimed Exemption and Justification (Other than sole source)

NOTE - For a claimed sole-source exemption, complete Section 3.

Please indicate the non-sole-source exemption you believe applies to the purchase and provide information to support its applicability. Please refer to the Exemption Primer for detailed information about common exemptions:

- A procurement necessary to preserve or protect the public health or safety of the City of Fort Worth's residents;
- A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- A procurement for personal, professional, or planning services;
- A procurement for work that is performed and paid for by the day as the work progresses;
- A purchase of land or a right-of-way;
- Paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
- A public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- A payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212;
- Personal property sold:
 - at an auction by a state licensed auctioneer;
 - at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
 - by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or

- under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;

Services performed by blind or severely disabled persons;

Goods purchased by a municipality for subsequent retail sale by the municipality;

Electricity; or

Advertising, other than legal notices.

Please provide details and facts to explain why you believe the exemption applies to the purchase. You may also attach documentation to this form. The Fort Worth Police Department currently issues Axon Taser 7 Conducted Energy Weapons (CEW's) to officers. These less lethal weapons, provide a needed tool, when officers are attempting to detain or arrest a combative individual. This helps the officer to de-escalate the situation, and use the least amount of force needed, to lawfully detain or arrest the person. The Taser 7 is a proprietary device, which is only produced by Axon. We also issue Body Worn Cameras (BWC), and install in-car cameras in police vehicles, manufactured by Axon. All of these devices are integrated through an encrypted, low energy, Bluetooth signal. Since only Axon is able to provide Taser 7 CEW's, other BWC and in-car camera providers, are unable to integrate with the Axon Taser 7 CEW's. Axon will also provide Virtual Reality (VR) training equipment and software, which will allow more scenario based training for officers. The VR equipment allows officers to receive different types of training, to include Use of Force. The VR system incorporates training in the deployment of all Use of Force options, including the Taser 7. The VR system integrates with the Taser 7, and other Use of Force options, to provide officers with decision making, muscle memory drills, and exposure to stressful situations. The available scenarios will be increased, using input from our agency, to address training gaps identified during Use of Force reviews. This is the only known VR training system to incorporate Taser 7 CEW's, and will allow officers to receive a significant increase in Taser training.

Having the integrated system provides automatic activation of all devices when one is activated, which could be several officers or vehicles that are on-scene. This reduces the number of tasks the officer is focusing on, and allows the officer to address the immediate cause of concern, which increases total public safety. Because this is an integrated system, all of the collected data is uploaded into a software platform, which is then linked together. Axon has developed a report management system (RMS), which will directly import the needed information, to complete the report writing process in less time. This will allow the officer to be available for additional calls for service from citizens. Interview rooms will also use Axon cameras, which will record, and upload into the software platform. These files will be linked to the existing data from the associated reports/incidents. Having all files linked together in a single software platform, dramatically increases efficiency, for criminal and administrative cases. This will help prevent the non-disclosure of information, and assist in the prosecution of offenders.

The Axon Fleet 3 system is an in-car camera, which has an added feature of Automated License Plate Recognition (ALPR). This allows an in-car camera the ability to read a vehicle's license plate, and determine if the vehicle is wanted in connection with a crime. Axon ALPR uses the Flock Safety operating system which is currently being used by the Fort Worth Police

department, and has shown very positive results. This technology is part of the integrated system, and brings real time alerts, that has a direct impact on the safety of all citizens.

The integrated system activates, records, and saves data, directly to the secured management system. Officers cannot access or modify any recorded data, and data that is downloaded is tracked with unique serial number, which identifies the user. This provides accountability for officers, and allows for audits, investigations, and assists in identifying unacceptable conduct. Axon Standards is also included in the integrated RMS system. This program will automatically detect Use of Force events that have been established. Axon Standards will then create an incident and will link all associated files, to include videos, reports, and Taser activity, from all devices present during the event. This will ensure that the assigned investigator, and reviewing officials, have all available information to make a determination on the event. It will also assist in preventing events that might go un-reported. This transparency increases public trust and confidence in officers, which leads to better relationships, and dramatically increases public safety.

The Axon integrated system of CEW's, BWC's, in-car cameras, RMS, and the software management platform, provides the officers of the Fort Worth Police Department the tools needed to serve and protect the citizens of the City of Fort Worth. Citizens that may, or have in the past, been confrontational, have become compliant when officers have been equipped with Axon devices, which reduces the need for Use of Force incidents, builds solid relationships, and preserves and protects the public health and safety of all residents.

Section 3: Claimed Sole-Source Exemption and Justification

NOTE - For any non-sole-source exemption, complete Section 2.

Please indicate the sole-source exemption you believe applies to the purchase and provide information to support its applicability. Please refer to the Exemption Primer for detailed information about common exemptions

- *A procurement of items that are available from only one source, including:
- items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
 - films, manuscripts, or books;
 - gas, water, and other utility services;
 - captive replacement parts or components for equipment;
 - books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and
 - management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits;

How did you determine that the item or service is only available from one source?
[EXPLAIN HOW YOU DETERMINED EXCEPTION APPLIES (RESEARCH, COMMUNICATIONS, DOCUMENTATION)]

Attach screenshots and provide an explanation of any independent research you conducted, through internet searches, searching cooperatives, or discussions with others knowledgeable on the subject matter that corroborate that the item is available only from a single source.
[SHOW YOUR RESEARCH/WORK THAT LEAD TO YOUR CONCLUSION]

Did you attach a sole source justification letter? Yes No

Describe the uniqueness of the item or service (e.g. compatibility or patent issues, etc.).
[DESCRIBE THE UNIQUENESS OF THE ITEM/SERVICE THAT QUALIFIES IT AS A SOLE SOURCE]

Section 4: Attorney Determination

With the facts provided by the department, is the use of the claimed exemption defensible if the City were to be challenged on this purchase? Yes No.

Was there anything attached to this form that was relied on in making this determination? Yes No.

If yes, please explain:[DESCRIBE ATTACHMENTS CONSIDERED]

Was there anything not included on this form or attached hereto that was relied on in making this determination? Yes No.

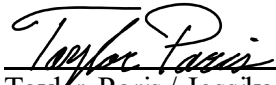
If yes, please explain:[EXPLAIN OUTSIDE SOURCE OF INFORMATION]

Will the standard terms and conditions apply? Yes No.

Will the contract require special terms? Yes No.

Will the contract require review by the department attorney? Yes No.

Approved By:


Taylor Paris / Jessika Williams
Assistant City Attorney

Date: 1.12.21

EXEMPTION FORM PRIMER

Below are explanations and examples of common exemptions that could apply to City purchases. If you have questions about the information provided or need additional information, please contact your department's assigned attorney or the appropriate purchasing attorney.

1. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;

Examples of activities that have been found to fall within this exception include ambulance services; solid waste collection and disposal; and first-responder safety equipment such as breathing apparatus for firefighters and bullet-proof vests for police officers.

2. A procurement necessary because of unforeseen damage to public machinery, equipment, or other property;

Examples of this type of procurement would include repairing or replacing roofs and windows damaged by hail or a tornado. But parts and services for routine maintenance or replacement of old, worn out roofs or windows would not meet this exception.

3. A procurement for personal, professional, or planning services;

Personal services are ones that are unique to the individual providing them. Therefore personal services contract cannot generally be subcontracted or assigned.

Professional services are not defined under Chapter 252, so there is no precise definition to follow. There is no universal definition of this term, however, "several cases suggest that it... is 'predominately mental or intellectual, rather than physical or manual.'" Tex. Atty Gen Op. JM-940 (1988) (*quoting Maryland Casualty Co. v. Cray Water Co.*, 160 S.W. 2d 102 (Tex. Civ. App.—Eastland 1942, no writ). The Texas Attorney General has also opined that "professional services" no longer includes only the services of lawyers, physicians, or theologians, but also those members of disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence. *Id.*

Facts needed to support a professional service exemption include the specialized requirements of that profession and the mental and intellectual skill required by the person while performing the service. Purchases of goods are not professional services.

4. A procurement of items that are available from only one source.

This exemption is commonly referred to as the sole source exemption. In determining whether a purchase is of a good or service that is available from one source, you should not consider price or time to receive the good or service. A sole source does not exist solely on the basis of personal or departmental preference or a desire to keep all units the same brand or make. The information needed to support this exemption is that no other provider

can provide the service or category of good except for the vendor you are proposing. Some examples of sole source purchases include service agreements when only one vendor is authorized to work on the equipment by the manufacturer and allowing another vendor would void the warranty; purchase of a good that is copyrighted or trademarked and only provided by one vendor.