



# **Purchase of Facilities by a District**

## **Background**

Under Title 30, Texas Administrative Code (TAC), Section 293.69, the executive director (ED) of the Texas Commission on Environmental Quality (TCEQ) must provide written approval before a district may purchase facilities from, or reimburse funds to, a developer; an investor-owned utility; or a water supply corporation. This approval is subject to an inspection and a report of the condition of the facilities from the district's engineer. The ED may also inspect the facilities. Before mid-2007, all purchase-of-facility requests were processed by the TCEQ's Districts Review Team. Following a policy change, specific authorization in a bond-issue order or other approval may allow a district to purchase facilities upon receipt of a pre-purchase inspection report from the TCEQ field office stating that no deficiencies were noted.

This document discusses when a TCEQ pre-purchase inspection is required, and the type of documentation that is required before a district purchases a facility from, or reimburses, a developer; an investor-owned utility; or a water supply corporation.

## **Guidance**

1. If the bond order or other approval authorizes the purchase of facilities contingent upon district receipt of a TCEQ field office pre-purchase inspection report stating that no deficiencies are noted, the district's board of directors may purchase the facilities with no additional approvals upon meeting the condition, even if the letter from the associated field office states that a letter from TCEQ headquarters is required. If deficiencies are noted at the time of inspection, a copy of the inspection report must be submitted to the ED along with a request for the authorization to purchase. The related field office pre-purchase inspection must be conducted after the bond order or other approval. The approval is valid for 120 days from the date of (a) the order approving the bonds or (b) the letter approving the application request.

2. The provision to purchase facilities upon receipt of a pre-purchase inspection report stating that no deficiencies are noted does not apply to the use of proceeds from a bond anticipation note.
3. If the facilities to be purchased are located within the corporate limits or extraterritorial jurisdiction of a municipality, and are transferred to the municipality, then a TCEQ pre-purchase inspection will not be required, as long as (a) the municipality has indicated by letter that it waives any requirement for an inspection as specified in 30 TAC 293.69(h) and (b) this letter has been included with a bond-issue application or other application seeking funding approval.
4. Subject to a district's contractual obligations, if facilities have been conveyed to and are maintained by a district upon completion of construction, and if the TCEQ field office has provided a final inspection report stating that deficiencies were noted, then the ED may withhold approval of the purchase until the deficiencies are corrected.