

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE D. STATE PURCHASING AND GENERAL SERVICES

CHAPTER 2156. PURCHASING METHODS

SUBCHAPTER A. CONTRACT PURCHASE PROCEDURE

Sec. 2156.001. CONTRACT PURCHASE PROCEDURE
AUTHORIZED. The comptroller may use the contract purchase
procedure to purchase goods and services.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 60,
eff. September 1, 2019.

Sec. 2156.0011. COMPTROLLER POWERS AND DUTIES. The
comptroller has under this chapter the powers and duties described
by Section 2151.004(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.18,
eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 60,
eff. September 1, 2019.

Sec. 2156.0012. AUTHORITY TO ADOPT RULES. The comptroller
may adopt rules to efficiently and effectively administer this
chapter. Before adopting a rule under this section, the
comptroller must conduct a public hearing regarding the proposed
rule regardless of whether the requirements of Section 2001.029(b)
are met.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.18,
eff. September 1, 2007.

Sec. 2156.002. SOLICITATION OF BIDS THROUGH PUBLIC NOTICE.
(a) A notice inviting bids shall be published at least once in at
least one newspaper of general circulation in the state not later
than the seventh day before the last day set for the receipt of

bids.

(b) The notice must:

(1) include a general description of the items to be purchased;

(2) state the location at which bid forms and specifications may be obtained; and

(3) state the time and place for opening bids.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Sec. 2156.003. SOLICITATION OF BIDS THROUGH BIDDERS LIST; BID INVITATIONS. (a) The comptroller shall electronically maintain a bidders list. If the comptroller determines that it is in the state's best interest, the comptroller may also maintain the list on paper. The comptroller may add or delete names from the list according to applicable standards provided by Section [2156.007](#).

(b) An invitation to bid on an item to be purchased may be sent electronically to a vendor on the bidders list who has expressed a desire to bid on that type of item.

(c) The comptroller may use the bidders list in making a purchase by any purchase method.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2001, 77th Leg., ch. 1422, Sec. 7.03, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. [1705](#)), Sec. 3.03, eff. September 1, 2009.

Sec. 2156.004. BID DEPOSIT. (a) The comptroller, as considered necessary, may require a bid deposit in an amount determined by the comptroller. The amount of the deposit, if any, must be stated in the public notice and the invitation to bid.

(b) On the award of a bid or the rejection of all bids, the comptroller shall refund the bid deposit of an unsuccessful bidder.

(c) The comptroller may accept from a bidder a bid deposit in the form of a blanket bond.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2003, 78th Leg., ch. 785, Sec. 35, eff. Sept. 1, 2003.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 60, eff. September 1, 2019.

Sec. 2156.005. BID SUBMISSION AND OPENING; PUBLIC INSPECTION. (a) A bidder must submit a sealed bid to the comptroller or to the state agency making a purchase. The bid must be identified on the envelope as a bid.

(b) Subsection (a) does not apply to bids submitted through the use of facsimile transmission or on-line electronic transmission. The comptroller may adopt rules to ensure the identification, security, and confidentiality of bids submitted through the use of facsimile transmission or on-line electronic transmission.

(c) The comptroller or other state agency making a purchase shall open bids at the time and place stated in the invitation to bid.

(d) The comptroller shall keep a tabulation of all bids received by the comptroller available for public inspection under rules adopted by the comptroller. State agencies making purchases shall adopt the comptroller's rules related to bid opening and tabulation.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 494, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1206, Sec. 13, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. [1705](#)), Sec. 3.04, eff. September 1, 2009.

Sec. 2156.006. SUBMISSION OF ADDITIONAL MATERIAL WITH BID. (a) A bidder as an essential element of the materiality of the bid must comply with the specified time limit for the submission of written information, samples, or models at or before the time for bid opening.

(b) The comptroller may waive this requirement if the

failure to comply is beyond the bidder's control.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 61, eff. September 1, 2019.

Sec. 2156.007. CONTRACT AWARD. (a) The comptroller or other state agency making a purchase shall award a contract to the bidder offering the best value for the state while conforming to the specifications required.

(b) In determining the bidder offering the best value, the comptroller or other state agency may consider the safety record of the bidder, the entity represented by the bidder, and any person acting for the represented entity only if:

(1) the comptroller or other state agency has adopted a written definition and criteria for accurately determining the safety record of a bidder; and

(2) the comptroller or state agency provided notice in the bid specifications to prospective bidders that a bidder's safety record may be considered in determining the bidder offering the best value for the state.

(c) A determination of a bidder's safety record may not be arbitrary and capricious.

(d) In determining the bidder offering the best value, in addition to price the comptroller or other state agency shall consider:

(1) the quality and availability of the goods or contractual services and their adaptability to the use required;

(2) the scope of conditions attached to the bid;

(3) the bidder's ability, capacity, and skill to perform the contract or provide the service required;

(4) the bidder's ability to perform the contract or provide the service promptly, or in the time required, without delay or interference;

(5) the bidder's character, responsibility, integrity, and experience or demonstrated capability;

(6) the quality of performance of previous contracts

or services;

(7) the bidder's previous and existing compliance with laws relating to the contract or service;

(8) the bidder's previous or existing noncompliance with specification requirements relating to the time of submission of specified information, including samples, models, drawings, or certificates;

(9) the sufficiency of the bidder's financial resources and ability to perform the contract or provide the service; and

(10) the bidder's ability to provide future maintenance, repair parts, and service for the use of the contract's subject.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 62, eff. September 1, 2019.

Sec. 2156.008. REJECTION OF BIDS. (a) The comptroller or other state agency making the purchase shall reject a bid in which there is a material failure to comply with specification requirements.

(b) The comptroller or other state agency may reject all bids or parts of bids if the rejection serves the state's interest.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 63, eff. September 1, 2019.

Sec. 2156.009. REASONS FOR AWARD. On award of a contract, the division of the comptroller responsible for purchasing or the state agency making the purchase shall prepare and file with other records relating to the transaction a statement of the reasons for

making the award to the successful bidder and the factors considered in determining which bidder offered the best value for the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 63, eff. September 1, 2019.

Sec. 2156.010. TIE BIDS. In the case of tie bids, the value and cost to the state being equal, a contract shall be awarded under comptroller rules.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 14, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 63, eff. September 1, 2019.

Sec. 2156.011. PERFORMANCE BOND. (a) The comptroller may require a performance bond before executing a contract.

(b) The comptroller may require the bond in an amount that the comptroller finds reasonable and necessary to protect the state's interests.

(c) Any bond required shall be issued on the condition that the bidder faithfully execute the terms of the contract.

(d) Any bond required shall be filed with the comptroller.

(e) Recoveries under the bond may continue until the bond is exhausted.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 64, eff. September 1, 2019.

SUBCHAPTER B. OPEN MARKET PURCHASE PROCEDURE

Sec. 2156.061. USE OF OPEN MARKET PURCHASE PROCEDURE. On a comptroller determination that a purchase of goods or services may be made most effectively in the open market, the comptroller may use the open market purchase procedure and the purchase may be made without newspaper advertising.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 65, eff. September 1, 2019.

Sec. 2156.062. MINIMUM NUMBER AND EVALUATION OF BIDS. An open market purchase shall, to the extent possible, be:

- (1) based on at least three competitive bids; and
- (2) awarded to the bidder offering the best value for the state in accordance with standards set forth in Chapters [2155](#), [2156](#), [2157](#), and [2158](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 15, eff. Sept. 1, 1997.

Sec. 2156.063. SOLICITATION OF BIDS. The comptroller and each state agency making a purchase shall solicit bids under this subchapter by:

- (1) direct mail;
- (2) telephone;
- (3) telegraph;
- (4) facsimile transmission; or
- (5) on-line electronic transmission.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 494, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1206, Sec. 15, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 393 (H.B. [1705](#)), Sec. 3.05, eff. September 1, 2009.

Sec. 2156.064. RECORDING AND INSPECTION OF BIDS. (a) The comptroller shall keep a record of all open market orders and bids

submitted on the orders.

(b) A tabulation of the bids shall be open for public inspection, under rules established by the comptroller.

(c) A tabulation of the bids shall always be open for inspection by the state auditor or the auditor's representative.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 66, eff. September 1, 2019.

Sec. 2156.065. AGENCY REVIEW OF BIDS. (a) On the request of a state agency to review the bids on a purchase administered by the comptroller, the comptroller shall send or make available to the requesting agency copies of each bid received and the comptroller's recommended award.

(b) If, after review of the bids and evaluation of the quality of goods or services offered in the bids, the state agency determines that the bid selected by the comptroller does not offer the best value for the state, the agency may file with the comptroller a written recommendation that the award be made to the bidder who, according to the agency's determination, offers the best value for the state. The agency recommendation must include a justification of the agency's determination.

(c) The comptroller shall consider, but is not bound by, the agency recommendation in making the award.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67, eff. September 1, 2019.

Sec. 2156.066. STATEMENT OF REASONS FOR AWARD. The division of the comptroller responsible for purchasing or the state agency making a purchase shall prepare and file with other records relating to a transaction under this subchapter a statement of the reasons for placing an order with a successful bidder for the

transaction and the factors considered in determining the bid offering the best value for the state.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 16, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67, eff. September 1, 2019.

SUBCHAPTER C. COMPETITIVE SEALED PROPOSALS FOR ACQUISITION OF GOODS AND SERVICES

Sec. 2156.121. USE OF COMPETITIVE SEALED PROPOSALS.

(a) The comptroller or other state agency may follow a procedure using competitive sealed proposals to acquire goods or services if the comptroller determines that competitive sealed bidding and informal competitive bidding for the purchase or type of purchase are not practical or are disadvantageous to the state.

(b) A state agency shall send its proposal specifications and criteria to the comptroller for approval or request the comptroller to develop the proposal specifications and criteria.

(c) The comptroller shall determine whether to delegate sole oversight of the acquisition to a state agency or to retain oversight of the procurement.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 426, Sec. 8, eff. June 18, 1999.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67, eff. September 1, 2019.

Sec. 2156.122. SOLICITATION OF PROPOSALS. The comptroller or other state agency shall:

(1) solicit proposals under this subchapter by a request for proposals; and

(2) give public notice of a request for proposals in the manner provided for requests for bids under Subchapter B.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Sec. 2156.124 and amended by Acts 1997, 75th Leg.,
ch. 1206, Sec. 17, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67,
eff. September 1, 2019.

Sec. 2156.123. OPENING AND FILING OF PROPOSALS; PUBLIC
INSPECTION. (a) The comptroller or other state agency shall avoid
disclosing the contents of each proposal on opening the proposal
and during negotiations with competing offerors.

(b) The comptroller or other state agency shall file each
proposal in a register of proposals, which, after a contract is
awarded, is open for public inspection unless the register contains
information that is excepted from required disclosure under
Subchapter [C](#), Chapter [552](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.
Renumbered from Sec. 2156.126 and amended by Acts 1997, 75th Leg.,
ch. 1206, Sec. 17, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67,
eff. September 1, 2019.

Sec. 2156.124. DISCUSSION AND REVISION OF PROPOSALS.
(a) As provided in a request for proposals and under rules adopted
by the comptroller, the comptroller or other state agency may
discuss acceptable or potentially acceptable proposals with
offerors to assess an offeror's ability to meet the solicitation
requirements. When the comptroller is managing the request for
proposals process, it shall invite a requisitioning agency to
participate in discussions conducted under this section.

(b) After receiving a proposal but before making an award,
the comptroller or other state agency may permit the offeror to
revise the proposal to obtain the best final offer.

(c) The comptroller or other state agency may not disclose
information derived from proposals submitted from competing
offerors in conducting discussions under this section.

(d) The comptroller or other state agency shall provide each offeror an equal opportunity to discuss and revise proposals.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 2156.127 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67, eff. September 1, 2019.

Sec. 2156.125. CONTRACT AWARD. (a) The comptroller or other state agency shall make a written award of a contract to the offeror whose proposal offers the best value for the state, considering price, past vendor performance, vendor experience or demonstrated capability, and the evaluation factors in the request for proposals.

(b) The comptroller or other state agency shall refuse all offers if none of the offers submitted is acceptable.

(c) The comptroller or other state agency shall determine which proposal offers the best value for the state in accordance with Sections [2155.074](#) and [2155.075](#).

(d) The comptroller or other state agency shall state in writing in the contract file the reasons for making an award.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 2156.128 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67, eff. September 1, 2019.

Sec. 2156.126. ADOPTION OF RULES; STATE AGENCY ASSISTANCE. The comptroller may adopt rules and request assistance from other state agencies to perform its responsibilities under this subchapter.

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 2156.129 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 67, eff. September 1, 2019.

Sec. 2156.127. COMPETITIVE SEALED PROPOSALS FOR TELECOMMUNICATIONS AND AUTOMATED INFORMATION SYSTEMS NOT AFFECTED.

This subchapter does not affect Subchapter [C](#), Chapter [2157](#).

Added by Acts 1995, 74th Leg., ch. 41, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 2156.130 and amended by Acts 1997, 75th Leg., ch. 1206, Sec. 17, eff. Sept. 1, 1997.

SUBCHAPTER D. INTERSTATE COMPACTS PROCEDURE

Sec. 2156.181. INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS FOR PROCUREMENTS. (a) The comptroller may enter into one or more compacts, interagency agreements, or cooperative purchasing agreements directly with one or more state governments, agencies of other states, or other governmental entities or may participate in, sponsor, or administer a cooperative purchasing agreement through an entity that facilitates those agreements for the purchase of goods or services if the comptroller determines that the agreement would be in the best interest of the state.

(a-1) A compact or agreement described by this section may not be used to purchase services that are defined as part of the practice of engineering under Section [1001.003](#), Occupations Code, or architecture under Section [1051.001](#), Occupations Code.

(b) The comptroller may adopt rules to implement this section.

Added by Acts 1999, 76th Leg., ch. 426, Sec. 9, eff. June 18, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. [20](#)), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 582 (H.B. [3342](#)), Sec. 1, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. [1524](#)), Sec. 68, eff. September 1, 2019.