

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2262. STATEWIDE CONTRACT MANAGEMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2262.001. DEFINITIONS. In this chapter:

(1) "Team" means the Contract Advisory Team created under Subchapter C.

(1-a) "Commission" means the Texas Building and Procurement Commission.

(2) "Contract management guide" means the guide developed under Section [2262.051](#).

(3) "Contract manager" means a person who:
(A) is employed by a state agency; and
(B) has significant contract management duties for the state agency, as determined by the agency in consultation with the state auditor.

(4) "Major contract" means a contract that has a value of at least \$1 million.

(5) "State agency" has the meaning provided by Section [2056.001](#).

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.19, eff. June 18, 2003.

Sec. 2262.0011. TRANSFER OF DUTIES; REFERENCE. (a) The powers and duties of the commission under this chapter are transferred to the comptroller.

(b) In this chapter, a reference to the commission means the comptroller.

Added by Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. [3560](#)), Sec. 1.77, eff. September 1, 2007.

Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS.
(a) The comptroller by rule shall establish threshold

requirements that exclude small or routine contracts, including purchase orders, from the application of this chapter.

(b) This chapter does not apply to an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on November 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 1, eff. November 1, 2013.

Sec. 2262.002. EXEMPTIONS. (a) This chapter does not apply to an institution of higher education as defined by Section 61.003, Education Code.

(b) This chapter does not apply to contracts of the Texas Department of Transportation that:

(1) relate to highway construction or highway engineering; or

(2) are subject to Section 201.112, Transportation Code.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.93, eff. June 14, 2005.

Sec. 2262.004. REQUIRED NEPOTISM DISCLOSURE. (a) In this section:

(1) "Major stockholder" means a person who directly or indirectly owns or controls more than a 10 percent interest or a pecuniary interest with a value exceeding \$25,000 in a business entity.

(2) "Purchasing personnel" means an employee of a state agency who makes decisions on behalf of the state agency or recommendations regarding:

(A) contract terms or conditions on a major contract;

(B) who is to be awarded a major contract;

(C) preparation of a solicitation for a major contract; or

(D) evaluation of a bid or proposal.

(b) Before a state agency may award a major contract for the purchase of goods or services to a business entity, each of the state agency's purchasing personnel working on the contract must disclose in writing to the administrative head of the state agency any relationship the purchasing personnel is aware about that the employee has with an employee, a partner, a major stockholder, a paid consultant with a contract with the business entity the value of which exceeds \$25,000, or other owner of the business entity that is within a degree described by Section 573.002.

(c) The state auditor shall develop a form for use in reporting a relationship under Subsection (b).

(d) Notwithstanding Section 2262.001 or 2262.002, this section applies to:

(1) an institution of higher education as defined by Section 61.003, Education Code; and

(2) contracts of the Texas Department of Transportation that relate to highway construction or highway engineering.

Added by Acts 2005, 79th Leg., Ch. 649 (H.B. 2932), Sec. 1, eff. September 1, 2005.

Sec. 2262.005. CONSULTATION WITH STATE AGENCIES. The comptroller shall consult with state agencies in developing forms, contract terms, and criteria required under this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 1, eff. November 1, 2013.

SUBCHAPTER B. CONTRACT MANAGEMENT

Sec. 2262.051. CONTRACT MANAGEMENT GUIDE; RULES.

(a) In consultation with the attorney general, the Department of Information Resources, the comptroller, and the state auditor, the commission shall develop or periodically update a contract management guide for use by state agencies. Participation by the state auditor under this subsection is subject to approval by the legislative audit

committee for inclusion in the audit plan under Section [321.013\(c\)](#).

(b) The commission may adopt rules necessary to develop or update the guide.

(c) The guide must provide information regarding the primary duties of a contract manager, including how to:

- (1) develop and negotiate a contract;
- (2) select a contractor; and
- (3) monitor contractor and subcontractor performance under a contract.

(d) The guide must include model provisions for state agency contracts. The guide must:

(1) distinguish between essential provisions that a state agency must include in a contract to protect the interests of this state and recommended provisions that a state agency may include in a contract;

(2) recognize the unique contracting needs of an individual state agency or program and provide sufficient flexibility to accommodate those needs, consistent with protecting the interests of this state;

(3) include maximum contract periods under which a new competitive solicitation is not necessary; and

(4) include the model contract management process developed under Section [2262.104](#) and recommendations on the appropriate use of the model.

(e) The guide must recommend time frames under which a state agency may issue a competitive solicitation for a major contract in relation to the date on which the contract is to be executed.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1227, Sec. 9, eff. November 1, 2013.

(g) The guide must establish procedures under which a state agency is required to solicit explanations from qualified potential respondents who did not respond to a competitive solicitation for a contract on which fewer than two qualified bids were received by the agency.

(h) The guide must establish procedures for major contracts that outsource a state function or process to a contractor, including when applicable the use of documents required under

Subchapter J, Chapter [2054](#).

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.20, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 45, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 7.006, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1081 (H.B. [2918](#)), Sec. 13, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1039 (H.B. [2873](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. [1681](#)), Sec. 9, eff. November 1, 2013.

Sec. 2262.052. COMPLIANCE WITH GUIDE. (a) Each state agency shall comply with the contract management guide.

(b) Subject to the legislative audit committee's approval of including the work described by this subsection in the audit plan under Section [321.013](#)(c), the state auditor may:

(1) periodically monitor compliance with this section;

(2) report any noncompliance to:

(A) the governor;

(B) the lieutenant governor;

(C) the speaker of the house of representatives;

and

(D) the team; and

(3) assist, in coordination with the attorney general and the comptroller, a noncomplying state agency to comply with this section.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.21, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 785, Sec. 46, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. [59](#)), Sec. 60, eff.

September 1, 2013.

Sec. 2262.054. PUBLIC COMMENT. The commission by rule may establish procedures by which each state agency is required to invite public comment by publishing the proposed technical specifications for major contracts on the Internet through the information service known as the Texas Marketplace or through a suitable successor information service. The guide must define "technical specifications."

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.23, eff. June 18, 2003.

Sec. 2262.055. VENDOR PERFORMANCE TRACKING SYSTEM.

(a) The comptroller shall evaluate the vendor's performance based on information reported by state agencies under Section [2155.089](#) and criteria established by the comptroller.

(b) The comptroller by rule shall establish an evaluation process that:

(1) rates vendors on an A through F scale, with A being the highest grade; and

(2) allows vendors who receive a grade lower than a C to protest any classification given by the comptroller.

(c) The comptroller shall include the performance reviews in a vendor performance tracking system.

(d) A state agency shall use the vendor performance tracking system to determine whether to award a contract to a vendor reviewed in the tracking system. The comptroller by rule shall establish the manner in which the rating scale established under Subsection (b) affects a vendor's eligibility for state contracts and the grades on the scale that disqualify a vendor from state contracting.

(e) The comptroller shall make the vendor performance tracking system accessible to the public on the comptroller's Internet website.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. [1681](#)), Sec. 4, eff. November 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 326 (S.B. 20), Sec. 21, eff. September 1, 2015.

SUBCHAPTER C. CONTRACT ADVISORY TEAM

Sec. 2262.101. CREATION; DUTIES. (a) The Contract Advisory Team is created to assist state agencies in improving contract management practices by:

(1) reviewing and making recommendations on the solicitation documents and contract documents for contracts of state agencies that have a value of at least \$5 million;

(2) reviewing any findings or recommendations made by the state auditor, including those made under Section 2262.052(b), regarding a state agency's compliance with the contract management guide;

(3) providing recommendations to the comptroller regarding:

(A) the development of the contract management guide; and

(B) the training under Section 656.052;

(4) providing recommendations and assistance to state agency personnel throughout the contract management process;

(5) coordinating and consulting with the quality assurance team established under Section 2054.158 on all contracts relating to a major information resources project;

(6) developing and recommending policies and procedures to improve state agency contract management practices;

(7) developing and recommending procedures to improve state agency contracting practices by including consideration for best value; and

(8) creating and periodically performing a risk assessment to determine the appropriate level of management and oversight of contracts by state agencies.

(b) The risk assessment created and performed under Subsection (a)(8) must include the following criteria:

(1) the amount of appropriations to the agency;

(2) total contract value as a percentage of appropriations to the agency; or

(3) the impact of the functions and duties of the state agency on the health, safety, and well-being of residents.

(c) The comptroller shall oversee the activities of the team, including ensuring that the team carries out its duties under Subsections (a)(5) and (a)(7).

(d) A state agency shall:

(1) comply with a recommendation made under Subsection (a)(1); or

(2) submit a written explanation regarding why the recommendation is not applicable to the contract under review.

(e) The team may review documents under Subsection (a)(1) only for compliance with contract management and best practices principles and may not make a recommendation regarding the purpose or subject of the contract.

(f) The team may develop an expedited process for reviewing solicitations under Subsection (a)(1) for contracts:

(1) that the team identifies as posing a low risk of loss to the state; or

(2) for which templates will be used more than once by a state agency.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.24, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 676 (H.B. [1965](#)), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. [1681](#)), Sec. 5, eff. November 1, 2013.

Reenacted and amended by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 9.010, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 526 (S.B. [255](#)), Sec. 6, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. [533](#)), Sec. 11, eff. September 1, 2017.

Sec. 2262.102. MEMBERS. (a) The team consists of the following six members:

- (1) one member from the Health and Human Services Commission;
- (2) one member from the comptroller's office;
- (3) one member from the Department of Information Resources;
- (4) one member from the Texas Facilities Commission;
- (5) one member from the governor's office; and
- (6) one member from a small state agency.

(a-1) The chief procurement officer described by Section [2155.091](#) may add members to the team by designating members from state agencies that agree to participate on the team. A state agency may decline a request to participate on the team under this subsection by submitting a written statement declining the request to the chief procurement officer.

(b) The Legislative Budget Board and the state auditor shall provide technical assistance to the team.

(c) The attorney general's office shall provide legal assistance to the team.

(d) In this section, "small state agency" means a state agency with fewer than 100 employees.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 676 (H.B. [1965](#)), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. [1681](#)), Sec. 6, eff. November 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 556 (S.B. [533](#)), Sec. 12, eff. September 1, 2017.

Sec. 2262.103. PERSONNEL. Each agency or officer with representation on the team shall provide, at the request of the team, staff to assist the team in carrying out its duties under this chapter.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 5.01, eff. Sept. 1, 2001.

Sec. 2262.104. LOW-RISK CONTRACTS. The contract advisory team shall identify the types of procurements that pose a low risk of loss to the state and develop a model contract management process for use with those procurements.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1039 (H.B. [2873](#)), Sec. 2, eff. September 1, 2013.

SUBCHAPTER D. CONTRACT FORMS AND PROVISIONS

Sec. 2262.151. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

(a) The comptroller shall develop recommendations for contract terms regarding remedies for noncompliance by contractors, including remedies for noncompliance with any required disclosure of conflicts of interest by contractors. The comptroller may develop recommended contract terms that are generally applicable to state contracts and terms that are applicable to important types of state contracts.

(b) A state agency may include applicable recommended terms in a contract entered into by the agency.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. [1681](#)), Sec. 7, eff. November 1, 2013.

Sec. 2262.152. UNIFORM FORMS. The comptroller shall develop and make available a uniform and automated set of forms that a state agency may use in the different stages of the contracting process.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. [1681](#)), Sec. 7, eff. November 1, 2013.

Sec. 2262.153. FORMS FOR REPORTING CONTRACTOR PERFORMANCE. As part of the uniform forms published under Section [2262.152](#), the comptroller shall develop forms for use by state agencies in reporting a contractor's performance for use in the vendor performance tracking system under Section [2262.055](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 7, eff. November 1, 2013.

Sec. 2262.154. REQUIRED PROVISION RELATING TO AUDITING.

(a) Each state agency shall include in each of its contracts a term that provides that:

(1) the state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the contract or indirectly through a subcontract under the contract;

(2) acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds; and

(3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

(b) The state auditor shall provide assistance to a state agency in developing the contract provisions.

Added by Acts 2003, 78th Leg., ch. 785, Sec. 44, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1012 (H.B. 905), Sec. 2, eff. June 18, 2005.

Transferred, redesignated and amended from Government Code, Section 2262.003 by Acts 2013, 83rd Leg., R.S., Ch. 1227 (S.B. 1681), Sec. 8, eff. November 1, 2013.