

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(1-a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 126(3), eff. September 1, 2019.

(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.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 126(3), eff. September 1, 2019.

Sec. 2262.0011. 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. 1.77, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 119,

eff. September 1, 2019.

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, and the state auditor, the comptroller 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 comptroller 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.

(i) The guide must include:

(1) instructions to assist a state agency in identifying the agency procurements that require an additional or secondary agency employee to serve as a contact for the procurement and establishing procedures for notifying vendors when to contact the additional or secondary agency employee;

(2) a general outline for the training a state agency must provide to the agency's procurement evaluators related to the goods and services the evaluator reviews for purchase by the agency, including training on the implementation of best value standards under Section 2155.074;

(3) for a procurement in an amount that exceeds \$20 million, the information a state agency must include in a contract file on the evaluator for that procurement, including the reasons the person was selected and the person's relevant qualifications; and

(4) a model communications procedure for vendors and agency employees, developed in collaboration with representatives from vendors and state agencies.

(j) For a procurement in an amount that exceeds \$20 million other than a contract entered into by the comptroller under Section 2155.061, the guide must require a state agency to notify interested parties at least two months before the date the agency issues the solicitation for the procurement.

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.

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 120, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 855 (S.B. 799), Sec. 16, eff. September 1, 2021.

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. 2262.053. CONTRACT FILE CHECKLIST; CERTIFICATION OF AGENCY COMPLIANCE. (a) Each state agency shall include in the contract file for each of its contracts a checklist to ensure the agency's compliance with state laws and rules relating to the

acquisition of goods and services by the agency.

(b) The comptroller shall develop and periodically update a model contract file checklist and make the checklist available for use by state agencies. The comptroller shall periodically update the checklist.

(c) The comptroller may adopt rules necessary to develop or update the model contract file checklist.

(d) The model contract file checklist must address each stage of the procurement process and must include, at a minimum, a description of:

(1) the documents that are required to be maintained during each stage of the procurement process in accordance with applicable state laws and comptroller rules; and

(2) the procedures and documents that are required to be completed during the following stages of the procurement process:

- (A) contract solicitation development;
- (B) contract formation and award; and
- (C) contract management.

(e) A state agency may develop its own contract file checklist based on the procurement and contracting needs of that agency, provided that the checklist developed by the agency is consistent with the comptroller's model contract file checklist and meets any requirements established by comptroller rule under Subsection (c).

(f) Before a state agency awards a contract to a vendor for the purchase of goods or services, the agency's contract manager or procurement director must:

(1) review the contents of the contract file for the contract, including the checklist, to ensure that all documents required by state law or applicable agency rules are complete and present in the file; and

(2) certify in a written document to be included in the contract file that the review required under Subdivision (1) was completed.

(g) A state agency's contract manager or procurement director may delegate to a person in the agency's procurement

office the certification authority under this section.

(h) The comptroller by rule shall prescribe the conditions under which a state agency's contract manager or procurement director:

(1) must make the certification required by Subsection (f); and

(2) may delegate the certification authority under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 29, eff. September 1, 2019.

Sec. 2262.054. PUBLIC COMMENT. The comptroller 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.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1071 (H.B. 1524), Sec. 121, eff. September 1, 2019.

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.

Sec. 2262.056. APPROVAL REQUIRED FOR ASSIGNMENT OF SERVICES CONTRACTS. (a) In this section:

(1) "Major information resources project" has the meaning assigned by Section 2054.003.

(2) "Sensitive personal information" has the meaning assigned by Section 521.002, Business & Commerce Code.

(b) A vendor awarded a services contract by a state agency may not assign the vendor's rights under the contract to a third party unless the assignment is approved by the state agency.

(c) At least 14 days before a state agency rejects or approves a vendor's proposed assignment under Subsection (b), the state agency shall notify the Legislative Budget Board of the proposed assignment if the contract subject to the assignment:

(1) is for a major information resources project; or

(2) involves storing, receiving, processing, transmitting, disposing of, or accessing sensitive personal information in a foreign country.

Added by Acts 2019, 86th Leg., R.S., Ch. 953 (S.B. 65), Sec. 29, eff. September 1, 2019.

Sec. 2262.057. STANDARDS FOR CONTRACTS RELATED TO EMERGENCY

MANAGEMENT. (a) The comptroller shall update the contract management guide to include contract management standards and information for contracts related to emergency management.

(b) The comptroller shall develop the standards described by Subsection (a) in consultation with the Texas Division of Emergency Management, Texas A&M AgriLife Extension Service, Texas A&M Engineering Extension Service, and local governmental entities.

(c) The guide must include:

(1) preferred contracting standards;

(2) information on contracts for services that may be necessary to respond to a natural disaster or to construct, repair, or rebuild property or infrastructure after a natural disaster, including clearing debris and providing information management services and construction services; and

(3) advice on preparing for a natural disaster, including procedures to assist a state agency with contracting for services described by Subdivision (2) before a natural disaster occurs.

Added by Acts 2019, 86th Leg., R.S., Ch. 615 (S.B. 986), Sec. 1, eff. September 1, 2019.

Redesignated from Government Code, Section 2262.056 by Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 21.001(51), eff. September 1, 2021.

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.