

GOVERNMENT CODE
CHAPTER 2177. ELECTRONIC COMMERCE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2177.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Information Resources.

(2) "Electronic procurement system" means the electronic system for procuring goods and services consisting of the electronic procurement marketplace created under Subchapter B and the electronic commerce network created under Subchapter C.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Political subdivision" includes a school district.

(5) "State agency" has the meaning assigned by Section 2054.003, except that the term does not include a university system or institution of higher education or an agency identified in Section 531.001(4).

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 3.01, eff. June 15, 2001; Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.38, eff. Sept. 1, 2003. Reenacted and combined with V.T.C.A., Government Code Sec. 2177.0001 and amended by Acts 2005, 79th Leg., ch. 469, Sec. 1, eff. June 17, 2005; Acts 2005, 79th Leg., ch. 728, Sec. 8.0195, eff. Sept. 1, 2005.

Sec. 2177.002. SMALL AND HISTORICALLY UNDERUTILIZED BUSINESSES. The commission and the department shall ensure that small and historically underutilized businesses have maximum access to electronic commerce opportunities.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001.

Sec. 2177.003. CONSULTATION. The commission, at least quarterly, shall consult with the following entities to ensure that the electronic procurement system meets the needs of users of the system:

- (1) the department;
- (2) groups, including coordinating councils, created by the commission to assist with electronic commerce initiatives;
- (3) the vendor advisory committee established under Section 2155.081; and
- (4) other state agencies and local governments that use the system.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 39, eff. Sept. 1, 2003.

Sec. 2177.004. INTERFACE WITH TEXAS ONLINE. (a) The department, with the assistance of the commission, shall assess whether all or parts of the electronic procurement system should interface with the project known as Texas Online that is a continuation of the demonstration project authorized by Section 2054.062 as enacted by the 76th Legislature.

(b) Based on the assessment, the department and the commission may interface all or parts of the electronic procurement system with Texas Online or use features of Texas Online to enhance the electronic procurement system.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001.

Sec. 2177.005. APPLICABILITY TO INSTITUTIONS OF HIGHER EDUCATION. An institution of higher education may, but is not required to, participate in any electronic system established under this chapter.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 3.02, eff. June 15, 2001.

SUBCHAPTER B. ELECTRONIC PROCUREMENT MARKETPLACE

Sec. 2177.051. ELECTRONIC PROCUREMENT MARKETPLACE. (a) The commission shall establish, and the department shall manage, the electronic infrastructure of an electronic procurement marketplace. The commission shall manage and administer the content of the electronic procurement marketplace in accordance with this subtitle. The department or commission, as appropriate, may enter into contracts with private or public entities to establish or maintain all or part of the databases comprising the marketplace, to the extent feasible, including contracts to procure hardware or software. The department or commission, as appropriate, shall procure all goods and services related to the

marketplace through a competitive selection process appropriate for the good or service being acquired.

(b) The commission, in consultation with the department, shall define standards, including keyword and product code standards, for the electronic procurement marketplace. The marketplace may contain:

(1) information relevant to the state's standard procurement specifications for goods and services;

(2) information about vendors, including vendor performance information;

(3) information about products, including product testing results;

(4) historical purchasing information, qualified purchase lists, and trends;

(5) information about the availability of surplus property; and

(6) information about recycled, remanufactured, or environmentally sensitive commodities or services, including commodities or services identified under Section 2155.448.

(c) The commission shall integrate the business daily into the electronic procurement marketplace.

(d) The department may adopt rules relating to the design and use of the electronic procurement marketplace that concern the technical requirements of the marketplace. The commission may adopt rules relating to the use of the marketplace for its intended purpose, including rules that require state agencies to provide information for or receive information from the marketplace. The department and the commission shall consult in adopting rules under this subsection.

(e) The commission may make state procurement information available to political subdivisions through the electronic procurement marketplace on a fee-for-service basis. The commission shall set the fees in an amount that recovers the state's costs in providing the access to a political subdivision.

(f) Before developing a contract for the procurement of a good or service, a state agency shall use the electronic procurement marketplace as prescribed by this chapter and commission rules.

(g) The marketplace may contain:

(1) information relevant to the state's standard procurement specifications for goods and services;

(2) information about vendors, including vendor performance information;

(3) information about products, including product testing results; and

(4) historical purchasing information, qualified purchase lists, and trends.

(h) The department or commission may require information from a state agency for inclusion in the electronic procurement marketplace.

Added by Acts 1997, 75th Leg., ch. 494, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 2177.001 and amended by Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 469, Sec. 2, eff. June 17, 2005.

Sec. 2177.052. MAJOR CONTRACTS. (a) In this section, "major contract" means a contract that has a value that is expected to be at least \$5 million computed as the:

(1) initial value of the contract; or

(2) total value of the contract after all potential term extensions.

(b) Each state agency shall provide the commission copies of the following documents:

(1) each major contract entered into by the agency; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(c) The commission shall include in the information posted on the electronic procurement marketplace:

(1) each major contract of a state agency, including the commission; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the major contract.

(d) The commission shall allow Texas governmental entities, including legislative entities, access to the information posted under this section.

(e) The commission shall allow public access to the information posted under this section, except for information that is not subject to disclosure under Chapter 552. Information that is not subject to disclosure under Chapter 552 must be referenced in an appendix that generally describes the information without disclosing the specific content of the information.

(f) The commission shall make the information searchable by contract value, state agency, and vendor. The commission may make the information searchable by other subjects as appropriate.

Added by Acts 2005, 79th Leg., ch. 469, Sec. 3, eff. June 17, 2005.

SUBCHAPTER C. ELECTRONIC COMMERCE NETWORK

Sec. 2177.101. EXCEPTIONS. (a) This subchapter does not apply to procurements conducted by an agency identified in Section 531.001(4) or to procurements for major construction projects, as defined by the commission in consultation with the department, such as procurements made under Chapter 223, Transportation Code. In defining a major construction project, the commission shall base its decision on whether the nature of the project, any related contract or specifications, or other considerations are of a type that would make electronic procurement inappropriate.

(b) The exceptions listed under Section 2166.003(a) apply as exceptions to this subchapter.

Added by Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.39, eff. Sept. 1, 2003.

Sec. 2177.102. ELECTRONIC COMMERCE NETWORK. (a) The department shall establish and manage the electronic infrastructure of an electronic commerce network. The commission shall manage and administer the content of the electronic commerce network. The electronic commerce network, to the extent feasible, shall allow the state's purchasing transactions with vendors to be accomplished electronically by means of facsimile transmissions and on-line transmission of necessary information.

(b) The department or commission, as appropriate, may enter into contracts with one or more public or private entities to establish or support various elements of the network. The department or commission, as appropriate, shall procure all goods and services related to the network through the competitive selection process appropriate for the good or service being acquired.

(c) The department, in consultation with the commission, may provide for a gateway between the electronic procurement marketplace and the electronic commerce network so that the elements of a procurement transaction that are within state government and the elements of a procurement transaction that involve communication with a vendor may all be accomplished electronically.

(d) Each state agency must participate in the network and participate in contracts entered into by the department or the commission for the establishment or support of the network. The department shall charge an agency a fee for network services provided to the agency by the department or by a contractor so that the cost of providing network services to an agency is paid by the agency.

(e) The commission may allow political subdivisions and other public entities that are members of the commission's cooperative purchasing program to participate in the electronic commerce network. The department shall require that a participating political subdivision or other entity is charged a fee for the network services in the same manner that participating state agencies are charged fees under Subsection (d).

(f) The department may also charge private businesses a fee for accessing the network.

(g) The department may adopt rules to administer this section that concern the technical requirements of the network. The commission may:

(1) adopt rules relating to the use of the network for its intended purpose; and

(2) require participating state agencies, political subdivisions, and other public entities to designate a network coordinator.

(h) The department and the commission shall consult in adopting rules under this section.

(i) The requirements of this subchapter are in addition to the requirements of other law relating to the solicitation of bids,

proposals, or expressions of interest for a procurement by the commission or another state agency. This subchapter does not affect any other law that requires the commission or another state agency to award a procurement contract through competitive bidding, competitive sealed proposals, or another method.

Added by Acts 1997, 75th Leg., ch. 494, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 2177.002 and amended by Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001.

Sec. 2177.103. PARTICIPATION BY STATE AGENCIES IN ELECTRONIC COMMERCE NETWORK. (a) Each state agency shall send to the commission for posting on the electronic commerce network information on each procurement contract the commission, in consultation with the department, determines is appropriate for electronic procurement:

(1) without regard to the source of funds the agency will use for the procurement; and

(2) including a procurement that is:

(A) a procurement by a state agency that is otherwise exempt from the commission's purchasing authority;

(B) made under delegated purchasing authority under Section 2155.131; or

(C) a procurement of professional or consulting services.

(b) The commission and each state agency shall include in the information placed on the electronic commerce network the following information for each procurement that the commission will make or that another state agency will make under Subsection (a):

(1) a description of the goods or services to be procured;

(2) the estimated quantity of the goods or services to be procured;

(3) if applicable, the previous price paid by the commission or another state agency for the same or similar goods or services;

(4) the estimated date on which the goods or services to be procured will be needed; and

(5) the name, business mailing address, and business telephone number of the commission employee or other state agency employee a person can contact to obtain all necessary information relating to making a bid or proposal or other applicable expression of interest for the procurement contract.

(c) The commission shall also post on the electronic commerce network other information relating to the business activity of the state that the commission considers to be of interest to the public. Each state agency shall provide the commission with information the commission requires for purposes of this subsection in a format prescribed by the commission.

(d) Each state agency that will award a contract that has been placed on the electronic commerce network under Subsection (a) shall place notification of the awarding of the contract on the electronic commerce network.

Added by Acts 1997, 75th Leg., ch. 494, Sec. 1, eff. Sept. 1, 1997. Renumbered from V.T.C.A., Government Code Sec. 2177.003 and amended by Acts 2001, 77th Leg., ch. 1422, Sec. 7.06, eff. Sept. 1, 2001.