

GOVERNMENT CODE
CHAPTER 2261. STATE CONTRACTING STANDARDS AND OVERSIGHT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2261.001. APPLICABILITY. (a) This chapter applies only to each procurement of goods or services made by a state agency that is neither made by the General Services Commission nor made under purchasing authority delegated to the agency by or under Section 51.9335 or 73.115, Education Code, or Section 2155.131, 2155.132, or 2155.133.

(b) This chapter applies to contracts and to contract management activities that are related to the procurements to which it applies.

(c) The General Services Commission on request shall determine whether a procurement or type of procurement:

(1) is made under purchasing authority delegated to an agency by or under Section 2155.131, 2155.132, or 2155.133; or

(2) is made under some other source of purchasing authority.

(d) This chapter does not apply to a procurement made by the Texas Department of Transportation or a procurement paid for by local or institutional funds of an institution of higher education.

(e) Repealed by Acts 2003, 78th Leg., ch. 309, Sec. 7.25. Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.001 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 7.25, eff. June 18, 2003.

Sec. 2261.002. DEFINITIONS. In this chapter:

(1) "Contract" includes a grant, other than a grant made to a school district or a grant made for other academic purposes, under which the recipient of the grant is required to perform a specific act or service, supply a specific type of product, or both.

(2) "State agency" has the meaning assigned by Section 2151.002.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.002 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.003. OPEN MARKET PURCHASES. This chapter does not require a state agency to purchase a good or service under contract if the agency is authorized under other law to purchase the good or service on the open market.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.003 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

SUBCHAPTER B. CONTRACTOR SELECTION

Sec. 2261.051. COMPETITIVE CONTRACTOR SELECTION PROCEDURES. Each state agency shall assess its contractor selection procedures and use competitive selection procedures to the greatest extent possible when selecting contractors.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.051 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.052. DETERMINING LOWEST AND BEST BID OR PROPOSAL. (a) In determining the lowest and best bid or proposal, a state agency shall consider:

(1) the vendor's price to provide the good or service;

(2) the probable quality of the offered good or service; and

(3) the quality of the vendor's past performance in contracting with the agency, with other state entities, or with private sector entities.

(b) This section does not apply to a procurement covered by Section 2155.144.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.052 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

SUBCHAPTER C. CONTRACT PROVISIONS

Sec. 2261.101. REMEDIES AND SANCTIONS SCHEDULES. (a) Each state agency shall create and incorporate in each of its contracts for goods or services that are subject to this chapter a remedies schedule, a graduated sanctions schedule, or both, for breach of the contract or substandard performance under the contract.

(b) State agencies shall design fair and feasible standards that will hold contractors accountable for breach of contract or

substandard performance under a contract without diminishing the number of able providers who are willing to contract with the state. Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.101 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.102. LIABILITY INSURANCE COVERAGE REQUIRED. Each state agency shall, when feasible, include provisions in each of its contracts for goods or services that are subject to this chapter that require the contractor to carry director or officer liability insurance coverage in an amount not less than the value of the contract that is sufficient to protect the interests of the state in the event an actionable act or omission by a director or officer of the contractor damages the state's interests.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.102 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

SUBCHAPTER D. PAYMENT AND REIMBURSEMENT METHODS

Sec. 2261.151. REEVALUATION OF PAYMENT AND REIMBURSEMENT RATES. (a) To ensure that its payment and reimbursement methods and rates are appropriate, each state agency that makes procurements to which this chapter applies shall reevaluate at least biennially its payment and reimbursement methods and rates, especially methods and rates based on historical funding levels or on a formula established by agency rule rather than being based on reasonable and necessary actual costs incurred.

(b) A state agency shall submit formal rate reevaluation information to the Legislative Budget Board and the comptroller on request.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.151 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

SUBCHAPTER E. CONTRACTOR OVERSIGHT

Sec. 2261.201. DOUBLE-BILLING. Each state agency that makes procurements to which this chapter applies shall design and implement procedures to detect and report double-billing by contractors.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.201 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.202. CONTRACT MONITORING RESPONSIBILITIES. As one of its contract management policies, each state agency that makes procurements to which this chapter applies shall establish and adopt by rule a policy that clearly defines the contract monitoring roles and responsibilities, if any, of internal audit staff and other inspection, investigative, or audit staff.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.202 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001.

Sec. 2261.203. COMPARABLE COSTS. Each state agency that makes procurements to which this chapter applies shall monitor performance under a contract to verify that comparable costs are being charged for comparable goods and services.

Added by Acts 1999, 76th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 1999. Renumbered from V.T.C.A., Government Code Sec. 2259.203 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(71), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 43, eff. Sept. 1, 2003.