

GOVERNMENT CODE

TITLE 10. GENERAL GOVERNMENT

SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT

CHAPTER 2254. PROFESSIONAL AND CONSULTING SERVICES

SUBCHAPTER A. PROFESSIONAL SERVICES

Sec. 2254.001. SHORT TITLE. This subchapter may be cited as the Professional Services Procurement Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.002. DEFINITIONS. In this subchapter:

(1) "Governmental entity" means:

(A) a state agency or department;

(B) a district, authority, county, municipality, or other political subdivision of the state;

(C) a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or

(D) a publicly owned utility.

(2) "Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

(i) accounting;

(ii) architecture;

(iii) landscape architecture;

(iv) land surveying;

(v) medicine;

(vi) optometry;

(vii) professional engineering;

(viii) real estate appraising; or

(ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

(i) a certified public accountant;

(ii) an architect;

(iii) a landscape architect;

- (iv) a land surveyor;
- (v) a physician, including a surgeon;
- (vi) an optometrist;
- (vii) a professional engineer;
- (viii) a state certified or state licensed real estate appraiser; or
- (ix) a registered nurse.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 244, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1542, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1409, Sec. 8, eff. Sept. 1, 2001.

Sec. 2254.003. SELECTION OF PROVIDER; FEES. (a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

(1) on the basis of demonstrated competence and qualifications to perform the services; and

(2) for a fair and reasonable price.

(b) The professional fees under the contract may not exceed any maximum provided by law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. [1886](#)), Sec. 14, eff. September 1, 2007.

Sec. 2254.0031. INDEMNIFICATION. (a) A state governmental entity may require a contractor selected under this subchapter to indemnify or hold harmless the state from claims and liabilities resulting from the negligent acts or omissions of the contractor or persons employed by the contractor. A state governmental entity may not require a contractor to indemnify, hold harmless, or defend the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

(b) Notwithstanding any other provision of law, Sections 271.904(a)-(e) and (g), Local Government Code, apply to a contract for architectural or engineering services between an architect or engineer selected under this subchapter and a state agency as defined by Section 2052.101.

Added by Acts 1999, 76th Leg., ch. 1499, Sec. 1.37, eff. Sept. 1, 1999.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 879 (H.B. 3021), Sec. 1, eff. September 1, 2017.

Sec. 2254.004. CONTRACT FOR PROFESSIONAL SERVICES OF ARCHITECT, ENGINEER, OR SURVEYOR. (a) In procuring architectural, engineering, or land surveying services, a governmental entity shall:

(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

(2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

(b) If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

(1) formally end negotiations with that provider;

(2) select the next most highly qualified provider; and

(3) attempt to negotiate a contract with that provider at a fair and reasonable price.

(c) The entity shall continue the process described in Subsection (b) to select and negotiate with providers until a contract is entered into.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 119, Sec. 1, eff. Sept. 1, 1997.

Sec. 2254.005. VOID CONTRACT. A contract entered into or an arrangement made in violation of this subchapter is void as against

public policy.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 2254.006. CONTRACT NOTIFICATION. A state agency, including an institution of higher education as defined by Section [61.003](#), Education Code, shall provide written notice to the Legislative Budget Board of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$14,000. The notice must be on a form prescribed by the Legislative Budget Board and filed not later than the 10th day after the date the agency enters into the contract.

Added by Acts 1999, 76th Leg., ch. 281, Sec. 13, eff. Sept. 1, 1999.

Sec. 2254.007. DECLARATORY OR INJUNCTIVE RELIEF. (a) This subchapter may be enforced through an action for declaratory or injunctive relief filed not later than the 10th day after the date a contract is awarded.

(b) This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by Section [2151.002](#). In this subsection, "state agency" includes the Texas Building and Procurement Commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. [1886](#)), Sec. 13, eff. September 1, 2007.

SUBCHAPTER B. CONSULTING SERVICES

Sec. 2254.021. DEFINITIONS. In this subchapter:

(1) "Consulting service" means the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee.

(2) "Major consulting services contract" means a consulting services contract for which it is reasonably foreseeable that the value of the contract will exceed \$15,000, or \$25,000 for an institution of higher education other than a public junior college.

(3) "Consultant" means a person that provides or proposes to provide a consulting service. The term includes a political subdivision but does not include the federal government, a state agency, or a state governmental entity.

(4) "Political subdivision" means:

- (A) a county;
- (B) an incorporated or unincorporated municipality;
- (C) a public junior college;
- (D) a public school district or other educational or rehabilitative district;
- (E) a metropolitan or regional transit authority;
- (F) an airport authority;
- (G) a river authority or compact;
- (H) a regional planning commission, a council of governments, or a similar regional planning agency created under Chapter 391, Local Government Code;
- (I) the Edwards Aquifer Authority or a district governed by Title 4, Water Code;
- (J) a soil and water conservation district;
- (K) a county or municipal improvement district;
- (L) a county road or road utility district;
- (M) a county housing authority;
- (N) an emergency services or communications district;
- (O) a fire prevention district;
- (P) a public health or hospital authority or district;
- (Q) a mosquito control district;
- (R) a special waste district;
- (S) a rural rail transportation district; or
- (T) any other local government or special district of this state.

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

(6) "State governmental entity" means a state

department, commission, board, office, institution, facility, or other agency the jurisdiction of which is not limited to a geographical portion of the state. The term includes a university system and an institution of higher education, other than a public junior college, as defined by Section 61.003, Education Code. The term does not include a political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.44(a), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 17.19(11), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1035, Sec. 3, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1266, Sec. 1.02, eff. June 20, 2003.

Sec. 2254.022. INTERPRETATION OF SUBCHAPTER. (a) This subchapter shall be interpreted to ensure:

(1) the greatest and fairest competition in the selection by state agencies of consultants; and

(2) the giving of notice to all potential consultants of the need for and opportunity to provide consulting services.

(b) This subchapter does not:

(1) discourage state agencies from using consultants if the agencies reasonably foresee that the use of consultants will produce a more efficient and less costly operation or project;

(2) prohibit the making of a sole-source contract for consulting services if a proposal is not received from a competent, knowledgeable, and qualified consultant at a reasonable fee, after compliance with this subchapter; or

(3) require or prohibit the use of competitive bidding procedures to purchase consulting services.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 4, eff. June 19, 1997.

Sec. 2254.023. APPLICABILITY OF SUBCHAPTER. This subchapter applies to consulting services that a state agency acquires with money:

(1) appropriated by the legislature;

(2) derived from the exercise of the statutory duties