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Governing Bodies Webinar Training
S.B. No. 1681, 83rd Regular Session

What is the objective of this training?

To provide governing bodies with an understanding of the **ethical** and **professional responsibilities** of state purchasers, contract administrators and contract managers.

TPASS resources available to state agencies

Requirements and goals

**State legal requirements, administrative rules
and audit procedures**

Procurement methods

Contract source selections

What references should you use?



Website at **Comptroller.texas.gov**
(State Purchasing)

Manuals

State of Texas Procurement Manual
Contract Management Guide



State of Texas Procurement Manual:
is the primary reference for certified
Texas purchasing staff along with
the Texas Government Code and
Texas Administrative Code.



Contract Management Guide(CMG):
recommendations for improving contract
management processes and practices.



Both resources contain procedures for following **state law, rules** and **regulations** to ensure the application of consistently sound business practices and recommendations for improving purchasing and contract management processes and practices.

Avoid any appearance of impropriety
that can damage the integrity of the purchasing
and contract management processes.

**Sec. 572.069. CERTAIN EMPLOYMENT
OR FORMER STATE OFFICER OR
EMPLOYEE RESTRICTED.**

State Ethics Policy



State employees should not:

- accept or solicit any **gift, favor or service**
- engage in a **business**
- accept other **employment or compensation**
- make **personal investments**
- solicit or accept **any benefit...**



Website at **Comptroller.texas.gov**
(State Purchasing)

Additional References on Ethical Standards

PENAL CODE, Sec. 36.02. BRIBERY

**GOVERNMENT CODE, Sec. 2262.004. REQUIRED
NEPOTISM DISCLOSURE.**

www.Sao.state.tx.us

Contract Management Guide (CMG)

**Texas Ethics commission
provides online training.**



Website at **Comptroller.texas.gov**
(State Purchasing)



Section 2252.901: —

Agencies may not enter into contracts for employment, professional services or consulting services with former or retired employees within one year of their last employment with the state.

**Potential vendors and contractors
should be required to:**



Affirm that they do not have
actual or **potential conflicts**
of interest.



Disclose any current or former
employment of current or former
state employees.



Disclose any **personnel related** to current or former state employees.



Affirm that they have **not given** and **will not give** any **gift, loan, gratuity, discount** or other favor or service to a state employee connected with the solicitation.

Sec. 2261.252.

**DISCLOSURE OF POTENTIAL CONFLICTS OF
INTEREST; CERTAIN CONTRACTS PROHIBITED.**

Sec. 2261.253
**REQUIRED POSTING OF CERTAIN
CONTRACTS; ENHANCED CONTRACT AND
PERFORMANCE MONITORING.**

Financial Advisors

Financial advisors and **financial service providers** must file an annual statement with the governmental agency and State Auditor's Office disclosing these relationships or affirming that none exist.

Agencies should **consult** with your own **general
counsel division** regarding any internal
agency policies regarding...

The statement must be filed **no later** than **April 15th** of each year (for the previous calendar year).

Some state agencies have special conflict-of-interest provisions for their employees. See the **Procurement Manual** for information on these provisions.

Texas Set-Aside Programs & Term Contracts

The background of the slide features a light gray silhouette of four business professionals in a meeting. One man stands in the center, holding a briefcase, while three others (two men and one woman) are seated around a table. The scene is reflected on the floor below. The text is overlaid on this background in a dark blue, bold font.

Under **Texas Government Code** and **Texas Administrative Code**, state entities must use the following established set-aside programs and term contracts for goods and services.

The background of the slide features a light gray gradient with a central illustration of four business professionals in silhouette. Two men and two women are depicted in a meeting setting. One man stands in the center, holding a document, while the others are seated around a table. The scene is reflected on the floor below.

Texas Set-Aside Programs:

Texas Correctional Industries (TCI)

TIBH Industries, Inc.



Term Contracts:

Council on Competitive Government (CCG) Contracts

TxSmartBuy Contracts

Managed Contracts

Travel Contracts



Website at **Comptroller.texas.gov**
(State Purchasing)

Other Established Contract Sources:

Texas Department of Information Resources

TXMAS Contracts

www.Dir.texas.gov

**Texas Multiple Awards Schedule
(TXMAS) Contracts**



Website at **Comptroller.texas.gov**
(State Purchasing)

Comptroller Assistance with Contracts:

Centralized Master Bidders List

(Texas Government Code Chapter 2155,
Subchapter E and 34 Texas Administrative
Code 20.34)

Comptroller Assistance with Contracts:

Contract Advisory Team

(Texas Government Code Chapter 2262,
Subchapter C)

Comptroller Assistance with Contracts:

CAT-RAD develops Contract

Management Guide



Website at **Comptroller.texas.gov**
(State Purchasing)

Major roles in state contracting:

Contract manager

Contract administrator

Purchaser

Contract Managers:

- Solicitation and draft documents
- Contractor instructions
- Communications with contractor
- Progress and performance monitoring
- Inspection and approval of the final product

Contract managers are NOT
authorized to:

Tell the contractor to start work before
the contract is fully executed.

Change the contract scope without a
formal amendment process

Contract Administrators:

Contract changes

Dispute resolution

Contract termination

Payment approval

Contract Administrators:

Contract administration file

Reports vendor performance as required by **Texas Government Code Sec. 2155.089** as enacted by the 84th legislature in S.B. 20.

Contract closeout

Grant closeout

Contract Management Guide (CMG)

Purchasers:

Procurement knowledge and experience

Enforcement of laws, policies and procedures

Authorized purchasing agent; can legally
bind the agency

Government Codes on Purchasing:
Pertinent procurement laws in the
Texas Government Code

Chapter 2155: General Rules and Procedures

Chapter 2156: Purchasing Methods

**Chapter 2157: Purchase of Automated
Information Systems**

Chapter 2158: Miscellaneous Provisions
for Purchase of Certain Goods/Services

Chapter 2161: Historically
Underutilized Businesses

Chapter 2251: Payment for Goods
and Services

**Chapter 2252: Contracts with
Governmental Entity**

**Chapter 2254: Professional and
Consulting Services**

**Chapter 2261: State Contracting Standards
and Oversight**

Section 322.020: Major Contracts Database

What are the **Legal Elements**
of a **Contract?**

Offer — The reply to the state's solicitation

Acceptance — Formation of a legally binding contract by issuing a purchase order or signing an agreement.

Legal Purpose — All parties to the contract agree that it is legal upon signing.

Mutuality of obligation — Both parties are bound to the terms of the contract.

Certainty of Subject Matter - The reason for the contract and the terms to which each party is subject must be specific and clearly defined.

Consideration — The cause or motive to enter into a contract.

Competent parties —for a valid contract, both parties must have the authority and ability to enter into a contract.

Effective Procurement & Contract Management
Depends on **Four Core Processes:**



1. Plan: Identify your strategy

- Define your needs
- Select a procurement method



2. Procurement:

- Select the most qualified contractor



3. Contract Formation:

Ensure the contract provisions hold the contractor accountable for results.

- Solicitation
- Review of vendor responses and award



4. Contract Oversight: monitor and enforce the terms of the contract.

- Inspection and Acceptance
- Change Management
- Payment
- Contract Closeout

The contract is completed when the contract requirements are satisfied, the product is delivered in a timely manner and the agency receives and accepts it.

Closeout is completed when any applicable reports have been delivered and accepted; all administrative actions have been accomplished; and final payment has been made to the contractor.

Lessons Learned: Key takeaways

Did your contract **stay within budget?**

Did you submit any exceptional,
satisfactory, or unsatisfactory vendor
performance evaluations?

Did the contract require a
corrective action plan?

Did you have any issues
with **subcontractor**?

Did any **term** or **condition** in the contract cause problems?

Document any deficiencies found as part of the closeout process and communicate them to all appropriate parties.



For more information on Senate Bill 1681 visit:
www.Capitol.state.tx.us/BillLookup/history.aspx?LegSess=83R&Bill=SB1681

A grayscale silhouette illustration of a business meeting. Six people are gathered around a table. On the left, a man in a suit sits in a chair, facing right. Behind him, a woman stands holding a folder. In the center, a man in a suit and tie stands. To his right, a woman stands with her hands clasped. In the foreground, a man and a woman are seated at the table, facing each other. The scene is set against a light gray background with a subtle gradient, and the figures are reflected on the surface below them.

Thank You.