

***Title 7. Banking and Securities
Part 1. Finance Commission of Texas
Chapter 10. Contract Procedures
Subchapter C Contract Monitoring
7 TAC §10.40***

The Finance Commission of Texas (the finance commission) adopts amendments to §10.40, concerning enhanced contract and performance monitoring, and the posting of certain contracts on commission supervised finance agency websites. The amendments are adopted without changes to the proposed text as published in the July 5, 2024, issue of the Texas Register (49 TexReg 4865). The amended rule will not be republished.

The amendments remove a redundant provision of the rule and ensure §10.40 conforms with Texas Government Code, §2261.253 by clarifying the full scope of the rule and implementing minimum risk assessment factors required in each agency's contract management handbook to identify contracts that require enhanced contract or performance monitoring.

The finance commission received no comments regarding the proposed amendments.

The amendments are adopted pursuant to Texas Government Code, §2261.253(c), which requires each state agency to adopt rules establishing a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body.

The statutory provisions affected by the adoption are contained in Texas Government Code, Chapter 2261.

§10.40. Enhanced Contract and Performance Monitoring; Website Posting.

(a) (No change.)

(b) Applicability.

(1) Finance agencies. This section applies to the agencies governed by the Finance Commission of the State of Texas: the Texas Department of Banking, the Texas Department of Savings and Mortgage Lending, and the Office of Consumer Credit Commissioner.

~~[(2) Date of contracts subject to enhanced monitoring. This section applies to the following:]~~

~~[(A) contracts for which the request for bids or proposal is made public on or after September 1, 2015; and]~~

~~[(B) for contracts exempt from competitive bidding, contracts entered into on or after September 1, 2015.]~~

(2) ~~[(3)]~~ Documents not subject to this section. Documents not subject to this section include the following: ~~[enhanced monitoring. This section does not apply to:]~~

(A) memoranda of understanding;

(B) interagency contracts;

(C) interlocal agreements; and ~~[or]~~

(D) contracts that do not involve a cost.

(c) Contract evaluation and monitoring.

(1) Use of finance agency policies and contract management handbook. Contracts are evaluated and monitored in accordance with each respective finance agency's policies and contract management handbook. Each finance agency maintains a contract management handbook in accordance with Texas Government Code, §2261.256.

(2) Identifying contracts that require enhanced monitoring. Each finance agency will include risk assessment factors in its contract management handbook to identify contracts that require enhanced contract or performance monitoring. The risk assessment factors must include the following:

(A) the total contract amount;

(B) the type of contract purchase;

(C) the impact to the agency and its mission;
and

(D) the compliance history of the contractor.

(3) [~~2~~] Finance Commission notice. If a finance agency identifies a contract that requires enhanced monitoring, the finance agency will notify the Finance Commission in accordance with its policies and contract management handbook. The finance agency will include in the notification any serious issues or risks identified with the contract.

(d) Website posting.

(1) Posting on finance agency website. Each finance agency will post on its website contracts that meet the posting requirements provided by Texas Government Code, §2261.253 [~~§2261.253(a)~~].

(2) Redaction of confidential information. Before posting the contracts under paragraph (1) of this subsection, each finance agency must redact information that is confidential by law, information excepted from public disclosure by the Texas Public Information Act (Texas Government Code, Chapter 552), and the social security number of any individual in accordance with Texas Government Code, §2261.253(e).