

**CHAPTER 858. PROCUREMENT AND CONTRACT MANAGEMENT  
REQUIREMENTS FOR PURCHASE OF GOODS AND SERVICES FOR VOCATIONAL  
REHABILITATION SERVICES**

**ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY OF STATE.**

ON **APRIL 14, 2026**, THE TEXAS WORKFORCE COMMISSION ADOPTED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.

Publication Date of the Adoption in the *Texas Register*: **May 1, 2026**  
The Rules are Effective: **May 4, 2026**

The Texas Workforce Commission (TWC) adopts amendments to the following section of Chapter 858, relating to Procurement and Contract Management Requirements for Purchase of Goods and Services for Vocational Rehabilitation Services, §858.2.

Amended §858.2 is adopted *without changes* to the proposal, as published in the February 13, 2026, issue of the *Texas Register* (51 TexReg 872), and, therefore, the adopted rule text will not be published.

**PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

The purpose of the Chapter 858 rule change is to implement House Bill 2791 (HB 2791), 89th Texas Legislature, Regular Session, 2025, which adds Texas Labor Code, §352.060.

Historically, TWC's Vocational Rehabilitation (VR) program operated under procurement authority derived from the Texas Health and Human Services Commission (HHSC) since the program's transfer to TWC in 2016. However, legislation passed during the 88th Texas Legislature (HB 4611) made nonsubstantive revisions to health and human services laws that had the unintended effect of removing the critical statutory connections that allowed TWC's VR program to use this authority.

Without corrective legislation, TWC's authority to use the noncompetitive open enrollment procurement method--a method used for approximately 1,000 active provider contracts--was set to end. This would have jeopardized the timely delivery of essential goods and services for more than 27,000 VR participants annually.

HB 2791 was enacted to resolve this issue by adding Texas Labor Code, §352.060, which provides TWC with direct and explicit statutory authority to procure goods and services for the VR program, including the continued use of open enrollment solicitations and new authority for direct negotiation with qualified vendors. This rule amendment aligns TWC's rules with this new statutory authority.

## **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

(Note: Minor editorial changes are made that do not change the meaning of the rules and, therefore, are not discussed in the Explanation of Individual Provisions.)

### **§858.2. Noncompetitive Open Enrollment Solicitation**

Section 858.2 is amended to align with the new statutory authority provided by HB 2791, which adds Texas Labor Code, §352.060. This section affirms TWC's authority to use a noncompetitive open enrollment solicitation for acquiring goods and services for the VR program. It also outlines the conditions under which TWC may directly negotiate a contract if no responsive applications are received from an open enrollment solicitation, consistent with the provisions in the new statute.

TWC hereby certifies that the rule has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

## **PART III. PUBLIC COMMENTS**

The comment period ended on March 16, 2026. No comments were received.

## **PART IV. STATUTORY AUTHORITY**

The rule is adopted under:

--Texas Labor Code, §352.060, as added by HB 2791, 89th Texas Legislature, Regular Session, 2025, which provides TWC the specific authority to adopt rules for the acquisition of VR goods and services, including rules allowing TWC to purchase VR services through open-enrollment solicitations and direct negotiation;

--Texas Labor Code, §352.103, which provides TWC with the authority to adopt rules for the provision of VR services; and

--Texas Labor Code, §301.0015 and §302.002(d), which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The adopted rule implements provisions of Title 4, Texas Labor Code, Chapter 352.

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**§858.2. Noncompetitive Open Enrollment Solicitation.**

- (a) General. The Agency may acquire goods or services through a noncompetitive open enrollment solicitation and enter into enrollment contracts with qualified contractors.
  - (1) An open enrollment solicitation must be conducted in an open and fair manner that reasonably provides interested, qualified contractors with an equal opportunity to obtain a contract or do business with the Agency.
  - (2) The Agency may consider all relevant factors, as set forth under Texas Labor Code, §352.060(c), when determining whether to award a contract to an applicant.
  
- (b) Direct Negotiation for Vocational Rehabilitation Services. In the event the Agency receives no responsive applications to an open enrollment solicitation for vocational rehabilitation goods or services in a specific area of the state, the Agency's Procurement and Contract Services (PCS) division may directly negotiate a contract under the following conditions:
  - (1) The Agency must first make a written determination that an award through the open market solicitation is not available;
  - (2) PCS may negotiate with and award a contract to any qualified vendor that meets the requirements of the original solicitation; and
  - (3) The resulting contract must be at a price consistent with the current market value of the services and have a term not to exceed five years.