

1 **CHAPTER 857. PURCHASE OF GOODS AND SERVICES FOR VOCATIONAL**  
2 **REHABILITATION SERVICES BY TEXAS WORKFORCE COMMISSION**

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4 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS***  
5 ***REGISTER*. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
6 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.**  
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8 **ON JUNE 16, 2020, THE TEXAS WORKFORCE COMMISSION ADOPTED THE BELOW**  
9 **RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*.**

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11 Estimated date of publication in the *Texas Register*: **July 3, 2020**

12 The rules will take effect: **July 6, 2020**

13 The Texas Workforce Commission (TWC) adopts the repeal of Chapter 857 in its entirety,  
14 relating to the Purchase of Goods and Services for Vocational Rehabilitation Services by Texas  
15 Workforce Commission, without changes, as published in the February 21, 2020, issue of the  
16 *Texas Register* (45 TexReg 1201):  
17

18 Section 857.1. Noncompetitive Procurement

19 **PURPOSE, BACKGROUND, AND AUTHORITY**

20 The purpose of the adopted chapter repeal is to streamline TWC rules by incorporating the  
21 relevant portions of this chapter into Chapter 858, Vocational Rehabilitation Services Contract  
22 Management, which is being amended and renamed in a separate proposed rulemaking.  
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24 Effective September 1, 2016, pursuant to Texas Labor Code §351.002, the administration of  
25 vocational rehabilitation (VR) services was transferred from the Texas Department of Assistive and  
26 Rehabilitative Services (DARS) to TWC. To ensure continuity and avoid any impact on customers,  
27 the administrative rules shared by all DARS programs were duplicated into Chapters 850, 857, and  
28 858 of TWC's rules upon transfer of the programs. Because the rules established DARS'  
29 administrative framework and served all DARS programs, they overlap certain existing TWC  
30 administrative rules and contain numerous references to programs that were not transferred to TWC.  
31

32 Chapter 857 consists of one section, §857.1, which authorizes the use of open-enrollment solicitation  
33 and interagency contracting, in addition to other noncompetitive procurement methods. To  
34 streamline TWC rules and preserve the relevant subsections of §857.1, the chapter should be  
35 repealed and its relevant content should be amended and moved to Chapter 858, which will be  
36 renamed "Vocational Rehabilitation Purchases and Contracts" to reflect the additional content.  
37

38 No comments were received.  
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40 TWC hereby certifies that the chapter repeal has been reviewed by legal counsel and found to be  
41 within TWC's legal authority to adopt.  
42

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

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2 The repeal affects Title 4, Texas Labor Code, particularly Chapters 351 and 352.  
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1 ~~CHAPTER 857. PURCHASE OF GOODS AND SERVICES FOR VOCATIONAL~~  
2 ~~REHABILITATION SERVICES BY TEXAS WORKFORCE COMMISSION~~

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4 ~~§857.1. Noncompetitive Procurement.~~

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6 ~~(a) General. HHSC may acquire goods or services on a noncompetitive basis as~~  
7 ~~described in this section.~~

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9 ~~(b) Exception to competitive purchasing. HHSC may utilize a noncompetitive~~  
10 ~~procurement method if the purchase consists of one or more of the following~~  
11 ~~transactions:~~

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13 ~~(1) sole source, consistent with guidance from the Comptroller of Public~~  
14 ~~Accounts;~~

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16 ~~(2) proprietary purchase, consistent with guidance from the Comptroller of Public~~  
17 ~~Accounts;~~

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19 ~~(3) emergency purchase:~~

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21 ~~(A) The emergency underlying the purchase must be documented and~~  
22 ~~justified in the procurement file.~~

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24 ~~(B) Despite the existence of a justified emergency, HHSC must use its best~~  
25 ~~efforts to conduct the procurement with as much competition as is~~  
26 ~~practical under the circumstances;~~

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28 ~~(4) purchase from preferred supplier;~~

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30 ~~(5) an enrollment contract:~~

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32 ~~(A) An open enrollment must be conducted in an open and fair manner that~~  
33 ~~reasonably provides interested, qualified vendors equal opportunity to~~  
34 ~~obtain a contract or do business with HHSC; and~~

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36 ~~(B) An open enrollment must include contract terms and conditions or other~~  
37 ~~policies adopted by HHSC and provided to the vendor that establish the~~  
38 ~~manner in which individual transactions will be processed;~~

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40 ~~(6) intergovernmental transfer;~~

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42 ~~(7) contract renewal consistent with the underlying procurement;~~

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44 ~~(8) a purchase is required by state or federal law to be awarded on a~~  
45 ~~noncompetitive basis;~~

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~~(9) a purchase for an amount of not more than \$5000.~~

~~(e) Noncompetitive negotiation. HHSC may conduct a noncompetitive negotiation if it:~~

~~(1) conducts a transaction under a noncompetitive purchasing method; or~~

~~(2) receives only one qualified response to a solicitation issued under a competitive purchasing method.~~