

TEXAS WORKFORCE COMMISSION
Interoffice Memorandum

To: Chairman Daniel
Commissioner Alvarez
Commissioner Demerson

Thru: Les Trobman, General Counsel

From: Sarah Hernandez, Special Projects Coordinator

Date: January 13, 2020

Subject: Memorandum on SB 65, 86th Legislature, Regular Session

During the 86th Legislative Session, the Legislature passed SB 65, effective September 1, 2019. Pursuant to Section 2261.254 (d) of the Government Code, as amended by SB 65, the governing body or governing official of a state agency, as appropriate, may delegate to the executive director *or a deputy executive director* of the agency the approval and signature authority under Subsection (c). (emphasis identifies change in law) Subsection (c) states that a state agency may enter into a contract for the purchase of goods and services that has a value exceeding \$1 million only if: (1) the governing body of the state agency approves the contract and the approved contract is signed by the presiding officer of the governing body; or (2) for a state agency that is not governed by a multimember governing body, the officer who governs the agency approves and signs the contract. Previously, Section 2261.254 (d), stated that the governing body could delegate approval and signature authority for contracts exceeding \$1 million solely to the executive director. The Commission's Order to delegate to the Executive Director, or in that person's absence, to the Interim Executive Director or Acting Executive Director, the approval and signature authority for contracts exceeding \$1 million was approved during the Commission's meeting on March 12, 2018.

The change to Texas Government Code Section 2261.254(d) from the recent Session allows, but does not require, the inclusion of delegating this over \$ 1 million signature authority to the Deputy Executive Director. The effect of this statutory expansion allows agencies to rely on an additional authorized person in the event the Executive Director is unavailable. In the event the Commission determines to expand the delegation authority to the Deputy Executive Director, it may make sense to utilize this secondary delegation in lieu of the existing delegation to the Interim or Acting Executive Director. Confining the delegation to the Executive Director and Deputy Executive Director would satisfy the statutory mandate, while adequately meeting the agency's business needs.

Commission action to adjust the delegation would take place in an open meeting. A draft Order is attached which would effectuate the inclusion of the delegation to the Deputy Executive Director.

TEXAS WORKFORCE COMMISSION
Order Delegating Authority to the Executive Director and Deputy Executive Director

WHEREAS, on January 24, 2005, the Commission adopted an Order Setting Responsibilities of the Commission, Executive Director, and Commission Staff delegating to the Executive Director the authority to enter into contracts and memoranda of understanding as the Executive Director or the Commission considers necessary or suitable to fulfill the duties of the Commission;

WHEREAS, on March 12, 2018, the Commission adopted an Order delegating to the Executive Director, or in that person's absence the Interim or Acting Executive Director, the approval and signature authority for contracts exceeding \$1 million, following consultation with the Commissioners on any contract not already reviewed and approved during a scheduled meeting of the Commission;

WHEREAS, Section 2261.254 of the Texas Government Code, effective September 1, 2015, sets forth approval and signature requirements for state agency contracts for the purchase of goods and services that have a value exceeding \$1 million;

WHEREAS, in accordance with Section 2261.254 (c) the governing body of a state agency must approve the contract and the contract be signed by the presiding officer of the governing body;

WHEREAS, in accordance with Section 2261.254 (d), as amended by SB 65, 86th Legislature, Regular Session, the governing body may delegate to the Executive Director or Deputy Executive Director the approval and signature authority;

NOW THEREFORE, based on these considerations and findings, the Commission amends the March 12, 2018 Order and hereby delegates to the Executive Director and the Deputy Executive Director the approval and signature authority for contracts exceeding \$1 million, following consultation with the Commissioners on any contract not already reviewed and approved during a scheduled meeting of the Commission.

This Order continues in effect until further Commission action on this matter. The delegation authority in this Order will be reviewed on a biennial basis following a legislative session.

January 21, 2020

Bryan Daniel, Chairman and Commissioner representing the Public

Julian Alvarez, Commissioner representing Labor

Aaron Demerson, Commissioner representing Employers