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State Purchasing  
and  
General Services Commission

July 12, 1983

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Administration

111.1-.4

These rules are promulgated pursuant to the authority of Section 2 of Article 601b, V.T.C.S.

111.1 Organization

- (a) A three-member Commission, appointed by the Governor, sets policy, appoints the Executive Director and delegates responsibility to the Executive Director. The Commissioners exercise all authority not delegated to the Executive Director.
- (b) The Executive Director of the Commission exercises those duties and responsibilities delegated to him from time to time by the Commissioners sitting in duly called session. The Commissioners may review this delegation of authority at any time, and shall execute a new delegation upon a change of membership in the Commission. A change of membership does not void a previous delegation of authority to the Executive Director, and such delegation shall remain effective until a new delegation can be executed and signed by the full Commission.
- (c) To assist the Commissioners and the Executive Director in the exercise of their statutory functions, the Commission shall be organized into the following divisions:
  - (1) Executive Administration and Security
  - (2) Central Purchasing
  - (3) Building and Property Services
  - (4) Centralized Services



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- (5) Automated Services
- (6) Telecommunications Services
- (7) Facilities Planning and Construction

All functions of the Commission are organized under one or more of the above named divisions.

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111.2 Commission Meetings

- (a) Regular meetings of the three-member commission shall be held at least monthly on a date set by the commissioners. The chairman may call for meetings of the commission at other times.
- (b) Matters to be considered by the commissioners at these meetings shall be set out in the agenda and proper notice given as required by law.
- (c) The executive director shall prepare the agenda and see to its publication in the Texas Register.
  - (1) Emergency additions may not be included on the agenda for a particular meeting unless the executive director secures the approval of the chairman to add them.
  - (2) To facilitate preparation of the agenda, all matters to be considered for action or discussion by the commission should be presented to the executive director at least ten (10) days in advance of the commission meeting where the matter is to be considered.
- (d) All decisions on agenda items shall be by majority vote of the commissioners present and shall be set out in the formal minutes of the meeting when they were made.

### 111.3 Hearing Appeals/Resolving Disputes

- (a) Except as provided in subsection (e) of this section, the commissioners will resolve all disputes arising in the following cases:
- (1) where the staff has not been able to achieve agreement between a user agency and a vendor;
  - (2) where a user agency disagrees with a staff decision;
  - (3) where there is disagreement between the staff and a vendor; and
  - (4) where the staff and a using agency and/or a vendor jointly seek the commissioners' determination that a purchasing request is in compliance with the law.
- (b) Appeals to the commissioners in any of the matters referred to in (a) of this section shall be presented by the appealing party in writing to the executive director not less than ten (10) days prior to the commission meeting where the matter will be heard, and notice of the appeal given to the other bidders, the using agency, and other known interested parties. Four (4) copies of the written appeal shall be submitted and shall include at least the following:
- (1) a precise statement of the relevant facts;
  - (2) the issue, or issues, to be resolved;
  - (3) the decision of the staff, if any, on the stated issues; and
  - (4) any argument and authorities supporting the appeal.
- (c) The staff will present a written response to the appeal within five (5) working days following receipt of the notice of appeal

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described in subsection (b) of this section. Copies of this response will be sent to the commissioners, the party appealing, the using agency, and any other interested parties.

- (d) A duly adopted resolution by the commissioners deciding the appeal shall be set out in the minutes of the meeting and shall be the final administrative action to be taken in the matter insofar as the appeal is concerned.
- (e) In the event an appeal as described above in this section is not filed at least ten (10) days prior to the commission meeting, and the chairman, after receiving notice of an appeal, does not approve placement of the appeal on the agenda as an emergency matter, the party appealing may be considered to have exhausted all administrative remedies available and may cite this section for that purpose.

#### 111.4 Breach of Ethical Standards

- (a) A breach of ethical standards enumerated in subsection (b) of this section shall bar the offending person from receiving a contract which may have been awarded to such person except for the breach. If a contract has already been awarded to the person found guilty of a breach of ethical standards, the commission may decide to cancel the contract, or, where applicable remove the person from commission bidders lists in accord with Section 113.4(b) 12-3 (relating to Bid List; Conditions Applicable to Both Open Market and Contract). An employee who breaches ethical standards as set out in this section may be either reprimanded, suspended or dismissed.
- (b) A breach of ethical standards may occur in any of the following cases:
- (1) conflict of interest (subsection (d) of this section)
  - (2) failure to disclose financial interests (subsection (e) of this section)
  - (3) gratuities and kickbacks (subsection (f) of this section)
  - (4) contingent fees (subsection (g) of this section)
  - (5) restrictions on employment of commission employees (subsection (h) of this section)
  - (6) contemporaneous employment prohibited (subsection (i) of this section)
  - (7) use of confidential information (subsection (j) of this section).
- (c) Definitions - The following words and terms, when used in this

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section shall have the following meanings, unless context clearly indicates otherwise.

- "Confidential information" - Information which is available only because of one's status as a state employee.
- "Direct or indirect participation" - Involvement through decision, approval, disapproval, recommendations, preparation of any contract, or of any part of a procurement process, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- "Employee" - Shall broadly include members, officers and employees of the commission, as well as members, officers and employees of other state agencies acting pursuant to delegated authority from the commission, or in connection with any matter involving that agency with the commission.
- "Financial interest" - Shall refer either to a personal receipt, or right to receive, money or other valuable property or benefits under the actual or proposed contract; the holding of a position in a business such as an officer, director, trustee, partner, employee, or the like, or holding any position of management; or the ownership of substantial stock, or other interest in a business. Substantial in this context shall not include token ownership or ownership which would not normally be able to influence the decisions of the business.
- "Immediate family" - Shall include spouses, parents, brothers

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and sisters, and sons and daughters of the employee.

- "Person" - An individual or a business entity.

(d) Conflict of Interest

(1) It shall be a breach of ethical standards for any employee to participate directly or indirectly in the procurement of any commission contract when the employee knows that:

- (A) the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
- (B) the employee or any member of the employee's immediate family has a financial interest in a business or organization submitting a bid for that contract;
- (C) any other person with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

(2) Employee participation in blind trusts, or retirement programs of business entities, submitting bids to the commission shall not be a breach of ethical standards provided disclosure of such participation is made to the commission, and no other conflict is shown.

(e) Failure to disclose financial interests in business entities.

(1) It shall be a breach of ethical standards for an employee to fail to report a financial interest in a procurement, or in a business entity submitting a bid in response to a procurement.

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(2) Upon discovery of an actual or potential conflict of interest due to a financial interest in a business entity submitting a bid in response to a procurement, an employee shall promptly file a written statement of disqualification and shall withdraw from further participation in the transaction. The employee may, at the same time, apply to the executive director of the commission for an advisory opinion as to what further participation, if any, the employee may have in the transaction.

(f) Gratuities and kickbacks.

(1) Gratuities. It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee, or for any employee to solicit, demand, accept, or agree to accept from another person, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.

(2) Kickbacks. It shall be a breach of ethical standards for any



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payment, gratuity, or offer of employment to be made to an employee by or on behalf of a contractor or subcontractor in connection with the award of a contract.

(g) Prohibition against contingent fees.

(1) Contingent Fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a contract from the commission upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

(2) Representation of contractor. Every person, before being awarded a contract by the commission, shall represent, in writing, that such person has not retained anyone in violation of Paragraph (1) above. Failure to do so is a breach of ethical standards.

(h) Restrictions on recruitment of employees.

(1) No person shall offer an employee of the commission, or of an agency exercising delegated authority from the commission, employment with the offeror, if that employee is involved significantly in the handling of a procurement in which the offeror is interested.

(2) A former employee may not appear before the commission on behalf of any person having business before the commission, if the former employee is paid for such appearance, and the appearance involves a specific transaction the former

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employee was significantly involved with while an employee.

Other than such a situation there are no restrictions on former employees in making appearances before the commission.

- (3) It shall be a breach of ethical standards for a business in which an employee has a financial interest knowingly to act as a principal, or as an agent for anyone other than the State of Texas, in connection with any:
- (A) judicial or other proceeding, application, request for a ruling, or other determination;
  - (B) contract;
  - (C) claim; or
  - (D) charge or controversy in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the State of Texas is a party or has a direct and substantial interest.
- (i) Contemporaneous employment prohibited. It shall be a breach of ethical standards for any employee who is participating directly or indirectly in the procurement or contracting process to become or be, while such an employee, the employee of any person contracting with the State of Texas.
- (j) Use of confidential information. It shall be a breach of ethical standards for any employee knowingly to use confidential information for actual or anticipated personal gain, or for the

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actual or anticipated personal gain of any other person.

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Security  
111.11-.17

These rules are promulgated pursuant to the authority of Sections 4.01 and 4.12 of Article 601b, V.T.C.S.

111.11 General

- (a) The Commission is authorized by the provisions of Section 4.12, Article 601b, V.T.C.S., to employ Security Officers, and is empowered by the terms of that Section and Section 4.01 of Article 601b, V.T.C.S., to protect the grounds, public buildings and property of the State; to regulate parking within the Capitol Complex; to control entrance to the public buildings; and to regulate displays and special performances in the Capitol Rotunda, and use of the Capitol grounds for rallies, parades and group meetings. Security Officers are employed by the Commission to carry out the duties of the Commission detailed in the above listed statutes and in these Sections.

111.12 Use of Capitol Rotunda and Grounds

- (a) Use of the Rotunda and Grounds shall be authorized by the Chief Security Officer for a public purpose only upon request, and if available.
- (b) "Public Purpose". A public purpose has for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents within the State, the sovereign powers of which are exercised to promote such public purpose or public business. The chief test of what constitutes a public purpose is that the public generally must have a direct interest in the purpose, and the community at large is to be benefited. A request shall not be considered to be for a public purpose if:
  - (1) it promotes or publicizes a private individual or commercial enterprise,
  - (2) it states no purpose at all, or states an illegal purpose,
  - (3) it appears that carrying out the purpose would destroy or threaten to destroy State buildings or property.
- (c) Specific Rules Relating to Use of the Capitol Rotunda.
  - (1) A notice of intended use must be received in the Security Office in the Capitol Building on the day preceding the intended use.
  - (2) Displays may be permitted for an initial period not to exceed three (3) days. Extensions of 1-day duration may be granted by the Chief Security Officer upon oral request. Only two (2) such extensions may be granted. For purposes of this

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section, Saturdays, Sundays and legal State holidays shall not count as permit days.

- (3) No more than one display at a time shall be permitted in the Rotunda. Preference will be given to the first request received.
  - (4) Displays must be maintained by the owner at no expense to the Commission.
  - (5) Art exhibits and photographic exhibits must be secured to tripods or backdrops.
  - (6) Singing groups or other performing groups must restrict their performance to 45 minutes or less. No more than two (2) such performances may be allowed on any one day.
  - (7) No equipment will be furnished except at the request of a State agency, the Governor, Lieutenant Governor, or Member of the Legislature.
  - (8) Intended use may not interfere with any legislative session or regular use of the Capitol Building.
- (d) Specific Rules Relating to Use of the Capitol Grounds.
- (1) Notice of intended use must be received in the Security Office on the day preceding the intended use.
  - (2) No equipment will be furnished unless the function is requested by a State agency, the Governor, Lieutenant Governor, or Member of the Legislature.
  - (3) Intended use may not interfere with any other scheduled function or legislative session.
  - (4) Intended use may not block entrance ways into the Capitol

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Building.

- (5) No signs or placards displayed or available for display during the intended use may be carried into the Capitol Building.
- (6) Permits granted to groups allowing the use of the grounds for a lawful public purpose shall be notice to the permit holder of liability for any damage to the State property or buildings caused by the described activity, or occurring as a proximate result of the activity.
- (7) No bond shall be required of a permit holder as a prerequisite to granting the permit.
- (8) No permit shall be issued where it appears from the face of the request that physical damage to State buildings or property will result from the described activity.

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111.13 Access to the State Capitol and other State Buildings in the Capitol Complex.

- (a) Sections 4.01, 4.03, 4.04, and 4.12 of Article 601b V.T.C.S., charge the Commission with the care and protection of the grounds and buildings in the Capitol Complex. Within the framework of this care and protection, public access to State buildings is generally unlimited. However, nothing in these rules shall be understood as permitting the use of any public buildings in the Capitol Complex, in any manner whatsoever, when such use is for a commercial purpose. (Compare Section 111.12(b)) for a definition of public purpose.)
- (b) The State Capitol. The State Capitol is open to the public at all times. Public admission to certain rooms and chambers within the Capitol may be limited by the use to which they are being put at the time, and by the specific provisions of Sections 4.03 and 4.04 of Article 601b, V.T.C.S. Security Officers shall be on duty in the State Capitol at all times and shall carry out their duties in such a manner as to provide the public the freest access possible to the Capitol, within statutory restrictions and within the bounds of the good order and decorum.
- (c) Admission to State Buildings Generally. State buildings in the Capitol Complex, other than the capitol itself, are open to the public at all times, with the general exception of Saturdays, Sundays, and State holidays, and from 6 P.M. to 7 A.M. on working days. Access to State buildings during the times they are not open to the public, but where a Security Officer is on duty, shall



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be by building pass cards, special permission, or emergency admission.

- (1) Building Pass Cards. Applications for such cards must be made to the Security office and must be signed by an appropriate public official or his duly authorized representative. ("Appropriate" in this sense means that the official has his office and/or his agency located in the State building in question.)
- (2) Special Permission. Special permission is communicated by an appropriate public official or his duly authorized representative to the Security Office specifically approving one-time admission to a named individual. Such communication should be in writing.
- (3) Emergency Admission. Emergency admission is solely within the discretion of the officer on duty, and such officer must accompany the admitted individual at all times while such individual is in the building.
- (4) Admission Log. An admission log for each building in the Capitol Complex shall be kept for the times it is closed to the public, and must contain the names of all parties admitted to the building, the State agency they work for, their destination in the building, and the time in and out.

111.14 Emergency Evacuations

- (a) The Chief Security Officer, or the ranking security officer on duty, shall order evacuation of all or any part of the Capitol Building or other State buildings in the Capitol Complex in the event of a fire or bomb threat, or any other threat to life and/or property within the Complex.
- (b) Floor Managers. A floor manager shall be appointed for each floor in each building in the Capitol Complex. Occupying State agencies shall make these appointments in cooperation with the Commission and with other agencies, and these floor managers shall assist Security Officers in clearing the buildings during emergency evacuations.
- (c) Use of Elevators. No elevators shall be used during an emergency evacuation except to transfer handicapped persons from areas to be evacuated to places of safety.
- (d) Evacuation of Building Floors. No one shall be allowed on floors to be evacuated during the period of the threat except Security Officers, floor managers, and duly authorized peace officers and firemen.
- (e) Readmission to Evacuated Areas. The Security Office shall give the all clear signal and permit readmission to the evacuated areas only when the threat has passed.

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111.15 Fire and Safety Inspections

- (a) Security Officers shall inspect all buildings in the Capitol Complex for conditions constituting fire or safety hazards. When hazardous conditions are discovered, Commission staff may correct the condition or ask the responsible agency official to correct the condition.

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111.16 Firearms and Explosive Weapons.

- (a) Firearms and explosive weapons, as defined in Section 46.01, Texas Penal Code, are not permitted in state buildings or on state grounds within the Capitol Complex or any other state-owned property under the charge and control of the Commission whether or not located in the City of Austin, except in the possession of peace officers so designated in Article 2.12, Texas Code of Criminal Procedure, 1965, as amended.

111.17 Solicitation in State Buildings

- (a) No individual, corporation, association or organization may be permitted in State Buildings in the Capitol Complex for the purpose of:
  - (1) Selling, or offering for sale, any real property, goods or services.
  - (2) Placing or distributing advertising literature, material, placards, banners, posters, etc., in State buildings, and Security Officers may remove any such literature, material, placards, banners, posters, etc., as they find them.
  - (3) Soliciting gifts of money or gifts of property, without regard to the charitable nature of such gifts, or the method of solicitation.
- (b) Nothing in this section shall be understood to prohibit any agency head from authorizing any or all of the above described acts within the confines of that agency's space in State buildings.

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Parking  
111.31-.46

These Rules are promulgated pursuant to the authority of Sections 4.12 and 4.14 of Article 601b, V.T.C.S.

111.31 General

- (a) Objective. The overall objective is to provide for the most equitable, efficient, and economical parking facilities for State employees, State officials, and the visiting public in the Capitol Complex area in accordance with the general law as set out in Sections 4.12 and 4.14 of Article 601b, V.T.C.S. In addition to a limited amount of individually reserved space parking, for which a charge will be made, these rules allow for free parking to employees who will accept assignments as near their work location as possible to park anywhere in a lot to which they are assigned. Car pooling and assignments to handicapped employees will be stressed and supported by free reserved space parking in a lot near the employees' work location. Full and effective utilization of the State's parking facilities in the Capitol Complex will be sought through this program as the Commission attempts to foster concepts of energy conservation and alleviation of traffic congestion in center city areas in cooperation with equally concerned governmental and societal entities.
- (b) Administration. Parking in the Capitol Complex is administered by the Executive Administration Division and its Security Section with full authority to carry out the responsibilities of the

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Commission.

(c) Definitions.

- (1) "Availability for assignment". This term shall refer to the status of a lot or garage, either a part or the whole of which is used for open assignment within the lot or garage and shows a utilization of its open parking areas of less than 100% during peak use hours.
- (2) "Handicapped employee". A State employee may be considered handicapped for purposes of space assignment hereunder if the nature of the handicap impairs mobility to the degree that walking any appreciable distance to the employee's work station would be difficult, if not impossible, for the employee to accomplish, if a licensed physician has determined that the employee's handicap meets the degree of mobility impairment set out above, and the handicap is not of temporary nature. (See Section 111.37(a) for temporary assignments.)
- (3) "Open assignment" or "open parking". Sometimes referred to as "reserved lot assignment or parking", this term refers to an assignment of a right to park anywhere within a given area as near as possible to employee's work location and is contrasted with an individually reserved, or specific, space assignment.

(d) State-Owned Parking Areas Not to be Administered in Accord with the General Purview of These Parking Rules.

- (1) Except as otherwise set out in this subsection, the parking

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rules in effect for the Capitol Complex area shall not apply to those parking areas abutting, or associated with the following buildings in Austin, Texas:

- (A) The State Office Building at 410 East 5th Street (the old Health Building).
  - (B) The Cosmetology Commission Building at 1111 Rio Grande.
  - (C) The old American Bank Building at 111 West 6th Street.
- (2) The buildings listed in (1) above are currently occupied by State agencies and have related parking areas that are under the general jurisdiction of our Security Section. Utilization of these parking areas in each case is under circumstances unique to each building, and the parking areas cannot readily be administered in accord with our general Parking Rules.
- (3) The following guidelines shall apply to the parking areas described in (1) above:

- (A) Each occupying agency shall be responsible for the assignment of parking spaces in the parking area designated to it by the Commission, and shall assign those spaces to its eligible employees on a basis appropriate to its needs.
- (B) Each occupying agency will designate one of its employees to be the parking coordinator, and the Commission will provide each coordinator with detailed instructions for the proper administration of these guidelines.



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- (C) No matter what basis of assignment is developed by the agency, qualified applicants for car pool and handicapped permits shall be assigned a reserved space within the appropriate parking area.
- (D) Neither the occupying agency, nor the Commission may collect a parking fee for any parking permit assigned under this subsection.
- (E) In accord with the instructions referred to in (B) above, decals or placards will be assigned and affixed by Capitol Security, and one or the other must be displayed on all vehicles authorized to utilize the parking area. In this connection the provisions of Section 111.40 will apply to all permits issued under this subsection and violations will be handled by the Commission under Section 111.42.
- (F) An occupying agency may request enforcement by Capitol Security, but Capitol Security may enforce the applicable provisions of these Rules in the described parking areas of this subparagraph on its own volition.
- (G) The offenses referred to in Section 4.12 of Article 601b, V.T.C.S., and provisions of Sections 111.41 and 111.43 shall be enforced by Capitol Security in the described parking areas.
- (H) Sections 111.44 and .45 shall also be applicable to the described parking areas.

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111.32 Assignment to a Reserved Space or Facility.

- (a) The assignment to a reserved space or facility is considered a privilege which can be revoked at any time for nonpayment or noncompliance with the parking regulations. In addition this privilege may be revoked to permit implementation of changes in the parking system or these sections as mandated by the Commission. Revocation because of Commission mandate will give the employee losing an assignment a priority for reassignment to a space or facility as near as possible to the employee work location. The acceptance and use of a parking assignment constitutes acceptance of all sections and regulations regarding such assignment. Subject to the priority of assignment established in Section 4.12(c) of Article 601b, V.T.C.S. and in Section 111.36, employees of State agencies are eligible for assigned parking so long as they office four hours or more a day within the Capitol Complex. Assignments may be based on waiting lists maintained by the Commission. Applications for parking assignments received after the effective date of these rules, if no assignments acceptable to the employee are available at the time of the application, shall be placed on waiting lists applicable only to those lots or garages designated for use of the building where the applicant is employed. The Commission shall designate lots or garages to the use of particular buildings in order to give better distribution to parking utilization. New applications, not immediately assignable, shall be date and time stamped as they are received by the Commission, and placed on the

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respective lists in chronological order. Falsifying data on applications for parking assignments is a violation of these rules. Assignments from those lists will be made on a "first-on, first-off" basis, but see the exceptions for new lots or parking garages described in Section 111.33, or for car pools described in Section 111.39.

- (b) All assignments relinquished, cancelled, terminated, or forfeited shall become reassignable in accordance with these rules on the effective date of relinquishment, cancellation, termination, or forfeiture.
- (c) In making assignments to reserved facilities where by specific Commission action, individual space assignments are not permitted either in the whole or in part of the lot or garage, the Commission may assign more individuals to park in the lot or garage than there are spaces available. Determination of the number of assignments to such an area which will be allowed by this Subsection shall be based upon information obtained during peak utilization periods. Adjustments in the number of permitted assignments may be made from time to time as circumstances warrant, in an effort to obtain full utilization of state parking facilities.
- (d) Allocation of spaces available for assignment:
  - (1) Spaces on the driveways of the Capitol shall be individually assigned according to the requirements of Section 4.12(c) of Article 601b, Vernon's Texas Civil Statutes (see also Section 111.36 supra relating to priority of assignments.)

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(2) Twenty percent (20%) of all remaining spaces administered by the Commission shall be reserved for individual assignment as follows:

(A) From this 20%, those spaces required to be set aside "in state parking lots proximately located to the Capitol" for the use of the Legislature and its administrative staff shall be deleted.

(B) The balance of the 20% shall be allocated by the Commission to the State agencies housed in the Capitol complex, or on other State property administered by the Commission, on the basis of the ratio of the number of employees working for that agency in the Capitol complex or in other State buildings administered by the Commission to the total number of all such employees. (Working employees shall be those that are scheduled to work at least four (4) hours a day during the normal State work week within the hours of 7:00 a.m. to 6:00 p.m.). The Commission will insure that all agencies are allocated at least one (1) space for individual assignment no matter what the ratio for that agency would require.

(3) Spaces set aside for specific assignment to car pools and handicapped employees, and spaces reserved for visitor parking and for parking State-owned vehicles shall not be counted as part of the 20% set aside for individual assignment in (2) above, but shall be located, if at all

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possible, adjacent to such spaces.

- (4) All other spaces, whether a part or the whole of a lot or garage shall be marked for open assignment in accord with these rules.

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111.33 New Lots or Parking Garages.

- (a) Whenever a new lot or parking garage is opened for operation, assignments to that lot or garage will be made first to those employees who had surface parking on locations where the new lots or garages were erected, and were temporarily displaced by reason of such construction. Additional and further assignments will be made in accord with these rules.

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111.34 Trades; and Transfers and Terminations.

- (a) The Commission may make space trades for employees currently having assigned spaces within the Capitol Complex. In allowing such trades, the Commission shall satisfy itself that the best interests of the State will be served thereby. If an employee is transferred to another work station outside of the Capitol Complex, or is terminated, he or she shall relinquish his or her assignment. In the case of a transfer, should the employee be reassigned to the complex area within 6 months of the original transfer, he or she shall be entitled to a priority assignment in the same or nearby lot or garage as his or her relinquished assignment.

111.35 Monthly Parking Charges, Payment, and Refunds.

- (a) Charges. The Commission has determined that a reasonable monthly charge for assigned parking in accordance with Section 4.12 of Article 601b, V.T.C.S., shall be ten dollars (\$10) for individual employees assigned reserved spaces within a lot or garage. All other assignments, including specific space assignments to car pools and to handicapped employees shall be free.
- (b) Payment. This reasonable monthly charge shall be paid quarterly in advance, due on the first day of September, December, March, and June. Advance payments covering more than one quarter will be permitted. The payment is considered delinquent on the 10th of the month, at which time a notice is sent to the employee advising him or her to remit payment to the Commission within five working days of the date of notice. Payment for partial quarters is allowed when a State employee receives a parking assignment in midquarter. Parking assignments made prior to the 15th of the month require the full payment for the month. Assignments made on or after the 15th of the month will have the payment applied to the next month's lease.
- (c) Refunds. Employees who cancel their assignment on or before the 15th of the month will receive a refund for that month and another for each additional month prepaid. An employee who cancels after the 15th of the month will receive no refund for that month, but will receive a refund for any additional month prepaid.



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111.36 Priority of Assignments.

- (a) When the Legislature is in session, the Commission shall assign and mark, for unrestricted use by members and administrative staff of the Legislature, the reserved parking spaces in the Capitol Complex requested by the respective houses of the Legislature. A request for parking spaces reserved pursuant to this subsection shall be limited to spaces in the Capitol area and the additional spaces in the State parking lots proximately located to the Capitol.
- (b) When the Legislature is not in session, the Commission shall, at the request of the respective legislative bodies, assign and mark the spaces requested for use by members and administrative staff of the Legislature, in the areas described in Subsection (a) above.
- (c) The Commission shall assign and mark reserved parking spaces on the Capitol driveways for the Governor, Lieutenant Governor, Speaker of the House of Representatives, and Secretary of State for their unrestricted use.
- (d) The Commission may assign an appropriate number of individual parking spaces to elected State officials and appointed heads of State agencies who occupy space in State buildings located within the bounds of the Capitol Complex as defined in Section 4.12(a) of Article 601b, V.T.C.S.
- (e) If spaces are available, the Commission may assign parking spaces to handicapped State employees and other State employees of State agencies occupying space in State buildings located within the

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bounds of the Capitol Complex as defined in Section 4.12(a) of Article 601b, V.T.C.S. Within this category of employees, and for the purpose of equitable administration of available parking spaces within the Capitol Complex, the Commission will fill requests for space in the following manner:

- (1) Handicapped employees who register with the Commission shall be entitled to properly designed parking space as near as possible to the building in which they work.
  - (2) Employees forming car pools in accord with Section 111.39 shall be entitled to a specific space assignment as near as possible to their work location.
  - (3) All other assignments will be made in accord with Section 111.32.
- (f) To implement the requirements of Subsections (a), (b), and (c) of this section, the Commission shall not be required to assign all of the spaces available to it; but the Commission in its discretion may make use of any unassigned spaces so designated under this section, so long as that use is in accord with Section 4.12 of Article 601b, V.T.C.S. and these rules.

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111.37 Short Term Parking Authorizations.

(a) Objective.

- (1) To allow State employees who are ill, or who have been injured, or who are temporarily handicapped and have a doctor's certification indicating a specific parking need, to either receive a short-term parking authorization if they have no existing permit, or receive a short-term parking permit allowing them to relocate to a facility and space closer to their building, or
- (2) To allow an eligible employee with a parking assignment to use an unregistered, alternate vehicle, or
- (3) To allow Capitol Security to meet parking needs arising from unusual circumstances.

(b) Types of short term parking permits.

- (1) Temporary permits may be issued for two to five days.
- (2) Emergency permits may be issued for one day only.

(c) Temporary Permit

- (1) May be issued for a period of two to five days.
- (2) If the need for a temporary permit continues to exist after five working days, a new temporary permit may be obtained.
- (3) Procedure for obtaining a temporary permit. -
  - (A) Submit a written request to the Agency Parking Coordinator (APC).
  - (B) If the request is approved, the APC will forward the request to Capitol Security for issuance of a temporary parking permit, and the permitted employee will display

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the permit so issued.

(d) Emergency Permits

- (1) Emergency permits may be issued for one day only.
- (2) Such permits may be obtained by calling the parking and traffic section of Capitol Security.
- (3) If the emergency exists beyond the first day, a temporary permit must be obtained pursuant to (c) above.

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111.38 Sublease and Utilization.

- (a) Subleasing an assignment shall not be permitted and is a violation of these rules. It is possible for an employee who pays for his or her individual space assignment to allow another State employee to use that assignment during vacations, absences due to illness, or official travel, provided the Commission is notified in advance, but charging a fee for this favor is a violation of these Rules.
- (b) It is the expressed intention of the Commission, operating under the provisions of Section 4.12 of Article 601b, V.T.C.S., to foster full utilization of the parking facilities available to State employees. Utilization of other non-State facilities within or adjacent to the Capitol Complex by employees having an assignment as described in these rules shall be a violation of these rules.

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111.39 Car Pools.

- (a) State employees are urged to form car pools. This will help to reduce traffic congestion, reduce pollution, conserve energy, provide for better utilization of parking facilities, and, most importantly, free curb parking for visitors.
- (b) To qualify for assignment under this section, a car pool must have at least three participating State employees who normally drive their cars to work in the Capitol Complex.
- (c) Responsibility for the car pool shall be given to a designated member of the pool, whose identification as such shall be recorded in the parking records at the Commission. Notice to the designated member for any purpose set out in these rules shall be deemed notice to all members of the pool.
- (d) A newly established car pool, meeting the requirements of this Section as determined by the Commission, shall be assigned a reserved space within a lot or garage designated in the pool's application for assignment, provided this would not result in the dislocation of any employee having a previously assigned reserved space.
- (e) Assignment of space to a pool shall result in the automatic forfeiture of any outstanding parking assignments to the members of the pool. Subsequent departure of a pool member, or dissolution of the pool itself will not restore any parking assignment previously forfeited by a member.
- (f) Departure of a pool member will not work an automatic forfeiture of the pool assignment unless the membership falls below three (3)

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as a result, and a new member cannot be found within sixty (60) days to restore the pool to the minimum qualifying number.

- (g) Dissolution of a pool for any reason will not give the individual members any right to the priority space assigned to that pool.

111.40 Parking Permits.

- (a) All vehicles utilizing the State parking must display a current parking permit. Permits will be issued only for a vehicle owned or leased by the employee, except that handicapped employees having a reserved space assignment may request that permits be issued for the space for a car not owned or leased by the employee. Short term parking authorization may be issued by the Commission for specific periods of time to cover emergency situations. (See Section 111.37) The absence of a permit, plainly visible, on a vehicle parked on State parking facilities is a violation of these rules. If a vehicle not authorized is to be used for any reason, the Commission should be notified in advance. Parking any vehicle in any space or facility other than the one assigned as indicated by the permit is a violation of these rules. All permits other than short-term authorization will expire and be renewed on a biennial basis. The new permit will be issued upon verification of the specific assignment. Permits can be issued either in the form of decals or placards.
- (b) Only a current permit should appear on any registered vehicle. Displaying more than one permit, even if one or more is not current, shall be a violation of these rules. It is the intent of this section that all expired or replaced permits should be removed from a registered vehicle.



111.41 Offenses Under Section 4.12 of Article 601b, V.T.C.S.

(a) It is an offense:

- (1) to park a vehicle in a place other than a space marked and designated for parking by the Commission, or
- (2) to block or impede traffic on the driveways of property owned or leased by the State in the area described in (a) of Section 4.12 of Article 601b, V.T.C.S., or
- (3) to park an unauthorized vehicle in a space or facility under the jurisdiction of the Commission.

(b) Capitol Security Officers may ticket any vehicle parked in such a manner as to constitute an offense under Subsection (a) above.

(c) Capitol Security Officers, when circumstances warrant, may remove or cause to be removed any ticketed vehicle parked in such a manner as to constitute an offense under Subsection (a) above, whether or not the owner has been advised of the offense.

(d) Any permitted employee who commits a parking offense as described in Subsection (a) above, shall forfeit any assignment he or she may have in the Capitol Complex, and any prepaid rental heretofore paid by him or her to the Commission under Section 111.35. The Commission shall notify the employee of the forfeiture in writing, describing the reasons therefor.

(e) An employee with an assignment shall notify the Commission of any offense relating to his or her assignment. No vehicle shall be towed from State parking areas under the Commission's supervision, except as set out in Subsection (c) of this section.

(f) Any employee actually displaced by an unauthorized vehicle shall

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be provided with an alternate place to park, temporarily and if available.

- (g) If an assignment is forfeited following the commission of an offense as described in this section, eligibility for re-assignment shall not be regained prior to the expiration of a six-month period following the notice of forfeiture.

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111.42 Violation of Rules

- (a) Violation of any of these rules (except Section 111.41) may result in forfeiture of an assignment.
- (b) Upon receipt of the information constituting a violation of these rules as set out herein, the Commission shall inform the employee having the assignment, advising the employee of the specific violation and of the forfeiture to become effective at the expiration of 10 working days after the date of the notice.
- (c) Forfeiture may be stayed by filing written notice of appeal prior to forfeiture as described above, except in the case of violations:
  - (1) under Section 111.35, relating to failure to pay fees, or
  - (2) under Section 111.38, relating to subleasing and charging of fee to other employees for use of the assignment.
- (d) A permitted employee shall be required to pay all fees due under Section 111.35, without regard to the status of any forfeiture proceeding hereunder, until such time as forfeiture has actually occurred.
- (e) Upon receipt of a written notice of appeal, the Commission will provide the employee an opportunity within 10 working days to present reasons in writing as to why the permit should not be forfeited. The Commission's final decision on this appeal, to be presented not later than five working days after receipt of the employee's reasons, shall respond to the employee's several points and shall set out its reasons for accepting or rejecting each one. If an employee's assignment is forfeited hereunder and the

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employee still needs parking space, the employee shall be eligible for re-assignment after the expiration of 90-days from the date of notice of forfeiture.

111.43 Parking and Traffic Violations Generally.

- (a) In addition to the matters discussed in Sections 111.41 and 111.42 above, the following parking and traffic violations may also be ticketed by Capitol Security Officers. Enforcement of such a citation shall be as provided by statute.
- (b) "Parking in a prohibited zone", which shall include but not be limited to the following:
  - (1) parking on a sidewalk or walk areas,
  - (2) parking in an area marked "No Parking",
  - (3) blocking a crosswalk, and
  - (4) parking within 15 feet of a fire plug or fire zone.
- (c) "Illegal parking", which shall include but not be limited to the following:
  - (1) parking over a stall line,
  - (2) parallel parking over 18 inches from the curb measured from any part of the car body facing the curb,
  - (3) angle parking over 18 inches from vehicle bumper at closest point to curb, and
  - (4) parking in a loading zone except while loading or unloading a vehicle.
- (d) "Overtime Parking". Which shall mean parking in a time zone in excess of the time limit marked for that zone.
- (e) "Speeding", which shall mean driving in excess of 15 miles per hour within the Capitol driveways. Before a violation can occur under this section, speed limit signs shall be posted on all driveways and be plainly visible to all drivers when they enter

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the Capitol grounds.

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111.44 Normal Duty Hours.

- (a) Assignments on surface lots or in garages shall allow the permitted employee to utilize the assignment only on State working days, during the hours 7 a.m. through 6 p.m., inclusive. Outside of these hours, a permitted State employee shall have a general right to park in non-utilized lots and garages within the Capitol Complex, but shall have no special right to park in any space, and Security Officers of the Commission may not be asked by an employee to enforce an otherwise lawful right to park in the complex.

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111.45 Other Uses of State Parking Areas.

- (a) The Commission may authorize use of State parking areas outside of normal working hours for other State purposes and functions, and shall enter into interagency contracts with other State agencies and departments of government to support this use.



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111.46 Visitor Parking Lots.

- (a) Visitor parking lots shall be maintained by the Commission at locations designated by the Commission and shall be for the exclusive use of visitors to the Capitol Complex area. A State employee may use visitor parking if his or her principal place of employment for the State is outside the Capitol Complex. Such lots shall be limited to two-hour parking and shall be open from 8 a.m. until 4 p.m. on all State working days.
- (b) A Security Officer shall be on duty at each designated visitor parking lot at all open times. The Officer on duty may extend the two-hour limit for a visitor upon special request from an agency head, or other authorized State official.

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Purchasing  
113.1-.15

These rules are promulgated pursuant to the authority of Article 3 of Article 601b, V.T.C.S.

113.1 General

- (a) Pursuant to Article 3 of Article 601b, V.T.C.S., the Commission has instituted and maintains an effective and economical system for purchasing supplies, materials, services, and equipment for the State of Texas.
- (b) It shall be the policy of the Commission to administer the provisions of Section 3.10 of Article 601b, V.T.C.S., to secure competitive bidding "whenever possible."
- (c) The staff shall maintain and present to the Commission at regular monthly meetings, records of purchase transactions which:
  - (1) permit competition in bidding,
  - (2) do not permit competition, but for which acceptable written justification was given, and
  - (3) do not permit competition, and where the staff has taken exception to the written justification given.

113.2 Definitions.

(a) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- "Award" - The official act of the commission which results in a contract with the state and the successful bidder. (See Section 113.6(b)(4)) It is important to point out in this context that purchaser notations of award on a bid tabulation sheet or other parts of a purchasing file do not constitute an award.
- "Best interests of the state." - A term frequently used in granting a purchasing official the authority to use his discretion to take whatever action he feels is most advantageous to the State. The term is used when it is impossible to anticipate adequately the circumstances that may arise so that more specific directions could be delineated by the law or regulation.
- "Bid" - An offer, as a price, whether for payment or acceptance. A quotation specifically given to a prospective purchaser upon his request usually in competition with other bidders.
- "Bid sample" - A sample required by the Invitation for Bids to be furnished by bidders as part of their bids to establish a quality level for the products being offered.
- "Bidders list" - A list maintained by the commission setting out the names and addresses of prequalified companies or

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individuals from whom bids can be solicited for either obtaining or disposing of goods or services.

- "Brand name" - A product name which serves to identify that product as having been made by a particular manufacturer. A trade name.
- "Commission" - The State Purchasing and General Services Commission.
- "Competitive bidding" - The commission understands this term to mean what the Texas Supreme Court said it meant in Texas Highway Commission vs. Texas Association of Steel Importers, 372 S.W. 2d 525, 527, 533 (TEX. SUP. CT., 1963).

"Competitive bidding requires due advertisement, giving opportunity to bid, and contemplates a bidding . . . upon the same thing. It requires that all bidders be placed upon the same plane of equality and that they each bid upon the same terms and conditions involved in all the items and parts of the contract, and that the proposal specify as to all bids the same, or substantially similar specifications. Its purpose is to stimulate competition, prevent favoritism, and secure the best work and materials at the lowest practicable price, for the best interests and benefit of the taxpayers and the property owners. There can be no competitive bidding in a legal sense where the terms of the letting of the contract prevent or restrict competition, favor a contractor or material man, or

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increase the cost of the work or of the materials or other items going into the project. . ."

Essentially it is the process of inviting and obtaining bids from competitive sources in response to competitive specification terms and conditions. While Section 3.09 of the Act is understood by the Commission to mean that bids from vendors of two or more equivalent products and/or services will be sufficient to allow for processing without written justification, and while Section 3.12(b) of the Act requires that all open market purchases be based, whenever possible, upon at least three competitive bids, it is the avowed intention of the Commission to conduct open competitive bidding to the maximum degree possible, whenever possible.

- "Emergency purchase" - The purchase of supplies which are so badly needed that the agency will suffer financial or operational damage if supplies are not secured immediately.
- "Equivalent product" - Such a product is understood by the Commission to be truly comparable in performance and quality levels to the product specified. It cannot be the same product as that specified, but offered by a different vendor, nor can it be the same essential product marketed under a different brand name.
- "Escalation clause" - A clause in a bid providing for upward adjustment of the contract price if specified contingencies occur; price escalation clause.

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- "Formal bid" - A bid requested to be forwarded in a sealed envelope, in conformance with a prescribed format and to be opened at a specified time.
- "Informal bid" - An unsealed, competitive bid conveyed by letter, telephone, telegram, or other means.
- "Inspection" - Critical examination and/or testing of merchandise to determine whether it has been received in the proper quantity and condition, and to verify that it conforms to the applicable specifications.
- "Inspection report" - A report to inform the purchasing authority of the quality or condition of the merchandise delivered.
- "Invitation for bids" - A written request which is made to prospective vendors requesting the submission of a bid on commodities or services.
- "Late bid" - A bid which is received at the place designated in the Invitation for Bids after the hour established by the invitation as the time by which all bids must be received.
- "Multiple award contract procedure" - A distinct procedure from the contract purchase procedure and the open market purchase procedure. The multiple award contract procedure involves the establishment of one or more levels of quality and performance with more than one award at each level. It is not possible to make purchases under this procedure based solely on an award to the lowest bid since this would result in only one award at each level.

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- "Open market purchase" - A purchase, usually of a specified quantity, which is made by buying from any available source. Requires the processing of an open market requisition.
- "Performance bond" - A contract of guaranty executed by a successful bidder to protect the State from loss due to his inability to complete the contract as agreed.
- "Perishable goods" - Certain goods which are subject to spoilage within a relatively short time and identified by the Commission for purchase by State agencies under delegated authority.
- "Price" - The amount of money which will purchase a definite quantity, weight, or other measure of a commodity, or a specified service.
- "Proprietary" - This term includes products and/or services manufactured or offered under exclusive rights derived from a trade name, patent, copyright, or other legally protected right. Products, and/or services of one manufacturer will be considered to be proprietary if the product or the terms and conditions of the offer have a distinguishing feature or characteristic, required by the using agency's specifications which is not shared or provided by similar and competing (equivalent) products or services.
- "Public bid opening" - The process of opening and reading bids, upon request, conducted at the time and place specified in the Invitation for Bids and/or the advertisement, and in the view of anyone who wishes to attend.

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- "Purchase orders"

- "Open Market Purchase Order." A document issued by the Commission to formalize an existing purchase contract, and incorporating all the terms and conditions, and other agreements, pertinent to the purchase and its execution by the vendor.

- "Contract Purchase Order." A release order issued by the Commission under an existing term contract, and pursuant to a requisition from a using agency.

- "Purchase requisitions"

- "Open Market Purchase Requisition." An initiating request from a State agency describing needs and requesting the Commission to purchase goods or services to satisfy those needs. (For processing such a requisition, see Section 111.3.)

- "Term Contract Purchase Requisition." A request from a State agency for delivery of supplies, materials or equipment under an existing term contract.

- "Purchasing functions" - When used in connection with the authority to delegate found in Section 3.06 of the Act, this phrase refers to development of specifications, receipt and processing of requisitions, review of specifications, advertising for bids, evaluation of bids, award of contracts, and inspection of merchandise received. It does not include auditing or invoice functions, or other functions relating to contract administration.



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- "Scheduled purchase" - A purchase for which a bid opening date is prescheduled so that using agencies' requirements for the period covered by the contract can be gathered and combined for the invitation for bids.
- "Sealed bid" - A bid which has been submitted in a sealed envelope to prevent dissemination of its contents before the specified time and date set for bid opening.
- "Specifications" - A description of what the purchaser requires and, consequently, what a bidder must offer to be considered for an award.
- "Spot purchase" - A purchase of supplies, materials or services which may be made by state agencies through local purchase procedures, provided the purchase does not exceed a total of \$500 and is in compliance with the Act and with Commission rules.
- "Texas standard specification" - A specification adopted by the Commission and used whenever possible in the purchase of the item involved.
- "Tabulation of bids" - The recording of bids and bidding data submitted in response to a specific invitation for the purposes of comparison, analysis, and record-keeping.
- "Term contracting" - A purchasing method in which a source or sources of supply are established for a specified period of time.
- "Testing" - A phase of inspection involving the determination by technical means of the physical and chemical properties of

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- items, or compounds thereof, requiring not so much the element of personal judgment as the application of recognized and established scientific principles and procedures.
- "Unit price" - The price of a selected unit of a good or service, e.g., price per ton, labor hour, foot.
  - "Using agency" - A unit of government that requisitions items through the Commission.
  - "Vendor" - A supplier, whether a manufacturer, wholesaler, retailer, etc.

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113.3 Requisition Processing.

(a) Purchases, and rentals of equipment, are made by the Commission as a result of requisitions received from State agencies duly signed and certifying to the availability of funds for the payment of goods and services received.

(1) Requisitions must be submitted on forms prescribed by or approved by the Commission.

(2) Open market requisitions for products which are equivalent to those under contract may not be accepted unless an explanation as to why the contract product is not satisfactory is furnished with the requisition and accepted by the commission.

(3) The commission normally advertises for delivery times that are standard in the industry.

(A) Agencies having delivery requirements shorter than standard must request such specific requirements in their requisition. If these requirements make the procurement proprietary to one vendor, justification for their use will be sought.

(B) If an agency does not have specific delivery requirements, but expresses a desire to take advantage of early delivery should a vendor be able to give it, the Commission will include the following statement in the invitation for bids: "Ability to make early delivery may be a factor in making the award." Following such a statement, the Commission may decide,

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after consultation with the agency, to accept a higher bid, if it is to the advantage of the state to do so.

(C) If no statement regarding delivery times is set out in the invitation for bids, unsolicited offers of early delivery may not be considered in the award of a contract. Unrealistically long delivery times may be cause for rejecting a bid.

(4) Texas Standard specifications have been developed for use by all state agencies, and their use to obtain needed supplies, materials, and equipment is encouraged. The Commission will make these standard specifications known to the agencies in an appropriate manner and will otherwise encourage and foster this use. Requisitions not using an applicable standard specification must include an explanation as to why the standard specification is not being used.

(b) Review of specifications and/or conditions of purchase.

(1) When the Commission finds specifications and/or conditions of purchase which have a limiting effect upon otherwise available competition, but which are not proprietary to one vendor, within the meaning of the Act and these rules, it may not return the requisition to the agency for that reason, but a commission purchaser may talk with the agency purchaser and discuss the limiting effect of the specification and/or condition of purchase and the ultimate economic effect, if any, which it may have. Requisitions which contain such specifications and/or conditions of purchase may not be

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returned to the agency absent some specific invalidating reason.

- (2) When the Commission finds specifications and/or conditions of purchase which are proprietary to one vendor and do not include language permitting an equivalent product to be supplied, it shall require written justification of the requested specifications and/or of conditions of purchase before processing the requisition further, but the agency may furnish such justification with its requisition under Section 3.09 of the Act. Such written justification for the use of a proprietary specification and/or condition of purchase shall:

- (A) be signed by the agency head or the chairman of the governing body; or in the case of an institution of higher learning, by a person designated by the president or governing body as purchasing officer for the institution.
- (B) be furnished upon request from the Commission (see this paragraph) for submission with requisition under Section 3.09 of the Act).
- (C) contain the following:
  - (i) an explanation of the need for the proprietary specifications and/or conditions of purchase,
  - (ii) the reason competing products are not satisfactory (if the purchaser identifies specific competing products which are considered to be equivalent to the product specified, the agency must address each

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such specified product in its written  
justification),

(iii) response to any other information requested by the  
Commission.

- (3) When justification is received which supplies the information required by Section 3.09(b) of the Act, and Subsection (b) of this section, the requisition shall be processed as requested. If the Commission takes exception to the written justification, after considering all factors, it shall report the reasons for its exceptions as required by the Act.
- (4) The Commission will not significantly change specifications and/or conditions of purchase on the face of a requisition, or otherwise appreciably alter any part of the document, without specific written approval from the agency concerned. Incorrect, inadequate, or incomplete requisitions may be returned to the agency. The Commission may correct typographical errors on the requisition if doing so will not significantly change the requisition as submitted. Any returned requisition shall be accompanied by a return form or letter which clearly identifies the precise reason for the return.
- (5) The Commission may not question an agency's need for the requested item. This is solely the province of the requesting agency. However, it is important to note that asking for justification for the use of particular specifications and/or conditions of purchase is permitted by

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statute and does not reach the point of questioning an agency's needs.

- (c) In addition to other mandatory terms and conditions included in the invitation to bid used by the Commission in open market or annual contracts, the Commission shall also include the following:
- "Vendor hereby assigns to purchaser any and all claims for overcharges associated with his contract which arise under the antitrust laws of the United States, 15 USCA, Section 1, et seq. (1973)."

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113.4 Bid Lists, Conditions Applicable to both Open Market and Contract

(a) Requirements for Bidders List. A vendor may be considered for the bidders mailing list by complying with and meeting the following procedures and requirements:

- (1) Purchase a copy of the Commission's Commodity Book at a price established by the Commission. The purchase of a Commodity Book and the submission of a bidder's application does not automatically qualify the applicant for the bidders mailing list.
- (2) Complete and return to the Commission the bidder's application form which is furnished with the purchase of the Commodity Book.
- (3) The completed application received is evaluated for acceptance before the applicant's name may be added to the bid list.
- (4) No firm or individual may be placed on the mailing list to receive bids at different addresses for the same class and items for the same bidding districts.
- (5) No individual or firm will be placed on the mailing list to receive invitations to bid for information purposes only.

(b) Removal from Bidders List

- (1) A bidder may be removed or temporarily suspended from the bid list for one or more of the following reasons:
  - (A) failure to make delivery as promised
  - (B) unauthorized substitutions
  - (C) misrepresentation of merchandise



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- (D) failure to make satisfactory adjustments properly
  - (E) breach of ethical standards as described in Commission rule Section 111.4.
  - (F) failure to pay or unnecessary delay in paying a penalty
  - (G) failure to furnish a bond
  - (H) failure to submit bids to the Commission's invitation to bid. Removal from the list of the affected class or item will automatically follow the expiration of fifteen (15) days after bidder's receipt of notice from the Commission, unless the bidder notifies the Commission in writing that it wishes to remain on the list when a failure to respond:
    - (i) occurs on each of four consecutive open market invitations concerning the affected class or item, or
    - (ii) occurs on each of one or more contract or schedule invitations concerning the affected class.
  - (I) other factors listed in Section 3.11(e) (1) through (10) of Article 601b, V.T.C.S.
- (2) Once a bidder has been removed, he may not be reinstated to the bid list except after presentation of a formal request for reinstatement to the Executive Director which results in a favorable recommendation for reinstatement.
- (3) A bidder who has been temporarily suspended may have the suspension rescinded upon prompt correction of the reasons for suspension. Failure to correct the reasons for

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suspension will result in removal from the bidders list.

- (c) Notice of Surplus Property Sales. Applicants to receive notice of surplus property sales by the Commission under Article 9 of Article 601b, V.T.C.S., may apply through the Bid List Clerk, State Purchasing and General Services Commission. No additional requirements for this list are necessary.
- (d) Mistake in Bidders List, Effect of. Failure of the Commission's addressing machine to address a bid invitation envelope or label to a bidder, or utilization of an incorrect bidder's address, or failure of the post office to deliver a bid invitation to a bidder will not constitute cause for other bids received to be rejected and the requirements readvertised.

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113.5 Public Bid Opening and Tabulation, Conditions Applicable to Both Open Market and Contract.

- (a) Bid Invitation Availability. Prospective bidders may request specific bid invitations from the Commission either orally or in writing at any time prior to the bid opening. Copies of the specified bid invitation will be handed or mailed to the requestor.
- (b) Public Bid Openings. All bid openings conducted by the Commission shall be open to the public.
- (c) Changing Bid Opening Date. Bid opening dates may be changed and bid openings rescheduled provided bidders are properly notified by addendum in advance of the new opening date.
- (d) Cancelling of Bid Opening. If the bid opening is cancelled, all bids which are being held for opening will be returned to the bidders.
- (e) Withdrawal of Bid by Bidder. Bidder may withdraw his bid upon his written request at any time prior to the bid opening date and hour.
- (f) Late Bids. Any bid which is received at the place designated in the invitation for bids after the time and date established by the invitation is a late bid and will not be considered. Such bids will be returned.
- (g) Identification of Bid Envelopes.
  - (1) Envelopes received by the Commission which do not contain adequate bid identification information on the outside of the envelopes will be opened for the purpose of ascertaining

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proper bid identification information and will be processed as any other bid.

- (2) If a bid has incorrect identification on the envelope, e.g., wrong opening date, which results in it not being considered in making the award, the bid will be considered as an invalid bid and will not be acceptable.

- (h) Telegraphic Response. Bids may be considered when submitted via telegraph provided the telegram carries information sufficient to properly identify merchandise offered, requisition number, price showing whether F.O.B. shipping point or destination, and other necessary information. (But see Section 113.9(b)(1)). Telegrams must be confirmed in writing and the written confirmation must be postmarked on or before the opening date and/or received by the Commission within 48 hours after bid opening time. The confirmation must coincide with the telegram. Any confirmation not manually signed or not in full conformity with the telegram voids the entire bid.
- (i) Unsigned Bids. Any bid received which is not signed is not a valid bid and is returned to the sender.
- (j) Reading of Bids. Bidders and/or representatives of State agencies may request that a specific bid be read aloud by appearing in person at the bid opening place when bids are opened and making that request. Nothing in this section shall require that a bid be read aloud at any time other than during regular working hours and days.
- (k) Bid Tabulation Files for Public Inspection. Files of all bid

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tabulations are made available for public inspection. Tabulations may be inspected by any interested person during regular working hours at the offices of the Commission. Employees of the Commission are not required or encouraged to give bid tabulations by telephone.

- (l) Oral Bids. When formal bids are requested, bids may not be taken or accepted by telephone.
- (m) Return Mail Bids. Return mail bids carry no opening date.
- (n) Addendum. If it is determined that an error was made in preparing a bid invitation or certain requirements changed prior to the opening of a bid, an Addendum either correcting or changing the specifications will be mailed to all bidders originally listed on the mailing list for that bid invitation. It is not necessary that the Addendum be returned with a bid and bids will not be rejected for failure to return the Addendum provided the correction is noted on the bid or the bid offered would not be changed by the addendum.
- (o) A bidder submitting a bid to this Commission, or to a state agency acting under delegated purchasing authority from the Commission, shall by signature on the bid affirm that he has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted bid. Failure to sign the bid, or signing it with a false statement, shall void the submitted bid or any resulting contracts, and the bidder shall be removed from all

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bid lists at the Commission or at any agency exercising delegated  
purchasing authority from the Commission.

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113.6 Bid Evaluation and Award, Conditions Applicable to both Open Market and Contract.

(a) Bid Evaluation.

- (1) The Commission shall exercise its authority to accept or reject, in whole or in part, any bid submitted and to waive minor technicalities when the interest of the State will be served thereby.
- (2) A bid price may not be altered or amended after bids are opened except to correct errors in extension.
- (3) No increase in price will be considered after a bid is opened. A bidder may reduce his price provided that he is the lowest and best bidder and is otherwise entitled to the award.
- (4) Bid prices are considered firm for acceptance for thirty (30) days from the bid opening date for open market purchase and sixty (60) days for term contracts, unless otherwise specified by the bidder or the invitation for bids.
- (5) A bid containing a self-evident error may be withdrawn prior to an award.
- (6) Bid prices which are subject to unlimited escalation will not be considered. A bidder may offer a predetermined limit of escalation in his bid and his bid will be accepted and evaluated on the basis of the full amount of the escalation.
- (7) If a bid is submitted in which there is a material failure to comply with the specification requirements, such bid shall be rejected.

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- (8) All quotations are requested F.O.B. destination.
  - (9) When requested in the invitation for bids, samples must be submitted or the bid will be rejected. The Commission will require samples only when it is essential for assessing the quality of a product during the evaluation of bids. Samples should be returned to vendor at vendor's expense whenever practicable; otherwise disposed of in the same manner as surplus or salvage property.
  - (10) Where brand names are specified, bids on alternate brands will be considered provided they meet specification requirements.
  - (11) Cash discounts are acceptable but are not considered in determining the award. All cash discounts offered will be taken if they are earned by the agency.
- (b) Award.
- (1) All awards for the purchase of supplies, materials, services, and equipment shall be made to the bidder submitting the lowest and best bid conforming to the specifications required. In determining who is the lowest and best bidder, in addition to price, the Commission shall consider and evaluate the factors set out in Section 3.11(e) of Article 601b, V.T.C.S.
  - (2) For the purposes of giving preference to Texas and United States products as required by Section 3.28 of Article 601b, V.T.C.S., the following requirements and definitions of terms will be applicable.



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- (A) No preference will be granted to any bidder otherwise entitled to one unless claimed in the manner described below in subparagraph(B). Failure to claim a preference may have the additional effect of having a preference applied against the bidder who so fails. This can mean loss of an award that would otherwise have been made to that bidder.
- (B) A bidder entitled to a preference under this paragraph shall mark the appropriate box on the face of the invitation to bid. A preference may be granted to an entitled bidder who fails to check the appropriate box if documents or letters attached to the bid show the entitlement to a preference.
- (C) "Preference" shall mean the right of a qualified Texas bidder to receive an award over a non-Texas bidder, or a Texas bidder not properly claiming the preference, the cost to the State and quality being equal. A preference to United States products will be granted only if supplies, materials, or equipment produced in Texas or offered by Texas bidders are not available for preference hereunder.
- (D) "Produced in Texas" shall apply only to those supplies, materials and equipment which are grown or manufactured in Texas. Manufacture shall not include the work of packaging or re-packaging in application of this test. Goods produced in Texas shall have the same status as

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those offered by a Texas bidder.

- (E) "Offered by Texas bidders" includes offers from individuals, sole proprietorships, partnerships, corporations and other recognized forms of business entities in Texas, but does not include offers from businesses owned or operated by "foreign" corporations, or individuals or business entities of other states or countries, unless such bidders own or lease an office in Texas, from which office the bid originates, and have one or more employees in that office.
  - (3) In case of tie bids, except as provided in Paragraph (2) above, quality and service being equal, the award shall be made by drawing of lots.
  - (4) Awards do not become an official act of the Commission until they have been approved by the purchasing administration and the orders signed by the director for purchasing or a designated Commission employee.
  - (5) The following manufactured products, if they meet the State specifications as to quantity, quality, and price, shall have preference in purchases made of those types of items by the Commission: Products of workshops, organizations, or corporations whose primary purpose is training and employing mentally retarded persons or physically handicapped persons.  
(Section 3.20 of Article 601b, V.T.C.S.)
- (c) Negotiation of contracts.
- (1) Negotiation is not permitted where either price or product

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competition is deemed by the purchasing staff to be possible to achieve under the circumstances at the time of the specific transaction in question.

- (2) Negotiation is permitted in the following cases where price or product competition is deemed by the purchasing staff not to be possible:
  - (A) emergency situations where time does not permit the solicitation of bids;
  - (B) purchases of special, unique items available only from one supplier;
  - (C) Section 3.09 acquisitions where a single proprietary vendor alone can supply the needed product; or
  - (D) where advertisement has resulted in only one acceptable bid, or no bids, being received which meet or exceed the specifications required.
- (3) Negotiation in cases involving an advertisement of competitive specifications ((2)(D) of this subsection) may not involve, or result in, a material change in those specifications.

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113.7 Contract Administration, Conditions Applicable to both Open Market and Contract

(a) Substitutions.

Substitutions of items called for in a contract are not permitted without the prior approval of the Commission. No such approval will be granted unless substituted items are of equal quality and at the same price.

(b) Cancellations.

- (1) Cancellations, either on the part of the vendor or an agency are not permitted without prior written approval of the Commission.
- (2) Cancellation of an order due to unsatisfactory performance or nonperformance by a contractor may be made without the contractor's consent.
- (3) Cancellation of an order, when the cause for cancellation is not the fault of the contractor, may not be made without first obtaining the consent of the contractor.
- (4) A contractor may request a cancellation of a contract, or a portion of a contract, because of circumstances beyond his control. In these instances, the Commission will consider such request when presented in writing with proper documentation.
- (5) The State may pay a restocking charge or other similar charge as a result of a cancelled order, if the Commission determines that the charge is justifiable.

(c) Inspection of Merchandise.

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- (1) Agencies must inspect all shipments received against orders and report any discrepancies to the Commission immediately.
  - (2) If unlisted shortages are discovered, the vendor and the Commission must be notified immediately. Unless shipments are checked immediately upon arrival and such shortage reports are made within fifteen (15) days, the contractor cannot be held responsible for the shortages.
  - (3) A contractor may be required to pick up any merchandise not conforming to specifications and replace the merchandise immediately.
- (d) Damages for failure to perform.
- (1) A vendor who fails by virtue of his own actions, to perform in accordance with the terms and conditions of a state contract may be liable to the state for actual damages suffered by the state. The amount of such damages shall be determined by the Commission depending on the circumstances of the transaction. (See also Section 113.4(b)(1)(F) relating to removal from the bidders list.)
  - (2) If any of the merchandise delivered under a contract has been used or consumed by the agency, and upon testing is found not to be in compliance with specifications, no payment may be approved by the Commission for such consumed merchandise pending a determination of actual damages in accord with (1) of this subsection.
  - (3) A vendor who fails to pay the actual damages of the state as determined by the Commission may not be awarded additional

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contracts until either all damages have been paid; or the  
vendor absolved of liability in some legitimate manner.

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113.8 Open Market Purchases.

- (a) Open market purchases include items not listed in term contracts. Requests for the purchase or rental of equipment, material, or supplies will be for specified quantities and must be submitted on approved requisition forms.
- (b) Scheduled Purchases. Requisitions from several agencies requesting the same item will be grouped into one invitation for bids or all requisitions will be assigned the same opening date in order to obtain the advantages offered through quantity buying.

### 113.9 Term Contracts

- (a) Sections 3.10 and 3.11 of Article 601b, V.T.C.S., authorize the Commission to establish Term Contracts for the purchase and rental of items used in large quantities by several State agencies for delivery during a specified period of time and for estimated quantities only.
- (b) Invitation for Bids.
  - (1) The period of the contract will be determined by the Commission (usually a period of twelve months).
  - (2) The Commission maintains records of the quantities and/or dollar volumes purchased under the term contract during the previous year, and this information is supplied with the invitation for bids but is no guarantee that the State will order any given amount during the contract period.
- (c) Bidding Instructions.
  - (1) Telegraphic bids are not acceptable in the discount-from-list type of bid, because the price list from which they are bid is required to be in the Commission's office prior to the bid opening date and hour.
  - (2) Discount-from-list type of bid provides for discounts from a manufacturer's price list, which must accompany the bid, or a percentage add-on to the vendor's cost list. Price changes are acceptable under approved conditions. Requests for price increases must be documented with a new price list from the manufacturer, covering the items in question. The new net unit prices will be computed at the same percentage as



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reflected in the original bid and price list. Where discount-from-list bids are requested, firm price bids will not be accepted.

- (3) A bidder may bid all zones of the State, as described in the "General Instructions to Bidders" accompanying the invitation for bids, or he may bid one or more selected zones, but he must bid for an entire zone. Any exception that requires bidding the entire State will be shown in the invitation for bids.

(d) Awards.

- (1) The successful bidder will be notified of the acceptance of his bid by the Commission's issuance of an award and acceptance notice. The bidder must sign and return to the Commission one copy of the award and acceptance form with attachments.
- (2) Performance bonds will be required with each award exceeding \$1,000.00.

(e) Delivery Requirements.

- (1) All items shipped by contractor must be new and received by the agency in first-class condition and within the specified time.
- (2) All merchandise shipped against the contract order for the period of the contract must be as the contractor originally quoted. Should items become unobtainable during the life of a contract, the Commission reserves the right to require the contractor to furnish acceptable substitutes.

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113.10 Delegated Purchases

- (a) General delegation. By authority granted under Section 3.06 of Article 601b, V.T.C.S., the Commission has delegated purchasing functions in the following cases to agencies of the State:
  - (1) spot purchase;
  - (2) emergency purchases;
  - (3) purchases of perishable items;
  - (4) acquisition of services;
  - (5) purchases made with federal grant funds.
- (b) Spot Purchases. As required by Section 3.08 of Article 601b, V.T.C.S., using state agencies are delegated the authority to make purchases in amounts that do not exceed \$500 in accordance with the following conditions:
  - (1) Large purchases may not be broken down into small purchases in order to meet the specified dollar limit.
  - (2) Items purchased under this Section may not include scheduled items, contract items (unless purchased in quantities less than minimum ordering quantities shown in contract), Prison Industries products, or any item, the purchase of which may be required by statutes from a particular source.
  - (3) The agency must attempt to obtain a minimum of three (3) competitive bids (which may be taken by telephone) from sources which normally stock the merchandise being purchased.
  - (4) All information required by the Commission must be furnished on the approved Spot Purchase form.
- (c) Emergency Purchases. Payment for emergency purchases of needed

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supplies, equipment, or services will be approved by this Commission provided an emergency exists and the purchase is made in accordance with the following conditions:

- (1) At least three oral bids must be obtained whenever possible on all purchases in excess of \$100.00, but not in excess of \$500.00. Written competitive bids must be obtained whenever possible on all purchases in excess of \$500.00. A signed written bid must always be obtained from the source of the purchase.
  - (2) The agency may call or wire the Commission for advice and assistance in the handling of emergency purchases.
  - (3) The emergency purchase file, when forwarded to the Commission must contain a full written explanation of the emergency along with other documentation required by the Commission.
  - (4) Failure to comply with the requirements of this Subsection (c) will result in the file being returned to the agency without Commission approval of the invoice submitted for payment.
  - (5) Nothing herein shall affect or limit purchases made in accordance with the Texas Disaster Act of 1975 (Article 6889-7, V.T.C.S.)
- (d) Perishable Purchases. The Commission may delegate the authority to purchase perishable items when it is determined by the Commission that the purchase of such perishable items may be more practically and reasonably made at the local level. Purchases made under this authority must be obtained through competitive

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bids and documentation forwarded to the Commission for approval.

- (e) Acquisition of services. The Commission has approved a blanket delegation of purchasing functions connected with the acquisition of all services described in Section 3.01(b) of the Act and not excluded therein from Commission responsibility.
- (f) Purchases made with federal grant funds. The Commission has approved delegation of purchasing functions connected with purchases made with federal grant funds to those agencies requesting it, and will furnish all concerned agencies with a set of guidelines for the handling of such purchases in accord with these rules. This delegation does not apply to items under contract.
- (g) Purchasing functions may be delegated to user agencies for a specific open market purchase only through approval by the commissioners given in open meeting. Requests for such approval should be made in writing to the executive director and signed by the chief executive officer of the requesting agency. All such requests should clearly set out the reasons and justifications for the request.
- (h) Adherence to ethical standards. Employees of state agencies involved in purchasing under delegated authority shall adhere to the same ethical standards required of commission employees and set out in Section 111.4 of these rules (relating to Breach of Ethical Standards). Such agency employees should also be aware of Article 601b, V.T.C.S., relating to conflicts of interest, in their purchasing activities under delegated authority.

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- (i) Withdrawal of delegated purchase authority. The Commission will make necessary verification to insure compliance with established procedures and will withdraw the delegated purchase privilege from any agency for continued violations after giving adequate warning.

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113.11 Texas Department of Corrections Purchases.

- (a) The Commission is authorized by Section 3.23 of Article 601b and Article 6203c, V.T.C.S., to enter into contracts with the Texas Department of Corrections for the purchase of supplies, materials, and/or equipment produced by the Department of Corrections for use by other State agencies. When such contracts have been negotiated, the State agencies will be so notified by the issuance of catalog pages listing the items approved for purchase. Orders for these supplies will be placed with the Department of Corrections in the same manner as other contract orders are handled. It is mandatory that all such items be purchased from the Department of Corrections unless an agency submits written evidence, acceptable to the Commission that an item available from the Department of Corrections will not adequately serve its needs. Items not listed in the Department of Corrections catalog but available from the Department of Corrections will be handled on an open market requisition basis.

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113.12 Purchase of Blind-Made Goods and Services.

- (a) Purchase of blind-made goods and services by State agencies is provided for in Section 3.22 of Article 601b, V.T.C.S. The Commission is required by Chapter 93, Human Resources Code, V.T.C.A., to make State purchases of blind-made goods or services when such are offered for sale to State agencies and departments, as a result of efforts made by the Texas Committee on Purchases of Blind-Made Goods and Services acting in accordance with legislation applicable to the Committee.

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113.13 Purchases for School Districts

- (a) Section 3.03 of Article 601b, V.T.C.S., and Texas Education Code, Sections 21.161--21.169, V.T.C.A., require all motor vehicles used for transporting school children, including buses, bus chassis, and bus bodies, tires and tubes, purchased for or by any school district participating in the Foundation School Program, to be purchased by and through the Commission.
- (b) School Bus, and Tire and Tube Purchases. All purchases are made as a result of competitive bids and the receipt of requisitions from the school districts.
- (c) School Bus Disposition. Any school district desiring to dispose of a used school bus should first advise the Commission, and the Commission will determine whether or not the bus is to be transferred to another school district or State agency, or the school district given permission by the Commission to sell the bus through the competitive bidding process. When sold by bids, the school district must comply with the following:
  - (1) Contact all bidders on mailing list furnished.
  - (2) Properly advertise sale in local newspaper.
  - (3) Award to the bidder submitting the highest bid.
  - (4) Furnish the Commission and the Texas Education Agency a copy of the newspaper advertisement and a tabulation of all bids received and indicate to whom the bus was sold.



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113.14 Invoicing and Payment

- (a) Invoicing and payment for goods, materials, supplies and services is covered by the authority of Sections 3.14, 3.15 and 3.16 of Article 601b, V.T.C.S.
- (b) Payment for goods and services purchased through the Commission will be made based on the seller's five-part invoice rendered to the State agency receiving the material, and such invoice must include:
  - (1) The agency requisition number,
  - (2) The Commission's purchase order number, and
  - (3) Other relevant information supporting and explaining the payment requested.
- (c) State agencies purchasing through the Commission shall submit the invoice to the Commission attached to a properly executed State of Texas Purchase Voucher, prescribed by the State Comptroller's office, certifying that the materials or services were received in accord with the referenced Commission purchase order, and that the invoice is correct and properly payable. For purposes of this Section and approval of vouchers for payment hereunder, it shall not be necessary that shipment of all goods and services ordered be made prior to initial payment. Partial payment may be authorized in cases of partial shipment.
- (d) When satisfied that the invoice is correct, as submitted in accord with (c) above, the Commission will approve said voucher and invoice, and forward same to the State Comptroller for payment.

113.15 Multiple Award Contract Procedure

(a) Determination to use

- (1) The Multiple Award Contract Procedure shall be used only after the Director of Purchasing has made a written determination that its use will be in the best interest of the state. In arriving at a determination, the following factors will be considered:
  - (A) Quality, availability, reliability and adaptability of the supplies, materials, equipment or contractual service to the particular use required;
  - (B) Ability, capacity and skill of a bidder to perform the contract or provide the service;
  - (C) Sufficiency of the financial resources and ability of a bidder to perform the contract or provide the service;
  - (D) Ability of a bidder to provide future maintenance, repair parts and service for the use of the service of the contract;
  - (E) Compatibility with existing equipment;
  - (F) Flexibility to evaluate new products on a large scale before becoming contractually committed for all use;
  - (G) Any other factors that are demonstrated to be relevant to determining how the best interest of the state will be served.
- (2) When the Director of Purchasing finds that one or more of the above factors is important to the contract and that specifications objectively describing those factors cannot be

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prepared, the Director of Purchasing may determine that the Multiple Award Contract Procedure will serve the best interest of the state.

(b) Evaluation

- (1) The Commission shall exercise its authority to accept or reject, in whole or in part, any bid submitted and to waive minor technicalities when the interest of the state will be served thereby.
- (2) A bid price may not be altered or amended after bids are opened except to correct errors in extension.
- (3) No increase in price will be considered after a bid is opened. A successful bidder may reduce his price after the award of the contract.
- (4) Bid prices are considered firm for acceptance for thirty (30) days from the bid opening date, unless otherwise specified by the bidder or the invitation for bids.
- (5) A bid containing a self-evident error may be withdrawn prior to an award.
- (6) Bid prices which are subject to unlimited escalation will not be considered. A bidder may offer a predetermined limit of escalation in his bid and his bid will be accepted and evaluated on the basis of the full amount of the escalation.
- (7) If a bid is submitted in which there is a material failure to comply with the specification requirements, such bid shall be rejected.
- (8) All quotations are requested F.O.B. destination.

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(9) When requested in the invitation for bids, samples must be submitted or the bid will be rejected. The commission will require samples only when it is essential for assessing the quality of a product during the evaluation of bids. Samples should be returned to a vendor at vendor's expense whenever practicable; otherwise disposed of in the same manner as surplus or salvage property.

(10) Cash discounts are acceptable but are not considered in determining the awards. All cash discounts offered will be taken if they are earned by the agency.

(c) Award.

The basis for determining the awards shall bear a reasonable relationship to the factors that were relevant to the determination that use of the Multiple Award Contract Procedure was in the best interest of the state. The basis for determining the awards shall be disclosed in the invitation for bids.

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Specifications  
113.31-.34

These rules are promulgated pursuant to the authority of Section 3.17 of Article 601b, V.T.C.S.

113.31 General

- (a) Pursuant to Section 3.17 of Article 601b, V.T.C.S., the Commission has established and maintains a program of developing standard specifications for materials, supplies, and equipment purchased by the Commission. Also pursuant to Section 9 (a) of Article 6203c, V.T.C.S., the Commission has responsibility to develop or approve standard specifications for articles and products manufactured by the Texas Department of Corrections. The responsibility for specification development has been delegated to the Specifications Section of the Central Purchasing Division.

113.32 Definitions.

- (a) "Standard." A document or an object for physical comparison, to define properties, processes, dimensions, materials, relationships, concepts, nomenclature, or test methods.
- (b) "Specification." A document outlining or setting forth in detail the pertinent characteristics of a product such as performance, chemical composition, physical properties, dimensions, color, etc., giving or referencing the standards by which the correspondence to the defined characteristics is to be measured; and prepared for use in or to form the basis for, an agreement between negotiating parties.
- (c) "Standard Specification." A specification issued by a standards or specification organization that is known to the seller and to the industry trade generally.
- (d) "Set of Standard Specifications." A group of standard specifications covering a class of products or services.
- (e) "Level of Quality." The ranking of an item, article or product in regard to its properties, performance, and/or purity.
- (f) "Performance Specifications." Specifications which outline in detail what the item or product is to do, how it is to perform specified tasks, and the tests to be used to measure this performance.
- (g) "Design Specifications." Specifications which outline in detail how the item or product is to be made or manufactured.
- (h) "Texas Specifications." Specifications which have been prepared and published by the Specifications Section of the Commission.

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- (i) "Adopted State Specifications." Specifications prepared by other organizations and evaluated and adopted by the Specifications Section of the Commission.
- (j) "Purchase Specifications." A description of the item, product or article desired that is used in the absence of a standard specification.
- (k) "Approved Products List." A list of products by brand name or chemical name which have been tested, evaluated, and found to meet or exceed a minimum level of quality, and said list will provide products of a quality required by State agencies

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113.33 Selection of Items for Development of Texas Specifications.

(a) Items are selected for specification development by or through one or more of the following:

(1) Required by Statute.

(A) School Buses. Pursuant to Section 11.12 of the Texas Education Code, V.T.C.A., the Commission has the responsibility to "coordinate and correlate all specification data, finalize and issue the specification so adopted. . . ."

(B) Prison-made Products and Raw Materials. Pursuant to Section 9 (d) of Article 6203c, V.T.C.S., "Any product or article manufactured by the Texas Department of Corrections. . . shall be manufactured and/or produced only upon state specifications developed by and through the State Board of Control." (The Commission now administers all responsibility and authority once exercised by the State Board of Control. See Article 601b, V.T.C.S.)

(2) Requests from Using Agencies. If a using agency finds that it is having difficulty in obtaining a certain item to meet a particular requirement, then the agency can communicate this need to the Specifications Section of the Commission.

(3) Requests from Purchasers. If a Commission Purchaser is having difficulty in securing bids on a particular item in the absence of adequate specifications, he may request the Specifications Section to investigate the feasibility of



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developing a specification to cover the purchase of this item.

- (4) Requests from Vendors and/or Bidders. If a bidder finds that he is bidding against his competition on a variety of quality levels of a given product, then he may petition the Specifications Section to ascertain the feasibility of developing a specification on the article.

113.34 Development of Texas Specifications.

(a) Preparation of Texas Specifications.

- (1) The procedure used in developing specifications includes consultation, research, collection and evaluation of data, and preparation of the specification. The Specifications Section consults with knowledgeable people in various State agencies, user advisory groups, purchasers, vendors, manufacturers, distributors, bidders, governmental and trade associations, colleges and universities, testing laboratories, and other experts.
- (2) Standards and specifications from Federal, State and local governments and standards agencies, such as ASTM, SAE and others, and product literature from manufacturers, distributors, etc., are obtained, studied, and their contents evaluated.
- (3) A proposed specification is then prepared by stipulating minimum requirements necessary to provide products of the level of quality required by the various State agencies.
- (4) This tentative specification is then distributed to the individuals and groups initially contacted as well as other interested parties for their review, comments, and suggestions.
- (5) Comments and suggestions received are reviewed, analyzed, and evaluated, and the proposed specification modified accordingly.
- (6) If, as a result of this analysis and evaluation, major

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changes in the proposed specification are made, then a second proposed specification is prepared and distributed as before.

- (7) If no major change in the proposed specification is made, then the specification is finalized and distributed.
  - (8) Comments and suggestions received from the distribution of a second proposed specification are reviewed, analyzed, and evaluated as before.
  - (9) This process is continued until a specification is developed that will provide the level of quality required by the State and that will provide competitive bidding.
  - (10) The agency user advisory groups provide the Specifications Section with their individual requirements and otherwise assist in the preparation and development of specifications.
- (b) Distribution of Texas Specifications. The initial distribution of newly adopted or prepared specifications is to those individuals and organizations (including bidders, known vendors and distributors) contacted during the development phase of the specification and subsequently to others upon request. The former group includes:
- (1) State agencies
  - (2) Vendors/Distributors
  - (3) Manufacturers
- (c) Use of Texas Specifications. All agencies and public school districts which purchase through the Commission are required to use Texas specifications, unless documentation is presented giving justifiable reasons acceptable to the Commission for deviation

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from the Texas specifications.

(d) Approved Products List.

- (1) a manufacturer, vendor, or distributor may submit a product for inclusion in an established approved product list to the Specifications Section, of the Commission, along with technical literature and product specifications. The product may then be tested and the results evaluated and compared with the minimum level of quality for the approved products list.
- (2) A product can be removed from the approved products list if:
  - (A) the quality of a given product is decreased,
  - (B) the minimum level of quality for the approved products list is increased in order to provide the quality of products required by state agencies.
- (3) The Central Purchasing Division uses the approved products list in lieu of a Texas specification; the purchaser solicits bids from the manufacturers whose products are on the list.

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Inspection  
113.51-.56

These rules are promulgated pursuant to the authority of Section 3.17 of Article 601b, V.T.C.S.

113.51 General

- (a) Pursuant to Section 3.17 of Article 601b, V.T.C.S., the Commission has established and maintains a program of testing and inspecting purchases made by the Commission at the request of State agencies to insure that the materials, supplies, services and equipment meet specifications. The responsibility for the inspection and testing program has been delegated to the Inspection Section of the Central Purchasing Division.

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113.52 Selection of Items for Inspection and/or Testing.

(a) Items are selected for inspection and/or testing under the following conditions:

- (1) Notice from Using Agency. If a using agency determines that any supplies, materials, services or equipment received do not meet specifications, it is the responsibility of the agency to notify the Central Purchasing Division in writing detailing the reasons why the item received does not meet the specifications of the contract.
- (2) Notice from Purchaser. The various Purchasers within the Central Purchasing Division may "flag" purchase orders at time of issue with a request for inspection and/or testing of the items purchased after their arrival at the receiving agency.
- (3) Previous Experience With Products and/or Vendors. The Chief of the Inspection Section may direct inspections and/or testing of products based on previous experience of deficiency of the products or of vendors delivering products other than those specified on the purchase order.
- (4) Items Selected at Random. The Chief of the Inspection Section may direct inspections and/or testing of items selected from purchase orders at random for spot checking.
- (5) Request from Vendor. A vendor may request the inspection of items purchased prior to delivery of the items to the agency. Such inspections are made only upon the approval of the Director for Purchasing.

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- (6) Certificate and/or Test Report from Independent Testing Laboratory. When deemed necessary, the Commission may require the bidder and/or the vendor to supply a certificate and/or a test report from an independent testing laboratory showing that the product offered or delivered meets or exceeds the requirements of the specification and/or contract.
- (7) In-Plant Inspection. When approved by the Director for Purchasing, certain items may be inspected by Inspection Section personnel or the Commission's designated agent in the plant of the manufacturer during the process of manufacture. Examples of the type of items so inspected include school buses, paint, retreading rubber for tires, etc. Products not meeting specifications may be rejected prior to shipment.

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113.53 Reports of Inspections and/or Tests.

- (a) Reports of unsatisfactory findings on inspections and/or tests of materials, supplies, services, and equipment are filed with the Director for Purchasing for recording and/or proper action to eliminate the problem.
- (b) Reports of satisfactory findings are filed in the Inspection Section.



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113.54 Testing Facilities and/or Laboratories.

(a) Testing may be performed by any of the following facilities or laboratories:

- (1) Commission Laboratory
- (2) Laboratories of Other State Agencies, Universities, Institutions, etc. (Interagency contracts)
- (3) Independent Commercial Testing Laboratories
- (4) Any other testing facility and/or laboratory which the Commission may deem qualified to test the product in question.

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113.55 Cost of Testing.

- (a) In the event the product tested fails to meet or exceed all conditions and requirements of the specification and/or contract, the cost of the sample used and the cost of the testing shall be borne by the supplier.
- (b) In the event the product tested meets or exceeds all conditions and requirements of the specification and/or contract, but the item and/or test sample is destroyed in the testing process, then the cost of the item or test sample used shall be borne by the supplier.

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113.56 Assessing and Collecting Penalties and Testing Costs.

- (a) The Central Purchasing Division of the Commission shall assess all penalties and shall collect penalties and/or recover testing costs on behalf of the using agency.
- (b) Penalties and/or testing costs may be deducted from any payments owed the supplier by the State.
- (c) Failure on the part of the supplier to pay an assessed penalty or testing cost may be cause for removal from the State bid list.

Surplus Property Sales  
113.71-.74

These rules are promulgated pursuant to the authority of Article 9 of Article 601b, V.T.C.S.

113.71 General.

- (a) The Commission has authority under Article 9 of Article 601b, V.T.C.S. to adopt rules and regulations to implement the transfer, and use the best means of sale and disposal, of all serviceable State property no longer needed by State agencies, and authority to use the best means for the sale and disposal of all State owned personal property that is depleted, worn out, damaged or consumed to the extent that it is no longer usable.

113.72 Definitions.

- (a) "Property" means personal property, and does not mean real property, or any interest in real property. Personal property affixed to real property may be sold as surplus or salvage property if its removal and disposition is to carry out the general purpose and intent of Article 9 of Article 601b, V.T.C.S.
- (b) "Surplus property" means any personal property which is in excess of the needs of any state agency and which is not required for its foreseeable needs. Surplus property may be used or new, but possesses some usefulness for the purpose for which it was intended or for some other purpose.
- (c) "Salvage property" means any personal property which through use, time, or accident is so depleted, worn out, damaged, used or consumed that it has no value for the purpose for which it was originally intended.

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113.73 Sale and Disposition of Surplus and Salvage Property.

- (a) All State agencies which determine that they have surplus or salvage property shall inform the Commission of the kind, number, location, condition and original cost or value, and date of acquisition of the property in a form prescribed by the Commission.
- (b) Mailing List. The Commission will maintain a mailing list, renewable September 1 of each year, of local governments which have asked for information on surplus or salvage material or equipment as the State may have available; and will make a mailing, once a month, of currently available surplus or salvage equipment or material to all State agencies and to the local governments which have asked for information on surplus or salvage. The Commission also will maintain a mailing list of companies or individuals who have indicated a desire to bid on surplus or salvage property and have made application. Names may be deleted from the mailing list for the following reasons:
  - (1) Failure to bid;
  - (2) Failure to make payment on items on which they were the successful bidder;
  - (3) Failure to renew mailing list application.
- (c) Priority to Obtain Surplus or Salvage Property.
  - (1) State agencies have first priority on surplus or salvage equipment or material. If no State agency negotiates an interagency transfer of the equipment or material within thirty (30) days of the notice from the Commission and if the

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Commission determines that the equipment or material will not satisfy a State need, the Commission may authorize the sale or transfer of surplus or salvage material or equipment to any local government which has expressed a desire to purchase.

- (2) The local government shall notify the Commission within thirty (30) days from the date of the notice from the Commission that it desires to negotiate for surplus or salvage equipment or material.
- (3) In offering the surplus equipment or material to a local government, the State agency which reports the surplus or salvage equipment or material shall establish a price. The first county, municipality, school district or junior college district agreeing to the price established by the State agency shall be entitled to the equipment or material. If no local government has expressed a desire to negotiate or if one or more counties, municipalities, school districts or junior college districts or any combination thereof have expressed a desire to negotiate but are unable to agree on a price for the sale or transfer of equipment or material within forty (40) days from the date of notice from the Commission, the Commission may offer the equipment or material to the Texas Partners of the Alliance. If then unclaimed, the Commission shall dispose of the equipment, material or supplies in accordance with the statutes.

(d) Certification of Purchase.

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- (1) Any State agency selling or transferring surplus or salvage equipment or material to a local government shall furnish the Commission with the description of the equipment or material, the price, and a copy of the "Certification of Purchase" within ten (10) days of the sale.
  - (2) Any local government obtaining equipment or material under these procedures must sign a "Certification of Purchase" certifying that the equipment or material has been purchased and that the equipment or material is for the exclusive use of the county, municipality, school district, or junior college district and will remain in its possession until it no longer serves the purpose for which it was originally purchased.
- (e) Methods of Disposing of Surplus or Salvage Property. If no entity described in Subsection (c) of this section desires to receive any property reported as surplus or salvage, the Commission may dispose of the property by sealed bids or auction, or delegate to the State agency having possession of the property the authority to sell the property on a competitive bid basis.
- (1) Sealed bids.
    - (A) If the value of any property or lot of property, either surplus or salvage, is estimated to be worth over \$1,000 of resale value, the sale shall be advertised at least one time in at least one newspaper of general circulation in the vicinity where the property is located.



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- (B) When a bid deposit is required, the deposit must be in the amount specified in the bid invitation. Only the following will be considered as meeting the bid deposit requirements: a cashier's check, a certified check, a money order, or cash in the amount specified in the bid invitation. Failure to include a bid deposit in the proper amount will automatically disqualify a bid.
  - (C) The Commission will notify the successful bidder or bidders, on a sealed bid sale of surplus or salvage property, that an award has been made to them and set a time limit allowed for payment. Failure of a successful bidder to make payment within the specified time gives the Commission the authority to retain the bid deposit and consider it forfeited.
  - (D) When a successful bidder has paid the full amount due for the purchase of surplus or salvage property obtained through a sealed bid sale, the Commission shall notify both the successful bidder and the agency holding the title of the surplus or salvage and authorize the transfer of possession. In the case of vehicles or other items which require title transfer, it shall be the responsibility of the agency holding title to complete the transfer of title to the successful bidder.
- (2) Auctions. Surplus or salvage sold through the auction method shall be accompanied by an auctioneer's paid receipt. The auctioneer's paid receipt will serve as the authorization of

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the Commission that the purchaser has in good faith complied with conditions of the sale. In the case of vehicles or other items carrying titles, the agency holding the original title shall be responsible for the transfer to the successful bidder.

- (3) Delegation of Authority to State Agency. If the Commission determines that it is in the best interest of the State for an agency to dispose of its own surplus or salvage property, it may authorize the agency to do so; however, an agency authorized to sell its own surplus or salvage property shall always seek competitive bids.
- (4) Rejection of Bids. The State reserves the right to accept or reject all or any part of any surplus or salvage property bid, and waive minor technicalities.
- (5) No Bids Received. If the Commission should advertise surplus or salvage property for sale and receive no bids, or if items declared surplus or salvage by an agency have, in the judgment of the Commission, no resale value, the Commission may authorize the agency to delete and dispose of the property in a manner to best serve the interest of the State.

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113.74 Proceeds.

- (a) The proceeds from the sale of either surplus or salvage property, less the cost of advertising the sale, shall be deposited to the credit of the item of appropriation to the agency for which the sale was made. A portion of the proceeds from the sale of either surplus or salvage property equal to the costs of the advertising of the sale shall be deposited in the State Treasury to the credit of the item of appropriation to the Commission from which such costs were expended.

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Building and Property Services Division

State-Owned Property  
115.1-.11

These rules are promulgated pursuant to the authority of Articles 4 and 5 of Article 601b, V.T.C.S.

115.1 General.

- (a) The responsibilities and authority of the Commission as it relates to the facilities under its control are found in Articles 4 and 5 of Article 601b, V.T.C.S. The Building and Property Services Division of the Commission is responsible for the maintenance, operations, and modification of the State Capitol, Governor's Mansion, other State office buildings in the Capitol Complex which are under the custody of the Commission, Capitol Complex grounds, and the State Cemetery. These rules are established to inform the public and provide an orderly procedure to accomplish the responsibilities to the public; namely, the operation and care of the public facilities entrusted to it.

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115.2 Definitions.

- (a) "Director. Director in charge of the Building and Property Services Division.
- (b) "Chief Executive." Of an agency is the head of the agency with full-time responsibility of the affairs of the agency.
- (c) "Custodial Services." Includes dusting, mopping, vacuuming, application of floor polishing materials, buffing, cleaning State office furniture and other actions required for the periodic cleaning of a building and the servicing of restrooms, etc. Also includes pest control, sanitation work and refuse collections.
- (d) "Designee." Of the chief executive is one appointed by the chief executive to coordinate affairs with the Building and Property Services Division with full power to make decisions for the agency as they relate to facilities management.
- (e) "Division." The Building and Property Services Division of the Commission.
- (f) "Executive Director." Chief executive of the Commission.
- (g) "Facility." A building, utility system, grounds or other physical entity under the inventory of the Commission.
- (h) "Maintenance." Actions required to keep a facility or part of a facility in a usable condition and/or in good appearance; to prevent from deteriorating once it has been placed in good condition for its type and age.
- (i) "Mechanical Operations." Air conditioning, heating, plumbing, ventilation, etc., required for environmental condition in buildings.

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- (j) "Modification." Is a change in the facility to improve its appearance or function.
- (k) "Repair." To replace or restore part of a facility to its original function.
- (l) "Utilities." Electricity, gas, water and wastewater services purchased for facilities.

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115.3 Occupying Agency Responsibility

- (a) The chief executive of each occupying agency shall be responsible for the building space assigned to the agency and the agency shall be liable for any loss or damage to the building due to the wilful or negligent acts of its employees. Liability shall consist of reimbursement for the repair of damage to the building or replacement of loss resulting from the wilful or negligent act and any other liability specifically covered under the laws of the State.
- (b) The chief executive may designate one of his employees to coordinate affairs between the agency and the Building and Property Services Division. The designee should have the authority to make decisions for the agency and to encumber agency funds for projects accomplished under interagency contract with the Commission.
- (c) The chief executive or his designee shall notify the Division of requirements for services in accordance with the procedures established under the respective sections.
- (d) The chief executive shall be responsible for the control of keys to the space assigned to the occupying agency. Only the Building and Property Services Division may reproduce keys, install or remove locks, or change locks in doors of the building. The chief executive shall take actions necessary to inform and insure compliance with this section by the employees of his agency.
- (e) Electric space heaters are not permitted in facilities and shall be removed upon notification to the chief executive or his

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designee. The Division will adjust the heating system within a control zone to the needs of the majority of occupants within that zone consistent with proper air balance and energy conservation measures. When an area is deemed by the Division to need heat due to the improper function of the central system, nothing in this section shall prohibit the Division from approving the temporary use of electric heaters until such time as the system is repaired.



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115.4 Custodial Services.

- (a) The Building and Property Services Division furnishes custodial services for space in State buildings on Commission inventory except for that occupied by agencies authorized by law to provide their own custodial services.
- (b) To facilitate custodial services, the occupying agency shall keep all space in its assigned area free from food and drink which is not properly stored or disposed of and which can cause infestation of insects. All coffee grounds must be disposed of in plastic bags in the waste containers. Under no circumstances shall coffee grounds be disposed of in sinks or lavatories in the building.
- (c) Dusting of furniture tops shall only be done on cleared areas. No papers, books, or equipment can be moved by custodial personnel.
- (d) Occupying agencies shall not store files, furniture, etc., in hallways. Storage in hallways prevents proper cleaning and may violate egress requirements for emergency evacuation.
- (e) Exterior window cleaning is accomplished by contract on a periodic basis. Exterior cleaning in the interim cannot be accomplished above the ground level. Interior cleaning is also scheduled on a periodic basis by custodial personnel. Requests for interim cleaning can be made by calling Custodial Services as listed in the Centrex Directory under State Purchasing and General Services Commission, Building and Property Services.

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115.5 Maintenance Service Requests.

- (a) Maintenance service requests may be made by telephone to the Building and Property Services Division offices listed in the Centrex Directory under the Commission. Requests generally fall into the following categories: general carpentry repair, and repainting (not redecorating), locksmith, air conditioning and heating, electrical, plumbing, custodial, and grounds maintenance. Requestor shall give his name, telephone number, location, and nature of the maintenance service required and assessment of the priority of the requirement; i.e., emergency, at first opportunity, or include in regular maintenance schedule. Requests for special services such as remodeling, state furniture repairs, and special custodial cleaning shall be made in writing.

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115.6 Modification of Facilities.

- (a) Facilities on Commission inventory may not be modified except by or under the control of the Building and Property Services Division. Occupying agencies are prohibited from making any modifications by their personnel or by an outside contract except through the Division.
- (b) Prior to March 31 of each even-numbered year, the Division will contact the chief executive of each occupying agency to ascertain modification projects required during the ensuing biennium. Projects requested shall be reviewed and if approved by the Division, will be estimated and included in the budget request of the Division. Projects not approved will be discussed with the chief executive of the requesting agency, or his designee, as to the alternatives to accomplish the need of the agency and the project shall be revised to the mutual agreement of the Division and the requesting agency. The revised project cost shall be estimated and funds requested in the budget.
- (c) Projects for which funds are appropriated shall be scheduled by the Division in coordination with the requesting agency. Projects for which funds were not appropriated cannot be accomplished within the Division's budget.
- (d) Modification projects of such urgency to preclude the normal process described above may be accomplished by the Division under The Interagency Cooperation Act, Article 4413(32), V.T.C.S., providing all requirements for that statute are met.
- (e) Construction of any walks, drives, memorials, monuments, statues

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or other structures within the grounds maintained by the Commission, excluding grave markers in the State Cemetery, shall not be accomplished without the consent of the Governor and concurrent resolution of the Legislature.

- (f) Any modification to the Capitol shall have the concurrence in writing of the Lieutenant Governor and Speaker of the House of Representatives. Modifications to the Senate Chamber, House of Representatives Chamber and Committee Rooms shall be let by competitive bids by the Commission in accordance with Section 115.9.
- (g) All modifications or improvements to buildings carried on the Commission inventory, which become attached to and considered a part of the building, may not be removed by the occupying agency without Commission approval, regardless of the source of funds used in making the improvement. Such improvements include, but are not limited to, carpets, and built-in cabinets, bookcases, counters, partitions, etc. Modifications or improvements affected by this Section may not be carried on the personal property inventory of the occupying agency.

115.7 Assignment of Space in State Office Buildings on Commission Inventory.

- (a) Requests for assignment of space in State office buildings under Commission control shall be in writing to the Executive Director, State Purchasing and General Services Commission. Requests should include:
- (1) Number and titles of personnel to be located in the space.
  - (2) Space required for other than personnel; i.e., storage, data processing, etc.
  - (3) Location of space desired; i.e., building, floor.
  - (4) Justification statement of why the space is required and, for occupying agencies only, why the existing space is inadequate.
- (b) In assigning space in State buildings, priority shall be given those agencies receiving the greater share of their operating expense funds from the General Revenue Fund, insofar as possible commensurate with the space requirements of those agencies. When the need for space is equivalent, priorities shall also be given requests from those agencies presently occupying State buildings over those presently renting under lease agreements and priority shall be given requests from those agencies in a particular building where space is available over those agencies in other buildings.

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115.8 Conference Rooms.

- (a) Conference rooms are for use by state agencies and for official purposes only and the private use thereof is prohibited.
- (b) Conference rooms are for hearing and conference purposes only. Any form of entertainment, office parties, and similar functions are prohibited.
- (c) Tables and chairs are limited to those available in the respective rooms and additional furniture cannot be provided from other conference rooms. Additional furniture and equipment must be provided by those reserving the rooms. Public address systems are available in Room 117 of the Sam Houston Building and Room 118 of the Stephen F. Austin Building.
- (d) Special arrangement of furniture may be provided by the Commission as schedules permit. Occupants may rearrange tables and chairs that are movable to suit their desires. However, large podiums or affixed furniture shall not be moved.
- (e) Telephones are not available in conference rooms. Conferees will be responsible for arranging delivery of messages. The Commission Security Office, 475-2208, may be called to deliver emergency messages.
- (f) If refreshments are to be served during a conference, the host agency shall be responsible for making all arrangements. These shall include set-up, control of beverages to prevent spills or damage to the facility, clean up of cups, etc. and disposal in plastic bags properly secured. The host agency shall be responsible for any damage to the facility resulting from

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refreshments being served in the conference rooms.

- (g) Smoking areas in conference rooms shall be designated at the request of and in concert with the host agency for the subject conference. Ash trays may be provided by the host agency.
- (h) Verbal conference room reservations are permitted but must be confirmed in writing to the Building and Property Services Division within two working days of making the reservation. No verbal reservation can hold a conference room if a written request from another agency or authorized person is received prior to confirmation and cannot be filled any other way.
- (i) Cancellations of reservations are to be made as soon as possible after an agency learns that the room will not be needed, so that conference rooms can be freed for use by other agencies and so prevent possible expenditure of state funds for rental of public conference facilities. Verbal cancellation must be confirmed in writing within two working days following the cancellation.

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115.9 Procedures Governing Maintenance Service and Construction Contracts.

- (a) The Building and Property Services Division of the Commission shall from time to time let maintenance service contracts for buildings and installed equipment for facilities under its inventory. These contracts may be negotiated on the basis of price, ability, capacity, skill, character, responsibility, integrity, reputation and experience of the contractor. Final decision as to the contractor selected shall be made by the Director, Building and Property Services, of the Commission. Should the Building and Property Services Division determine that the services required could be clearly specified, competitive bids may be obtained from qualified contractors based on qualifications stated in the bid advertisement. Establishment of bidder qualifications is at the discretion of the Building and Property Services Division. Award of the contract will be to the lowest and best bid conforming to the specifications of the Commission, and considering all the factors which are set out in Section 3.11(e) of Article 601b, V.T.C.S. Contracts for new construction shall be on a competitive bid basis.



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115.10 Building Operations.

- (a) The conservation of energy resources through the efficient use of building equipment is of paramount importance as it relates to both energy budgets and environmental concerns.
- (b) The Building and Property Services Division will coordinate energy conservation measures with the occupying agency to minimize energy consumption by:
  - (1) Reduction of lighting in areas where lighting levels exceed that required for the task performed.
  - (2) Adjustment of thermostats to minimize energy consumption in heating and air conditioning; and
- (c) The occupying agency shall cooperate in energy conservation by:
  - (1) Turning out all unnecessary lights in unoccupied areas and where daylight can suffice for the task performed.
  - (2) Refraining from readjusting or tampering with thermostats.
  - (3) Eliminating unnecessary appliances such as coffee pots, electric space heaters, etc.
  - (4) Cooperating in keeping blinds closed when the solar angle is such that excessive heat is gained through windows (generally in summer months).
  - (5) Scheduling operations such that building systems will not have to be operated outside of normal working hours.

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115.11 Burial in the State Cemetery.

- (a) Application for burial of those persons eligible under Section 4.10 of Article 601b, V.T.C.S. for burial in the State Cemetery shall be made as follows:
- (1) Application forms available from the Building and Property Services Division shall be completed in triplicate.
  - (2) The forms, together with certification by the Secretary of State, Governor's Proclamation or Concurrent Legislative Resolution, whichever is applicable, shall be submitted to the Commission, and the Commission shall verify the validity of the application.
  - (3) After verifying the validity of the application, the Commission shall allow the applicant to choose a site at the State Cemetery and the choice will be recorded. Choice of sites will be restricted to those sections under development by the Commission.
  - (4) No changes in the status of the application will be made, except by written requests of the applicant or his legal representative after it has been verified and the site selected.
  - (5) All costs of interment, reinterment, grave monuments and incidental expenses shall be borne by the immediate family, relatives, or friends of the deceased and shall be at no cost to the State.
  - (6) Grave markers shall not be higher than the height determined in (d) of Section 4.10, supra, nor wider than the grave plot

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width specified in (c) of that same Section.

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State Leased Property  
115.31-.39

These rules are promulgated pursuant to the authority of Article 6 of Article 601b, V.T.C.S.

115.31 General.

- (a) The authority for obtaining leased space for State agencies or departments rests with the Commission by virtue of Article 6 of Article 601b, V.T.C.S., and the responsibility for exercising this authority is in the State Leased Property Section of the Building and Property Services Division.

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115.32 Definitions.

- (a) "Advertisement". When required by Article 6, supra, and these rules in a competitive bidding situation, advertisement shall be published in a newspaper of general circulation in the city, county, or area in which leased space is sought.
- (b) "Bidders' list" refers to a list of prospective bidders maintained by the Leasing Section which sets out the names and addresses of building owners and agents who have shown an interest in bidding to the State and from whom bids can be solicited for obtaining leased space for State use. Each prospective bidder on this list shall be asked to designate by ZIP codes the areas for which he is interested in receiving bids.
- (c) "Commission" shall mean the State Purchasing and General Services Commission.
- (d) "Competitive bidding", when used by the Commission under Section 6.05 of Article 601b, V.T.C.S., refers to a formal process requiring sealed bids through which a lease is awarded to the lowest and best bidder meeting the advertised specifications and on the terms agreed to by the Commission and the lessor.
- (e) "Effective monthly cost" shall mean the result of dividing the total anticipated cost to the State projected over the life of the lease (excluding any effect of options to renew and/or options to purchase) by the number of months in the lease term.
- (f) "Emergency". An emergency arises when the Commission receives a requisition for needed lease space too near the specified occupancy date to allow for adequate competitive bidding.

[See Section 115.33(a).]

- (g) "Interior hallways" means circulation space within the area reserved for the exclusive use of the agency, clearly defined as a hallway by walls, not less than minimum width as set out in local building codes and not used by the agency for any purpose other than circulation. For the purpose of measurement, one-half of the thickness of the bordering walls shall be considered as belonging to the interior hallways.
- (h) "Minor technicality", when used in the evaluation of bids, refers to a specification or procedural requirement which:
  - (1) If omitted by the bidder or submitted by him in a manner different from that described in the Invitation for Bid, would not have the effect of disqualifying his bid; and
  - (2) If waived by the Commission, would not give him unfair advantage over other competitive bidders.
- (i) "Net usable square feet" shall refer to an area within the exterior walls of a building identified in the specifications as needed by the occupying agency to carry out its function, including interior hallways for the exclusive use of the occupying agency, but shall not include areas reserved for:
  - (1) Public hallways, restrooms, stairwells and elevator shafts.
  - (2) Mechanical rooms or closets for heating, air conditioning, plumbing, janitorial, electrical, telephone, and other general building services.
  - (3) Interior atriums, courts, etc., for public use.
  - (4) Fire tower and fire tower court.

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- (j) "State agency" shall mean a board, a commission, a department, an office, or other agency of the State government.
- (k) "Unduly restrictive specifications" means specifications that unnecessarily limit competition by setting requirements unrelated to the State's actual needs, which have the effect of favoring one or more prospective bidders over all the rest.
- (l) "Utilities", when used in these sections and in the forms implemented for use hereunder, shall refer only to gas, electricity, and all water and water related services supplied to the leased space, and which are under the jurisdiction of a recognized rate setting authority.
- (m) "ZIP code" shall refer to those codes established by the United States Postal Service for the delivery of mail.

115.33 Receipt and processing of requisitions for leased space.

- (a) Requests. All requests from a State agency for leased space should be submitted to the Commission at least 180 days prior to the required occupancy date on forms prescribed by the Commission. If a requisition is received by the Commission under emergency conditions, the Commission may fill the requisition temporarily by negotiating a short-term lease not to exceed six months.
- (b) Signature. All requests for leased space must be submitted by the requisitioning agency and signed by an authorized official, duly certifying to the availability of funds for the payment of such leased space.
- (c) Specifications. All requisitions must contain specifications for leased space which shall include but not be limited to information disclosing the following:
  - (1) The city where the space is to be located.
  - (2) The type of space required (office, warehouse, laboratory, classroom, living quarters, etc.).
  - (3) The minimum number of net usable square feet of space required, setting out separately the specific requirements for work space, and an allowance for interior hallways to effectively utilize this work space.  
[Please refer to Section 115.35(d)(5) for a description of the evaluation of response to this requirement.]
  - (4) The term of the lease up to a maximum of ten years.  
[Please note that Section 6.05(g) of Article 601b, V.T.C.S., permits the consideration of an option to renew for



additional terms not to exceed ten years each, as may be considered by the Commission in the State's best interests; and the requisition should note, in the area provided, the length of occupancy time anticipated by the agency.]

- (5) The Commission may include in all specifications for space exceeding a two-year term, where the lessor is to pay utilities, a provision requiring a separate bid price for such utility cost, and may allow an escalation clause to be included in the terms and conditions of the lease to cover periodic escalation of utility costs on account of increases in utility rates caused by the utility authority in question.
- (6) If the Commission considers it advisable, it may include an option for the Commission to purchase the space subject to the Legislature's appropriation of funds for the purchase, and such an option shall show the amount that would be accumulated by the State and credited toward the purchase at various periods during the term of the lease, if any, and the purchase price of the property at the beginning of each fiscal biennium during the term of the lease.
- (7) The requesting agency shall submit specifications concerning location which describe an area not less than the recognized limits of an incorporated city, town or village, unless the requesting agency:
  - (A) Provides justification in its requisition to the Commission that a restricted area defined by ZIP code is desired to carry out its responsibilities. In approving

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such a specification, the Commission shall consider the degree of competition within the described area, and may add to the requested area another code or codes, or parts thereof, which are contiguous to the requested area, in order to obtain adequate competition.

(i) Once a specification describing location by reference to ZIP codes, or parts thereof, has been approved by the Commission, Invitations for Bid may be sent to bidders having those ZIP codes on file with the Commission;

(ii) Only bids for buildings lying within the area circumscribed by the specification shall be accepted for evaluation;

or

(B) Provides detailed, written justification to the Commission that a more restricted area than that defined in Subparagraph (A) above is necessary to the effective performance of its essential functions and purposes. In considering such a restrictive specification, the Commission shall make every effort to insure that adequate competition is available whenever possible.

- (8) As required by Sections 6.05 (h) and 6.08 of Article 601b, V.T.C.S., the requesting agency must certify to the availability of funds appropriated by the Legislature to cover the provisions of the proposed lease.
- (9) Development of needed specifications for submission to the

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Commission should be handled by the requesting agency with the help of the Commission, if possible. In no event should the requesting agency allow a prospective bidder to develop or improperly influence the written specifications. Evidence of any such cooperative effort which has the effect of eliminating effective competition and which results in the bidder receiving a lease from the State shall be grounds for seeking to void the lease, removing the bidder from the bidder's list, and any other remedy available to the State. The Commission shall alter or reject any specification it considers unduly restrictive.

[See Section 115.32(k).]

- (10) The agency shall estimate its anticipated moving costs from its present leased quarters, if any. Such an estimate shall include only the actual, out-of-pocket costs of drayage and relocation of communication equipment.

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115.34 Filling requisitions from non-private sources.

- (a) In filling a request for space as set out in Section 115.33, the Commission shall give preference to available State-owned space under its control; or
- (b) If such State-owned space is not available, space may be leased from another State agency through an interagency contract; or
- (c) Space may be obtained from the Federal government through a negotiated lease; or
- (d) Space may be obtained from a political subdivision of this State, including a county, a municipality, a school district, a water or irrigation district, a council of government, or a regional planning council, through a negotiated lease. It is contemplated for the purpose of this subsection that the political subdivision generally will own the property to be leased to the State, however, the State may sub-lease from political subdivisions where the state pays not more than market price and where:
  - (1) political subdivisions occupy more than half of the primary leased space; or,
  - (2) political subdivisions pay at least 10% of the primary lease cost of the space occupied by the State.

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115.35 Leasing from a private source.

- (a) Leasing from a private source must be through competitive bidding whenever possible.
- (b) Solicitation of bids. Bids shall be solicited by the Commission using the following methods:
  - (1) Advertisement. The Commission shall advertise for bids in all cases where competitive bidding is used.
  - (2) Bidders list. [See Section 115.39.] The Commission shall maintain a list of qualified bidders from which prospective bidders may receive Invitations for Bid, or notices of Invitations by mail. However, the Commission need not send Invitations or notices to bidders having buildings outside the location specified. ZIP codes shall be a primary means for identifying location of available buildings and limiting the scope of a particular mailing.
  - (3) Referenced bidders. The requesting agency may identify to the Commission other prospective bidders for receipt of the Invitation or notice referred to in (2) above.
  - (4) Bid invitation availability. Prospective bidders not receiving an Invitation, or qualified bidders receiving only a notice of the Invitation, should request specific bid invitations, including specifications and plans, if any, from the Commission either orally or in writing at any time prior to the bid opening. Copies of the specified bid invitation will be handed or mailed to the requestor.
- (c) Receipt and tabulation of bids.

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- (1) Public bid openings. All bid openings conducted by the Commission shall be open to the public.
- (2) Changing bid opening date. Bid opening dates may be changed and bid openings rescheduled provided bidders are properly notified by addendum in advance of the new opening date.
- (3) Cancelling of bid opening. If the bid opening is cancelled, all bids which are being held for opening will be returned to the bidders.
- (4) Withdrawal of bid by bidder. Bidder may withdraw his bid upon his written request at any time prior to the bid opening date and hour.
- (5) Late bids. Any bid which is received at the place designated in the Invitation for Bid after the time and date established by the Invitation is a late bid and will not be considered. Such bids will be returned.
- (6) Identification of bid envelopes.
  - (A) Envelopes received by the Commission which do not contain adequate bid identification information on the outside of the envelopes will be opened for the purpose of ascertaining proper bid identification information and will be processed as any other bid.
  - (B) If a bid has incorrect identification on the envelope, e.g., wrong opening date, which results in it not being considered in making the award, the bid will be considered as an invalid bid and will not be acceptable.
- (7) Telegraphic responses. Bids may be considered when submitted

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via telegraph, provided the telegram carries information sufficient to properly identify the space offered, its location, its total cost per month, and other necessary information. Telegrams must be confirmed in writing on the Commission's Invitation for Bid form and received by the Commission within 48 hours after bid opening time. Postmarks on envelopes must show posting on or before opening date. Confirmation data must agree with that on telegram. Any confirmation not manually signed or not in full agreement with the telegram voids the entire bid.

- (8) Unsigned bids. Any bid received which is not signed is not a valid bid and is returned to the sender.
- (9) Reading of bids. Bidders and/or representatives of State agencies may request that a specific bid be read aloud by appearing in person at the bid opening place when bids are opened and making that request. Nothing in this paragraph shall require that a bid be read aloud at any time other than during regular working hours and days.
- (10) Bid tabulation files for public inspection. Files of all bid tabulations are made available for public inspection. Tabulations may be inspected by any interested person during regular working hours at the offices of the Commission. Employees of the Commission are not required or encouraged to give bid tabulations by telephone.
- (11) Oral bids. When formal bids are requested, bids may not be taken or accepted by telephone.

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(12) Addendum. If it is determined that an error was made in preparing a bid invitation or certain requirements changed prior to the opening of a bid, an addendum either correcting or changing the specifications will be mailed not later than seven days prior to opening to all bidders originally listed on the mailing list for that bid invitation and those responding to an advertisement. It is not necessary that the addendum be returned with a bid and bids will not be rejected for failure to return the addendum provided the correction is noted on the bid or the bid offered would not be changed by the addendum.

(d) Evaluation of bids.

- (1) The Commission will evaluate all bids and make its award to the lowest and best bidder meeting the advertised specifications and on the terms agreed to by the Commission and the lessor.
- (2) The Commission reserves the right to accept or reject any or all bids, waive minor technicalities, and award in a manner which best serves the interests of the State.
- (3) If in the opinion of the Commission the price quoted is excessive and the Commission is of the opinion that a lesser, more acceptable, price may be obtained through a rebid with or without changed specifications, a bid may be rejected.
- (4) No bid will be considered that offers less than the minimum amount of net usable square feet required, or that specified for work space. Measurement for purposes of determining net



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usable square feet shall assume perpendicular walls and shall:

- (A) Be measured from the inside surface of the exterior walls without regard to baseboards, moldings, etc., which do not interfere with the effective use of the space. For this measurement, the inside surface shall be the predominant surface of the masonry, glass, plaster, sheetrock, or other wall material.
  - (B) Be to the centerline of the common wall between the net usable space, including interior hallways set apart for agency use, and areas defined in Section 115.32(i)(1)-(4).
- (5) All bids received shall be evaluated with the understanding that all relevant construction plans requested by the Commission during evaluation will have to be approved by the Commission (and other relevant authorities) prior to execution of the formal lease or occupancy by the State. With regard to the allowance shown for interior hallways [Section 115.33(c)(3)], please note the following:
- (A) In no event may the area identified in the specifications as work space, and being a part of net usable space, be reduced.
  - (B) Should the area for required interior hallways be greater than the allowance, the bidder will supply the additional area at no increase in cost to the State.
  - (C) If the approved plans show that interior hallways do not

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take up the space allowed for that purpose, the excess must be added to the work space for use by the State.

- (6) All bids will be evaluated based on the effective monthly cost to the State projected over the life of the lease.  
[For purposes of this paragraph, options to renew and options to purchase will not be considered.]
- (7) In evaluating bids, the Commission shall give no credence to nor make any allowances for any comments to prospective lessors allegedly made to them by employees of the requesting agency. No statements or promises made by such employees shall be binding upon the Commission in making its award or considered to be a term or condition of the resulting lease.  
[See Section 115.33(c)(9).]
- (8) The Commission may not enter into a lease unless the space in question complies with the provisions of Article 7 of Article 601b, V.T.C.S., relating to the elimination of barriers to handicapped persons.
- (9) When only one bid meeting specifications is received, the Commission, in addition to other actions available to it, may elect to negotiate with that bidder to obtain a satisfactory lease for the State.
- (10) Moving costs, as described in Section 115.33(c)(10), may not be used in the evaluation of a bid unless the full amount allowed for such an expense is advertised as a part of the specifications.

(e) Award of a Lease.

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- (1) The Notice of Award shall be the means by which the successful bidder and the requesting agency are notified of an award. The Notice of Award, when received by the successful bidder, shall be a binding lease.
  - (2) The original Notice of Award and completed lease forms shall be sent to the successful bidder, with a carbon copy of the Notice of Award sent to the requesting agency.
  - (3) The lessor shall execute and return the signed, formal lease documents to the Commission.
  - (4) The State of Texas, acting through the Commission, shall be the lessee under any lease entered into under the provisions of Article 6 of Article 601b, V.T.C.S.
- (f) Negotiation of Terms. The Commission, when acquiring space for the State of Texas through competitive bidding from a private source, shall not negotiate with bidders to alter any of the terms and conditions advertised. Additional terms may be agreed upon between the Commission and the successful bidder for addition to the lease which do not alter the original terms and conditions or specifications and which do not give special advantage to the successful bidder or result in an increased cost to the State.

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115.36 Negotiation with a private source.

(a) Negotiation with a private source to secure a State lease shall be utilized only in cases where competition is not considered by the Commission to be available. Such cases shall include but not be limited to the following:

- (1) Requests for lease of radio tower space.
- (2) Requests for space in emergency situations.
- (3) When only one bid meeting specifications is received, or when no bids are received, following advertisement; and the Commission determines, after a review of advertised specifications, that no unduly restrictive specifications were used.
- (4) When the Commission determines that specifications needed by the requesting agency are so restrictive as to effectively eliminate competition. Specifications of this restrictive nature must be justified in writing to and approved by the Commission as necessary to the essential function and purpose of the agency.

[See Section 115.33(c)(7)(B).]

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115.37 Amendment to Lease.

- (a) Any lease entered into pursuant to Article 6 of Article 601b, V.T.C.S., and these rules may be amended during its term so long as the Commission finds the amendment to be in the best interests of the State, and does not, in the case of a lease awarded under competitive bid rules, give undue advantage to to the lessor.

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115.38 Transfer by Lessor.

- (a) Lessor's sale, assignment, or transfer of his right to receive payments for his obligation to perform under the lease may be provided for in the terms and conditions of the lease, but lease payments to the new lessor shall be approved by the Commission only if the transfer is sufficiently documented in the records of the Commission.

115.39 Bidders' List.

(a) Requirements for bidders' list. All prospective bidders may be considered for inclusion on the bidders' list.

(1) The prospective bidder must complete and return to the Commission the bidder's application form which is supplied by the Commission.

(2) All completed applications will be evaluated by the Commission before the prospective bidder may be placed on the mailing list to receive invitations for bid. Evaluation shall consider, but not be limited to, the following:

(A) The ability, capacity and skill of the bidder to perform under a State lease.

(B) The bidder's past performance under previous leases with the State.

(C) The character, responsibility, integrity, reputation and experience of the bidder.

(D) The sufficiency of the financial resources and ability of the bidder.

(E) Compliance of specific buildings with the provisions of Article 7 of Article 601b, V.T.C.S., insofar as those buildings are identified by the bidder in his application.

(3) No prospective bidder on the list will be entitled to receive notice of invitations by mail unless registered for the ZIP code area being advertised.

[See Section 115.33(c)(7).]

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- (4) No prospective bidder shall be placed on the list to receive invitations for information purposes only.
- (b) Temporary suspension and removal from bidders' list. Use of the bidders' list facilitates the acquisition of space for use by State agencies, and it is maintained by the Commission for that purpose. Inclusion on the list is a privilege extended by the State conditioned upon continued benefits realized to the State.
  - (1) Removal or temporary suspension from the bidders' list as determined by the Executive Director may occur for one or more of the following reasons:
    - (A) Failure of the bidder adequately to disclose ownership of the building bid, or his authority to act.
    - (B) Continued submission of bids showing excessively high prices in light of prevailing area price for similar space.
    - (C) Termination of an existing lease for failure of bidder to perform or to perform properly under the lease, where such failure is due to the negligence or willfulness of the bidder.
    - (D) The Commission shall review the bidders' list from time to time and suspend those bidders who have not shown an interest in bidding on State leases in their areas during a prolonged period. Suspension for this reason shall be communicated in writing to the concerned bidder, and either removal or restoration to the list determined by the Commission from the response.



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- (2) A bidder who has been temporarily suspended may have the suspension rescinded upon prompt correction of the reasons for suspension. Failure to correct the reasons for suspension within the time set in the order of suspension will result in removal from the bidders' list.
- (3) Once a bidder has been removed, he may not be reinstated to the bidders' list except after presentation of a written request for reinstatement to the Executive Director which results in his order for reinstatement.
- (4) A bidder not on the bidders' list, who submits an otherwise acceptable bid in response to an Invitation for Bid, shall have his qualifications reviewed in accord with the provisions of subsection (a)(2) of this section. No award can be made to such a bidder until the Commission has approved the bidder under the same standards required of applicants to the bidders' list.

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Elimination of Architectural Barriers  
115.51-.62

115.51 General.

- (a) The authority for the administration and enforcement of Article 7 of Article 601b, except as otherwise provided in Subsection (f), of Section 7.05 of that Act, rests with the State Purchasing and General Services Commission. The responsibility for exercising this authority within the Commission lies with the Elimination of Architectural Barriers Section of the Building and Property Services Division. These rules and regulations are established to implement and promote the State policy to eliminate, insofar as possible, unnecessary structural obstacles encountered by the aged, handicapped, or disabled persons, whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when they cannot readily use public buildings and facilities. Administration of these rules and regulations will be to implement the State policy under statutory authority, and all decisions made in regard to the approval of buildings covered by the Act shall be in the interest of eliminating unnecessary architectural barriers to the handicapped. Public officials are encouraged to assist in implementing the policy of the State through development and enforcement of local building codes and building permit regulations. A building owner's obligation to comply with the provisions of the Act and the rules and regulations set out herein may not be satisfied by a

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simple showing of compliance with local building codes or  
ordinances.

115.52 Definitions.

- (a) "Act", when used in these rules and regulations, shall refer to Article 7 of Article 601b, V.T.C.S.
- (b) "Public Buildings and Facilities", as used in the application of the Act, shall NOT include those buildings and facilities owned and operated by the Federal government, or which fall under the provisions of Public Law 90-480 (42 U.S.C.A. 4151, et seq.).
- (c) "Determination of Impracticality" shall refer to the formal process by which the governmental department, agency or unit concerned petitions the Commission to rule on the impracticality of applying one or more of the standards and specifications to a building or facility referred to in Subsections (a) or (c), Section 7.02, of the Act.
- (d) "State Agency" shall mean a board, a commission, a department, an office, or other agency of the State government.
- (e) "Substantially Renovated, Modified or Altered", as referred to in Subsection (a), Section 7.02, of the Act, shall mean any structural change which alters the use, capacity or function of a building or facility to such an extent as to permit inclusion of any one or all of the standards set forth in the Act. Remodeling only for the purpose of non-structural decor and normal maintenance repairs shall not constitute substantial changes.
- (f) "Commission" shall mean the State Purchasing and General Services Commission.
- (g) "Buildings and Facilities" shall mean any or all portions of buildings, structures, walks, parking lots, parks, recreation

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areas, or other improvements to real property.

- (h) "Building Owner" shall mean the person or persons, company, corporation, authority, commission, board, governmental entity, institution, or any other unit, that holds title to subject buildings or facilities.
- (i) "Buildings", when used in these rules, regarding those structures referred to in Subsection (d) of Section 7.02 of the Act, may include buildings, building elements, and improved areas.

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115.53 Subject Buildings and Facilities.

(a) Public buildings, as identified in Subsection (a), Section 7.02, of the Act, are subject to compliance with the provisions of the Act.

(1) If public funds are used in the construction of a building at any time during the construction process, even after construction has commenced, the building or facility is subject to compliance.

(2) For purposes of this Act, land donations by governmental units or any other use of public lands on which buildings or facilities are constructed shall be deemed to be funded in part by public funds even though structures on that land are constructed with private funds.

(3) Buildings constructed with private funds but which were constructed for the primary purpose of donating or deeding to a public entity shall be subject to compliance with the Act.

(4) The Commission may inquire of any building owner as to the source of funding used in the construction of a building under inquiry. Absent any satisfactory evidence to the contrary, the Commission may presume that the subject building falls under the Act.

(b) Privately owned buildings and facilities identified in Subsection (c), Section 7.02, of the Act that are leased or rented to State agencies are subject to compliance with the Act.

(1) If it is determined by the agency that the space to be leased will not be used by the public and that the occasion for

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employment for the aged, handicapped, or disabled persons is improbable because of the physical requirements of the work or the nature and function of the facility, the agency shall, prior to the award of a contract, submit to the Commission in written form the standards it has determined to be impractical and the reasons for such determination.

Information contained in the submittal should include but is not limited to the following:

- (A) Proposed location of the leased space.
- (B) Agency's function within the leased space.
- (C) Estimated number of daily visitors.
- (D) Estimated number of employees and description of jobs to be performed.
- (E) Total square footage within the leased space.
- (F) Number of parking spaces to be included in the contract.

The Commission will review the submittal and shall determine if full compliance is not practical and shall set out the standards and specifications which are considered practical.

If no written determination of impracticality is submitted by an agency requiring space prior to the award of contract, full compliance with all standards and specifications of the Act shall be required.

- (2) Leasing contracts shall include, or incorporate by reference, the standards and specifications required by the Act.

- (c) Privately owned buildings and facilities, as identified in Subsection (d), Section 7.02, of the Act, are subject to

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compliance with the Act.

- (1) Texas Population Tables published by the U.S. Bureau of Census, including estimates for other than decennial census, will be used to determine county populations.
- (2) The phrase "constructed on or after January 1, 1978" shall include only those buildings on which construction work was commenced on or after that date, and shall not include those buildings under construction prior to January 1, 1978.
  - (A) For the purpose of this paragraph "commencement of construction" shall be determined by visible placement of engineering stakes, delivery of lumber and/or other construction materials to the job site, erection of batter boards, and other such work that, upon inspection, would have put a person on notice that construction had begun.
  - (B) If submission of plans and specifications prior to commencement of construction was not possible, such plans and specifications shall be submitted for approval as soon as possible following such commencement of construction. Provisions of the Act shall be adhered to regardless of the time the plans and specifications were submitted for approval.
  - (C) In projects or developments calling for stage construction, or where more than one building is being constructed, each stage or building shall be considered to be a separate project for purposes of this Act.



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- (3) For privately funded buildings and facilities, the provisions of the Act and the rules and regulations contained herein pertain only to new construction and are not applicable in renovation projects.
- (4) The Commission may request assistance from county and city departments that have construction responsibilities under local construction ordinances or building permits issuance responsibilities. Such assistance may include project design information, funding information, verification of compliance, inspection results, etc.
- (d) Privately owned buildings and facilities not otherwise covered in Subsections (c) and (d), Section 7.02, of the Act, are eligible for inclusion in the State's elimination of architectural barriers program if:
  - (1) building owners voluntarily request assistance from the Commission;
  - (2) the building owner or his authorized representative agrees to pay, if requested by the Commission, a fee to cover the costs of providing appropriate services. Fees shall not exceed \$100.00 per building or facility and shall be based on the time required to perform such services and reimbursement of related travel costs incurred; and
  - (3) the building owner or his authorized representative grants the Commission authorization to conduct on-site inspections.

115.55 Review of Plans and Specifications.

(a) All project plans and specifications of buildings and facilities covered by Subsections (a) and (d), Section 7.02, of the Act shall be submitted to the Commission for review and approval prior to bidding and award of contract.

(1) A Certificate of Compliance or a statement of compliance intent, as prescribed by Section 115.56, shall accompany all plans and specifications submitted to the Commission for review.

(2) After a prompt review of all submitted plans and specifications, the Commission will notify the building owner, authorized representative or other appropriate parties of the results of the review within 20 working days of receipt of plans and specifications. Plans and specifications will be approved by the Commission only when the documents adequately reflect full compliance with all accessibility standards and specifications, or are in compliance with the standards and specifications approved on the basis of practicality as set forth in Section 115.56.

(3) When project plans and specifications do not reflect satisfactory compliance with the standards and specifications, the Commission will request verification of plan or design revisions. Such verifications may be made by submission of revised plans and specifications or in such written form as deemed appropriate by the Commission. The submission of Change Orders and Addenda may be substituted

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for the construction documents for purposes of verifying design revisions and/or modifications.

- (4) Enforcement of the requirement to submit plans and specifications shall be in accordance with the applicable subsection of Section 115.60.
- (b) Costs of submitting and returning plans and specifications must be borne by the sender. Plans and specifications received by the Commission that contain prepaid return postage will be returned immediately after the review. Plans and specifications received for review which do not have prepaid return postage are subject to destruction 30 days after the date of the Commission's review reply unless the Commission is furnished with prepaid postage or receives written instructions to return the documents C.O.D. by specific carrier.

115.56 Submission of Compliance Intent.

- (a) All projects involving buildings and facilities covered by Subsections (a) and (d), Section 7.02, of the Act must have a Certificate of Compliance or a statement of intent to comply, submitted to the Commission by the building owner or authorized representative. Such documentation shall be set out on a form or forms as may be prescribed by the Commission and submitted with the plans and specifications prescribed in Section 115.55.
- (1) In accordance with Subsection (a), Section 7.02, of the Act, covering public buildings, if the governmental department, agency, or unit concerned shall determine, after taking all circumstances into consideration, that full compliance with any particular standard or specification is not practical, a written statement to that effect shall be submitted with the plans and specifications, together with the reasons for such a determination. The Commission shall decide whether in fact such standards or specifications are impractical and shall set forth in its review and approval of the plans the extent to which an attempt shall be made to comply with the standard or specification. A statement or letter of impracticality will be sent to the applicant.
- (2) In accordance with Subsection (a), Section 7.02, of the Act, if the governmental department, agency, or unit involved determines that the entire building or facility is not open to the general public and that the occasion for employment of the aged, handicapped, or disabled persons is improbable, a

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statement to that effect should accompany the plans and specifications for the building or facility. The Commission shall render a decision on the determination made by the applicant and shall issue a statement or letter of impracticality on the entire building or facility or state the extent to which accessibility shall be required. Examples of types of buildings or facilities that may fall in this category are radio towers, utilities plants, water and sewage treatment facilities, waste handling and disposal facilities, certain type warehouses and storage facilities, boat docks, ramps, etc. Exclusion of these types of buildings and facilities will not be allowed if they contain areas of significant size and wherein administrative, supervisory or other functions are performed that might be performed by handicapped persons.

- (b) State agencies having rehabilitation functions or that extend direct services to disabled and handicapped persons may be consulted by the Commission when making impracticality determinations.

115.57 Inspections and Verifications.

- (a) The Commission is authorized to inspect all buildings and facilities applicable under Section 115.53, to ascertain if compliance with the accessibility standards and specifications has been met.
- (1) Inspections will be performed during the normal working hours of the building owner, authority, or unit concerned. Any deviation from normal working hours shall be at the convenience of the owner, authority, or unit concerned.
  - (2) The Commission's representative making an inspection will request that the building owner or a designated representative be present during the inspection.
  - (3) During each inspection, the Commission's representative will make field note entries on a form prescribed by the Commission for such purposes. The completed form will become part of the permanent file that will be maintained on each project and will be the source document in support of any subsequent reports, notifications, or other actions.
  - (4) The building owner, authorized representative or other appropriate parties will be advised by the Commission of the results of each inspection within 60 days following the date of inspection.
  - (5) The Commission is authorized to verify corrections, as covered by Section 115.59, by performing reinspections or by requesting documentary evidence from the building owner or his authorized representative that corrective measures have

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been achieved.

- (6) The Commission is authorized to perform reinspections when it is suspected or when evidence indicates that a change in function or utility has occurred within a building or facility that might previously have been granted an exclusion based on impracticality due to function or utility.
- (7) A building owner or authorized representative shall, upon request of the Commission, furnish the Commission with a statement that completely and accurately reflects compliance with the standards and specifications determined by the Commission as prescribed within these rules. The statement shall be in such form and contain such information deemed necessary by the Commission, to be able to ascertain compliance.

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115.58 Accessibility Certifications and Approvals.

- (a) Accessibility certifications are granted by the Commission upon completion of satisfactory inspections or other forms of verifications deemed appropriate by the Commission that the buildings and facilities are in compliance with all accessibility standards and specifications.
  - (1) Within 10 days following satisfactory verification of compliance, a letter of certification covering each building or facility that meets all accessibility standards and specifications will be issued by the Commission to appropriate building owners or designated representatives.
  - (2) In order to promote the identification of buildings and facilities that are accessible to the handicapped, appropriate accessibility symbols shall be made available by the Commission. The design of the symbol shall be an adaptation of the International Symbol that is used to identify barrier-free structures. Accessibility symbols may be used only on those buildings that have been properly certified by the Commission.
- (b) Building and facility accessibility approvals will be granted by the Commission upon satisfactory verification that buildings and facilities are in compliance with all building standards and specifications not otherwise excluded by previous impracticality determinations as prescribed in Section 115.55.



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**115.59 Corrective Modifications.**

- (a) When corrective modifications to achieve compliance are deemed necessary by the Commission, based on inspections or other evidence of non-compliance, the Commission will establish a reasonable period of time in which corrections are to be made and will advise the building owner or the authorized representative of the time limitation by written notice which will also include an itemized listing of all deficiencies. An extension of the designated period may be granted by the Commission if satisfactory evidence is presented to the Commission showing that the time specified is inadequate to perform the necessary corrections.
- (b) The building owner or his designated representative shall be instructed to notify the Commission when modifications have been completed.
- (c) All modifications are subject to verification as prescribed in Section 115.57, prior to certifications or approvals by the Commission.

115.60 Enforcement Powers.

(a) The Commission is authorized to institute and prosecute proceedings in district court to compel compliance with the law as provided in Subsection (b), Section 20, of the Act.

(1) No action by the Commission to initiate legal proceedings shall be taken until:

- (A) the Commission has complied with Subsection (a) of Section 115.59;
- (B) the appropriate official of the Commission has determined that compliance had not been accomplished upon expiration of the allotted period per Subsection (a), Section 115.59, and that the building owner, authority, or unit involved has not shown evidence of performing the prescribed corrections;
- (C) the authority, building owner, or other appropriate persons have been given final notification by the Commission requesting compliance within 90 days from the date on which the notice was received. The final notice shall be issued by registered or certified mail, return receipt requested, and shall advise the party or parties involved of the failure to comply, the action proposed to be taken, the specific provisions under which the proposed action is to be taken, and the basis for the action; and
- (D) the expiration of at least 90 days from receipt by the building owner of the final notice. The Commission

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shall have the authority to extend the 90 day period when circumstances justify such extension. Request for extension of time may be made by the building owner, authorized representative, or appropriate parties; however, such requests must be received by the Commission prior to the expiration of the 90 day period and must contain satisfactory evidence of good faith in complying.

- (2) Legal proceedings are initiated by the Commission by notifying the office of the Texas Attorney General of the specific violations of the provisions of the Act and presenting evidence to that department that all procedures previously taken to effect compliance have not resulted in compliance.
- (3) The Commission will maintain all documents, materials, and other evidence on file for use in support of any legal action taken and shall be open to examination by all parties involved.
- (b) The Commission is authorized to enforce the provisions of the law pertaining to lease facilities covered under Subsection (c), Section 7.02, of the Act as set out within this section or under the appropriate provisions of Article 6 of Article 601b, V.T.C.S.

115.61 Complaints and Investigations.

- (a) Any person or persons who suspect that any building or facility should be, but is not, in compliance with provisions of the Act may submit a complaint to the Commission with the request that an investigation of non-compliance be made. Complaints must be in written form and must contain information sufficient to initiate investigative procedures. The information should include, but is not limited to:
- (1) The name of the building owner or authority.
  - (2) The name and address of the building or facilities in question.
  - (3) The name of the person or persons who might be responsible for the operation of the building or facilities, if other than the building owner.
  - (4) Available historical data relative to the age of the building or facilities, suspected additions or renovations, proposed or current construction work, and funding of previous construction projects.
  - (5) An itemized list of suspected violations of the Act.
  - (6) The name and address of the person or persons issuing the complaint.
- (b) The Commission will make a prompt investigation when a compliance complaint contains sufficient information to indicate a probable failure on the part of a building owner to comply with the provisions of the Act. The investigative procedures of the Commission may include on-site inspections, solicitation of

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information from the building owner or authority, or from whatever other sources deemed appropriate by the Commission.

- (c) All administrative and enforcement procedures contained within these rules and regulations shall be followed during the investigation process and any subsequent action that may be taken.
- (d) The Commission shall make a report to the person(s) who filed the complaint within a reasonable time after its investigation of the building or facility. This report shall contain a summary of the Commission's findings. If the complaint is determined to be justified, the report shall also contain a statement of the Commission's plan of action for enforcing compliance.

115.62 Standards and Specifications

(a) Purpose and Application

- (1) Purpose. The purpose of this section is to implement Subsection (c), Section 7.05 of the Act, requiring the State Purchasing and General Services Commission to adopt standards and specifications that are "consistent in effect" to those adopted by the American National Standards Institute, Inc. The standards and specifications contained in this section are considered to be "consistent in effect" to those contained in ANSI A117.1-1980. The specifications contained in ANSI standards are based on "adult dimensions and anthropometrics" and do not set out adjusted specifications suitable for children. Some of the standards and specifications in this section have been derived from human data relative to children between the ages of five and fifteen and are presented in Subsection (d) by age and school grade categories.
- (2) Application. The standards and specifications contained in this section shall be considered to be minimum guidelines for complying with the intent of the Act in buildings and facilities covered in Section 7.05, supra. It is not the intent of these standards and specifications to prohibit or discourage the development and use of sites with extreme conditions.

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- (b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

Access Aisle - An accessible space between elements such as parking spaces, seating, and desks that provides clearances appropriate for use of the elements.

Accessible - Describes a site, building, facility, or portion thereof that complies with this standard and that can be approached, entered, and used by physically disabled people.

Accessible Route - A continuous unobstructed path having a smooth and firm surface, sufficient in width and configuration to permit a person in a standard-sized wheelchair to obtain free access to buildings and facilities and to all elements and functional spaces within the buildings and facilities. Accessible routes may include but are not limited to walks, halls, aisles, corridors, elevators, ramps, curb ramps, and clear floor spaces at fixtures.

Appropriate Number - A number that is sufficient to accommodate the disabled users of a site, building, facility, or element.

Assembly Areas - A room, building, or other facility large enough to accommodate fifty or more persons for purposes such as social functions, recreation, food consumption, amusements, etc. Such spaces may include but are not limited to auditoriums, gymnasiums, dining rooms, motion picture theaters, recreation halls, stadiums and grandstands, theaters for stage productions, and conference rooms.

Automatic Door - A door equipped with a power-operated mechanism

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and controls that open and close the door automatically upon receipt of momentary actuating signals. The switch that begins the automatic control may be a photo-electric device, floor mat, or manual switch.

Balcony - That portion of a seating space of an assembly room, auditorium, or theater that is raised at least four feet or more above the level of the main floor.

Buildings or Facilities - Includes all or any portion of buildings, structures, equipment, roads, walks, parking lots, park sites, or other real property.

Circulation Route - An exterior or interior way of passage from one place to another for pedestrians, including but not limited to walks, hallways, courtyards, stairways, and stair landings.

Component - An element or space in a building or facility.

Cross Slope - The slope of a pedestrian or vehicular way that is perpendicular or diagonal to the direction of travel.

Detectable - Preceptible by one or more of the senses.

Element - Means an architectural or mechanical part of a building, facility, space, or site.

lbf - Pounds force.

Level - As used in these standards, shall include any surface or part of a surface not having a slope in excess of 1:50 (2%) at any point, in any direction. Slopes expressed in terms of 1/4 inch per foot shall be considered 2.0% and shall be acceptable.

Mezzanine - An intermediate floor having less than 33 1/3% of the entire floor area of the room in which it is located. Any such



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area exceeding the 33 1/3% of the total floor area shall be considered a story.

Physically Handicapped - Means any person who has disability which limits one or more major life activities including but not limited to such functions as performing manual tasks, walking, seeing, hearing, or speaking.

Operable Part - A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate, or adjust the equipment or appliance (e.g., coin slot, pushbutton, handle).

Performing Areas - Any raised or recessed floor surface of sufficient size so that the area can be used for the same purposes as a stage (see stage).

Power Assisted Door - A door with a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued force applied to the door itself. If the switch or door is released, such doors immediately begin to close or close completely within 3 to 30 seconds (see automatic door).

Principal (Primary) Entrance - An entrance intended to be used by the occupants and visitors to enter or leave a building or facility. This may include, but is not limited to, the main entrance.

Ramp - A walking surface in an accessible space or route that has a running slope greater than 1:20 (5.0%).

Running Slope - The slope of a pedestrian way that is parallel to

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the direction of travel (see cross slope).

Service Entrance - An entrance intended primarily for delivery or service.

Signage - Verbal, symbolic, and pictorial information.

Site - A parcel of land bounded by a property line or a designated portion of a public right-of-way.

Site Improvements - Landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and similar site additions.

Space - A definable area of a building, facility, or site.

Examples include toilet rooms, halls, assembly areas, parking, courtyards, and lobbies.

Stage - A partially enclosed portion of an assembly building or assembly area which is designed or used for the presentation of events such as theatrical productions, musical productions, or other entertainment wherein scenery, drops, or other effects are installed and where the distance between the top of the proscenium opening in the ceiling above the stage is more than five feet (see performing areas).

Standard - Any standard or specification set out in this publication which provides or enhances accessibility to the handicapped.

Tactile - Means perceptible through the sense of touch.

Tactile Warning - Means a surface texture applied to or built into walking surfaces, operating devices, or other elements to warn visually impaired persons of hazards in the path of travel.

(c) Design Criteria. The accessibility standards and specifications contained in this section are based on space, equipment, and human data contained in this subsection.

(1) Wheelchair. The wheelchair is the basic vehicle for use by nonambulatory persons. Its specifications establish the fundamental design requirements for making building and facilities accessible to and usable by handicapped persons.

(A) The dimensional specifications listed below and as shown in Figures (c) 1.1 through (c)1.3 represent the standard collapsible model wheelchair.

(i) Length: 42 inches (107 cm).

(ii) Width, open: 26 inches (66 cm).

(iii) Width, folded: 11 inches (28 cm).

(iv) Height of seat from floor: 19 inches (48 cm).

(v) Height of armrest from floor: 30 inches (76 cm).

(vi) Height of pusher handles from floor: 36 inches (91 cm).

(B) The space required for a wheelchair user to make a continuous 180 degree turn is a clear space having a diameter of at least 60 inches (152 cm). See Figure (c)2. Clear areas of 54 x 62 inches (137x157 cm) minimum as illustrated in Figure (c)3.1, or T-shaped spaces having 36 x 36 inches (91x91 cm) minimum dimensions, as illustrated in Figure (c) 3.2, are also satisfactory for accomplishing 180 degree turns.

(C) The minimum clear width necessary to allow two

wheelchairs to pass is 60 inches (152 cm). A 48 inch (122 cm) wide path will allow for passage of a wheelchair and pedestrian.

(D) The space necessary to occupy a single wheelchair at rest is 48x30 inches (122x76 cm). See Figures (c)4.1 through (c)4.6.

(2) Walking Aids. Persons using crutches, braces, canes or walkers are generally able to function within the dimensional standards prescribed for wheelchairs; therefore, human data relative to such devices are limited to that shown in Figure (c)5.

(3) Reach Limitation. Accessible elements of a building or facility is dependent both on height and location in relation to a person sitting in a standard wheelchair.

(A) Forward Reach. If clear floor space will allow only a forward approach to an object, the maximum high forward reach allowed shall be 48 inches (122 cm). See Figure (c)6.1. If the forward reach is over an obstruction, reach and clearances shall be as shown in Figure (c)6.2.

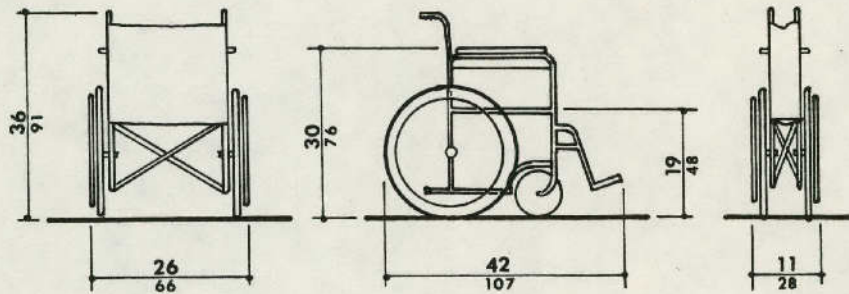
(B) Side Reach. If clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 inches (137 cm) as illustrated in Figure (c)7.1. If the side reach is over an obstruction, the reach and clearances shall be as shown in Figure (c)7.2.

(C) To be accessible, special equipment may sometimes

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require measurements different from those provided herein. The location and dimensional requirements should be dictated by equipment design with mobility limitations a consideration.

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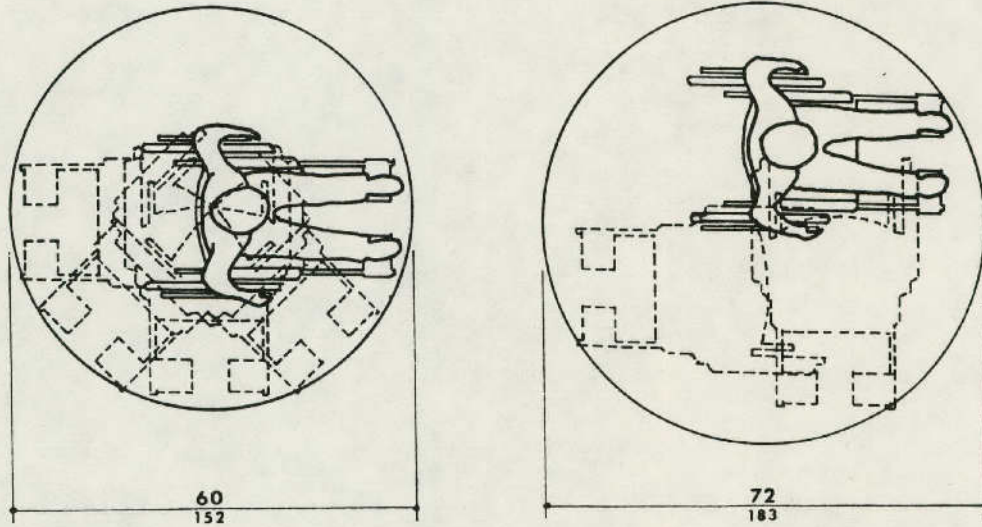


(c) 1.1

(c) 1.2

(c) 1.3

FIGURE (c) 1



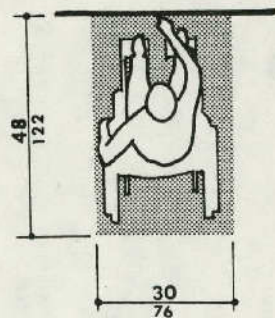
(c) 2.1

(c) 2.2

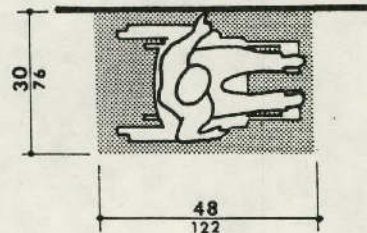
FIGURE (c) 2

inches  
centimeters

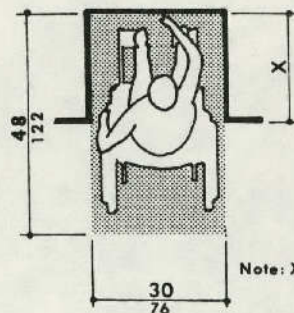
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(c) 4.1

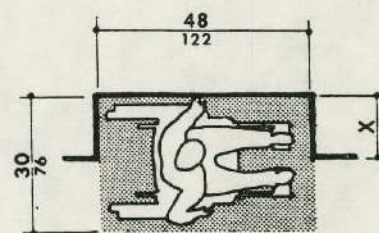


(c) 4.2



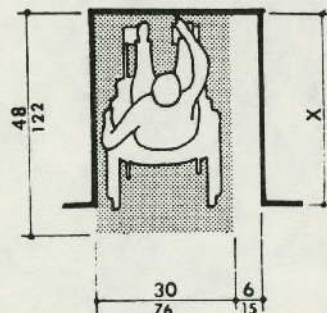
(c) 4.3

Note:  $X \leq 24$  in (61 cm)



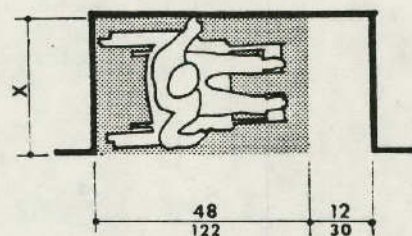
(c) 4.4

Note:  $X \leq 15$  in (38 cm)



Note: If  $X > 24$  in (61 cm), add 6 in (15 cm) to width.

(c) 4.5



Note: If  $X > 15$  in (38 cm), add 12 in (30 cm) to width.

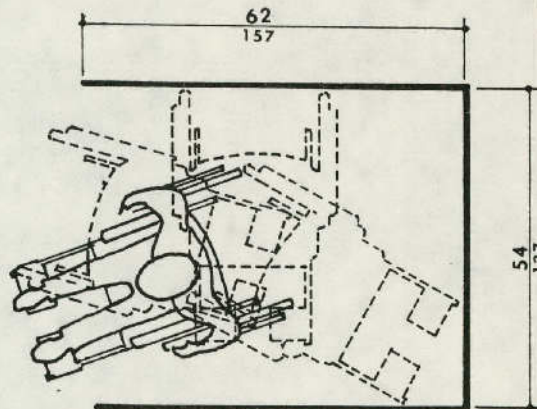
(c) 4.6

FIGURE (c) 4

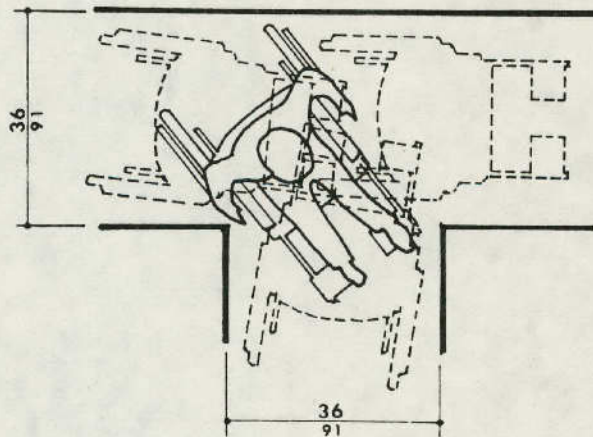
inches  
centimeters



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(c) 3.1



(c) 3.2

FIGURE (c) 3

inches  
centimeters



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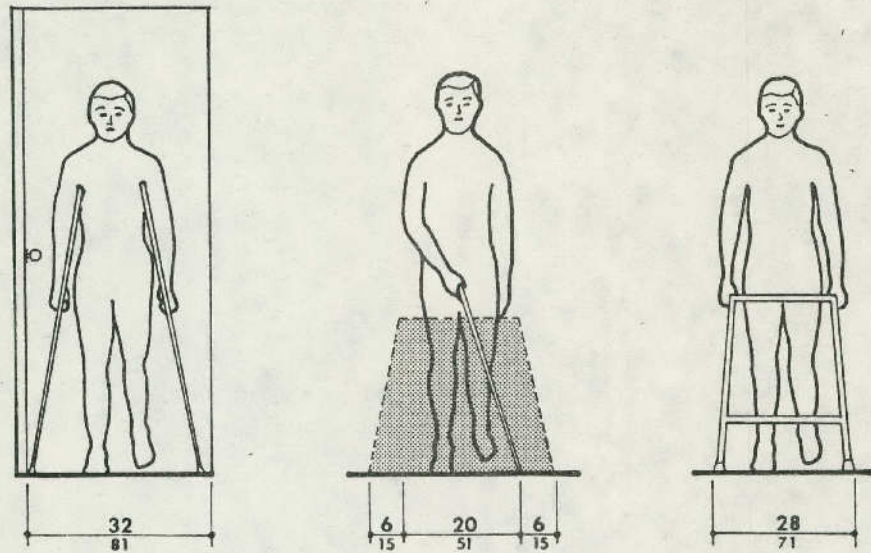
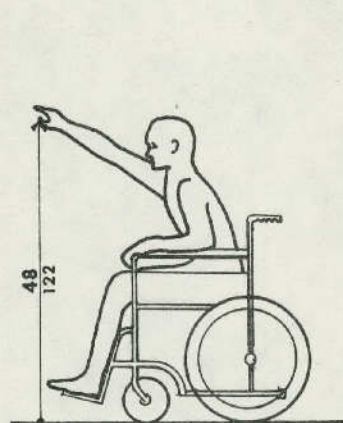


FIGURE (c) 5

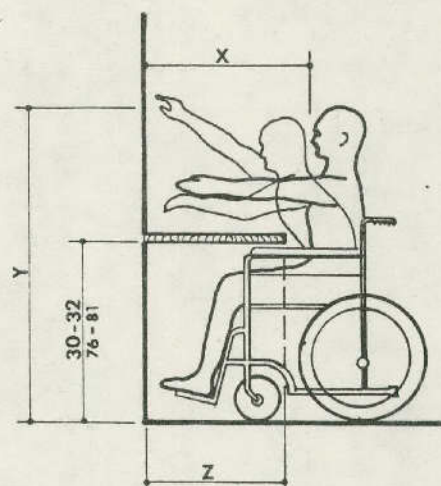
inches  
centimeters



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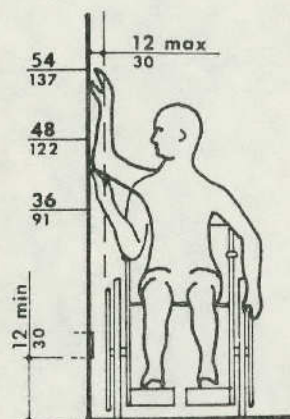
(c) 6.1



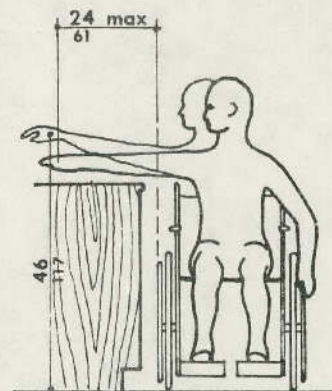
Note: X shall be  $\leq 25$  in (63 cm); Z shall be  $\geq X$ .  
If  $X < 20$  in (51 cm), Y shall be 48 in (122 cm) maximum. If  $X = 20$  in to 25 in (51 cm to 63 cm), Y shall be 44 in (112 cm) maximum.

(c) 6.2

FIGURE (c) 6



(c) 7.1



(c) 7.2

FIGURE (c) 7

inches  
centimeters

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- (d) General. The specifications and statements contained in this subsection are common to all spaces and elements of buildings and facilities and shall have both interior and exterior application.
- (1) Circulation Routes. General circulation routes connecting all spaces and elements within a building or facility shall be accessible by complying with paragraphs (2) and (3) below and other appropriate standards contained in this subsection.
- (2) Accessible Routes. At least one accessible route shall be provided from accessible parking spaces, passenger loading zones, and public sidewalks to the building or facilities they serve and at least one accessible route shall connect applicable buildings, facilities, elements, and spaces that are on the same site. Accessible routes shall never be less than 36 inches (91 cm) wide at any point and shall comply with this and other appropriate standards contained in this subsection.
- (3) Ground and Floor Surfaces. Ground and floor surfaces along accessible routes and in accessible rooms and spaces including floors, walks, ramps, stairs, and curb ramps shall be stable, firm, relatively smooth, and non-slip under most weather conditions. Soft or loose surfaces such as sand and gravel shall not be allowed in spaces required to be accessible or as part of an accessible route. Cobblestone and other irregular surfaces such as improperly laid flagstone and brick pavers, shall not be part of accessible routes or spaces and elements requiring freedom of movement.



- (4) Surface Slopes. Any accessible space or accessible route having a running slope greater than 1:20, shall be considered a ramp and shall comply with Subsection (h) of this section. Cross slopes shall not exceed 1:50 (2.0%) in accessible routes and spaces required to be accessible. Slopes expressed in terms of 1/4 inch per foot shall be considered acceptable.
- (5) Changes in Level. Changes in level up to 1/4 inch (6 mm) may be vertical and without edge treatment. Changes in level between 1/4 inch and 3/4 inch (6 and 19 mm) shall be beveled with a slope no greater than 1:2.
- (6) Hazards. All circulation routes, accessible spaces, and accessible routes shall be free of conditions that may be dangerous to handicapped persons. Hazardous elements and conditions may include but are not limited to those referenced below.
  - (A) Protruding Objects. Objects projecting from walls with their leading edges between 27 inches (68 cm) and 80 inches (203 cm) above the finished floor shall protrude no more than 4 inches (20 cm) into walks, halls, corridors, passageways, or aisles. See Figure (d)1.1. Objects mounted with their leading edges at or below 27 inches (68 cm) may protrude any amount provided such protrusion does not reduce the clear width of an accessible route or maneuvering space. See Figure (d)1.2.

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- (B) Free-standing Objects. Objects mounted on posts or pylons may overhang 12 inches (30 cm) maximum within a range of 27 to 80 inches (68 to 203 cm) above the ground or floor surface. Free-standing objects and their supports shall not reduce the clear width of an accessible route or maneuvering space.
- (C) Head Room. Walks, halls, corridors, stairways, and all accessible routes or circulation spaces shall have at least 80 inches (203 cm) clear head room measured from the walking surface. See Figure (d)1.1.
- (D) Gratings. If gratings are located in pedestrian routes, they shall have spaces no greater than 1/2 inch (13 mm) wide in one direction. Gratings with elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel. See Figure (d)2.1 and (d)2.2.
- (7) Appropriate Number. In determining appropriate numbers of a particular element, space, or fixture in a building or facility, the following factors shall be considered:
  - (A) population to be served;
  - (B) availability to the user;
  - (C) location relative to distance and time;
  - (D) location relative to isolation or separation;
  - (E) function of the building or facility;
  - (F) equal treatment and opportunity.

The guidelines for determining "appropriate number" contained

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in various subsections of this section, are considered minimal and the State Purchasing and General Services Commission shall have the authority to make adjustments and set out locations when it is determined that the guidelines would cause the numbers to be excessive or insufficient based on the nature, use, and other circumstances of any particular building or facility.

- (8) Mounting Heights for Children. When children are the primary users of a building or facility such as an elementary or middle school, mounting heights of various elements, fixtures and equipment should be adjusted to meet the needs of the age group that the facility is to serve. Certain fixtures and equipment listed in Table (d)1 shall comply with the corresponding mounting height requirements.

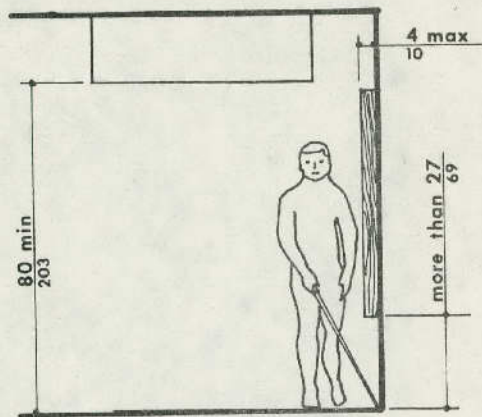
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Table (d)1

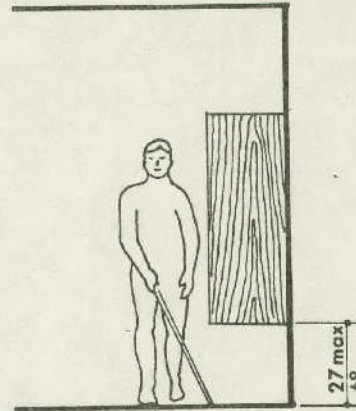
	<u>Ages: 5 thru 10 or 11</u> <u>Grades: K thru 5 or 6</u>	<u>Ages: 11 thru 14 or 15</u> <u>Grades: 6 thru 8 or 9</u>
Restrooms:		
Water Closet. To top of seat.	14" - 15" (36 - 38 cm)	15" - 17" (38 - 43 cm)
Urinal. To basin opening.	14" ( 36 cm)	16" ( 41 cm)
Grab Bars. To top.	28" - 30" (71 - 76 cm)	30" - 32" (76 - 81 cm)
Lavatories. To bottom of apron.	26" ( 66 cm)	28" ( 71 cm)
Mirrors. Maximum to bottom.	34" ( 86 cm)	37" ( 94 cm)
Shelves and Dispensers. Maximum to control device.	42" ( 107 cm)	45" ( 114 cm)
Drinking Fountains. Maximum to spout opening.	32" ( 81 cm)	34" ( 86 cm)
Switches and Controls (Telephones Included) Maximum to Center Line		
Front Approach	42" ( 107 cm)	45" ( 114 cm)
Side Approach	48" ( 122 cm)	51" ( 130 cm)
Stair and Ramp Handrails. To top.	28" - 34" (71 - 86 cm)	30" - 34" (76 - 86 cm)



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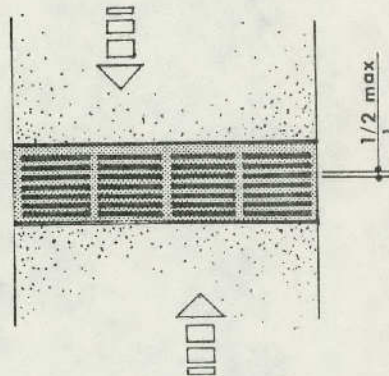


(d) 1.1

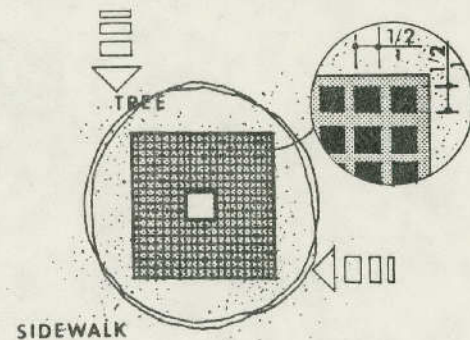


(d) 1.2

FIGURE (d) 1



(d) 2.1



(d) 2.2

FIGURE (d) 2

inches  
centimeters

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- (e) Parking and Passenger Loading Zones. If parking spaces and/or loading zones are provided by or otherwise made available to or under the control of the building or facility owner, agent, or occupant, an appropriate number of spaces shall comply with the standards of this subsection.

- (1) Appropriate Number. The appropriate number of parking spaces should be based on the location and function of the building or facilities the parking is to serve but never less than the number specified below:

TABLE (e)1

Total Parking Spaces Available	Minimum Number of Accessible Spaces
1 - 50	1
51 - 100	2
101 - 300	3
301 - 500	5
over 500	1.0% of total

- (2) Location. Accessible parking spaces and accessible passenger loading zones that serve a particular building should be located on an accessible circulation route and as near as reasonably possible to the accessible primary entries of the building or facility. In separate parking structures, lots, or basement garages, parking spaces shall be located on the shortest possible circulation route.
- (3) Parking Space Specifications. An accessible parking space is one that is open on at least one side and which allows room for individuals in wheelchairs, crutches, or braces to safely get in and out of a vehicle onto a level surface suitable for wheeling and walking. Accessible parking spaces should not

be located in such a place that would cause persons to wheel or walk behind parked cars.

- (A) Head-in or diagonal spaces shall be at least 96 inches (244 cm) wide with an adjacent aisle or clear space of at least 60 inches (152 cm) wide. A common aisle between two 96 inch wide spaces may be shared. See Figures (e)1.1 through (e)1.3. In order to better accommodate handicapped persons using vans with side lifts, an aisle of 72 inches (183 cm) is preferred.
- (B) Parallel parking is discouraged except when it can be situated in such a manner that persons entering and exiting vehicles will be out of the flow of traffic. If parallel parking is located on a street, driveway, or any other area where vehicular traffic exists, the space shall be designed and placed in such a manner that persons are out of the flow of traffic. See Figure (e)2 for an example of a well designed parallel space.
- (C) Parked vehicle overhangs shall not intrude into or reduce the clearance of accessible routes. See Figure (e)1.
- (D) Parking surfaces and accessible aisles shall not have a slope in any direction in excess of 1:50 (2.0%).
- (E) Accessible parking spaces shall be identified and reserved for the handicapped by a sign incorporating the symbol of accessibility and placed so that it will not be obscured by parked vehicles. The signage shall be of

such size that it is legible from a distance that would be reasonable for the condition. See Figure (e)3 for example of an acceptable sign. Where conditions exist that precludes the use of vertical signage, suitable phrases or symbols sufficient in size, permanency, meaning and location so as to adequately serve the intent of this subparagraph may be accepted.

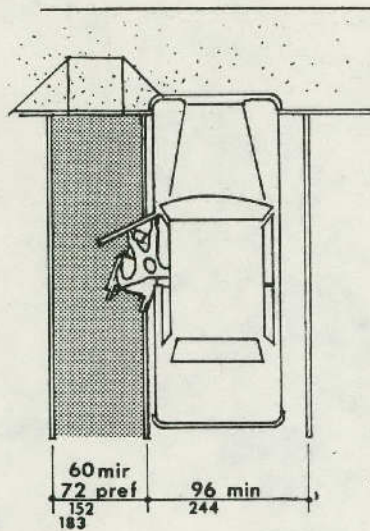
- (4) Separate Parking Structures and Off-site Lots. In instances where parking garages, basements, or off-site lots are used to serve a particular building or facility, parking spaces and conditions shall conform to the following criteria in addition to the other specifications contained in this subsection.

- (A) Parking spaces shall be located adjacent, or in proximity, to the accessible point of egress by an accessible route including elevators.
- (B) There shall be an accessible route from the point of egress to the nearest accessible primary entry into the building or facility.
- (C) Elevators in multi-level structures shall comply with the standards and specifications contained in Subsection (m) of this section.
- (D) If overhead walkways are provided, an appropriate number but never less than one shall be accessible by conforming to applicable standards and specifications required for an accessible route.

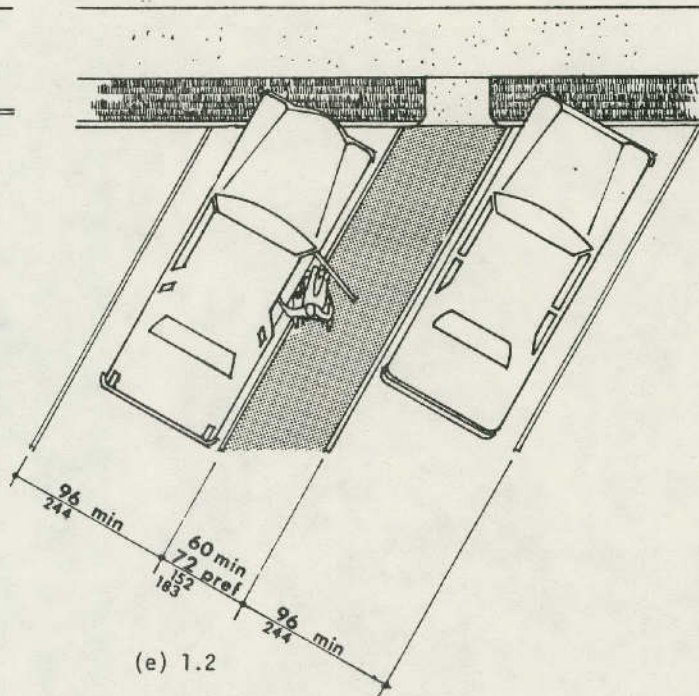
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- (5) Passenger Loading Zones. If passenger loading zones are provided, there shall be an access aisle of at least 44 inches (112 cm) wide and 20 feet (6 m) long and adjacent to the vehicle pull-up space. Curb ramps complying with Subsection (f) of this section are required when curbs exist between the access aisle and the vehicle pull-up space.

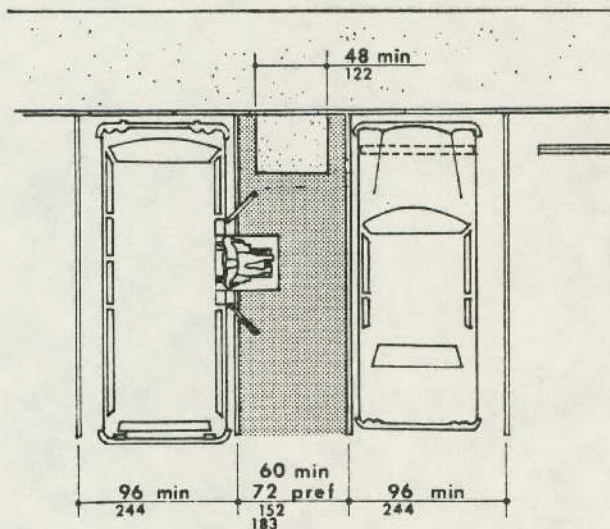
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(e) 1.1



(e) 1.2



(e) 1.3

FIGURE (e) 1

inches  
centimeters



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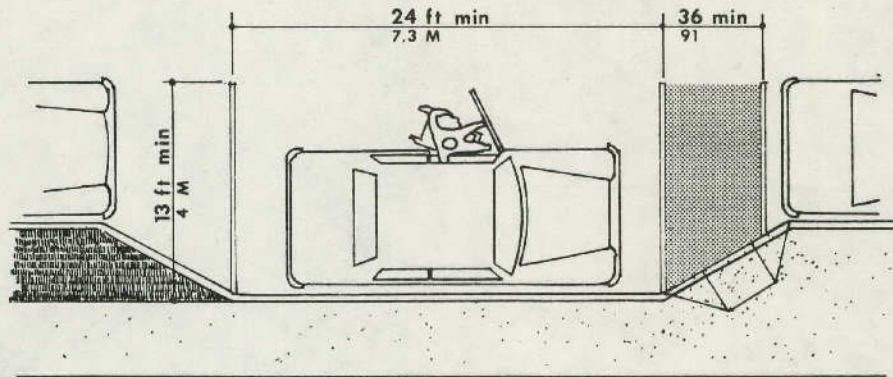


FIGURE (e) 2



FIGURE (e) 3

inches  
centimeters

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(f) Curb Ramps.

(1) General. Wherever curbs intersect accessible routes, curb ramps shall be provided. Where ramps are required for curbs in excess of 8 inches (20 cm) high, the curb ramps shall comply with the standards and specifications contained in Subsection (h). Where ramps are required for curbs 8 inches (20 cm) or less, they shall conform to the standards and specifications contained in either this subsection or Subsection (h).

(2) Curb Ramp Requirements.

- (A) Curb ramps shall be located so that they are not obstructed by parked vehicles and shall not intrude into vehicular traffic lanes.
- (B) Slope. Curb ramps shall not exceed the slope and rise ratios set out in Tables (f)1 or (h)1, whichever is applicable.
- (C) Sloped surfaces shall have a slip-resistant texture or finish. Textures may consist of exposed crushed stone aggregate, roughened concrete, rubber, raised abrasive strips, or grooves. Surfaces that are raised, etched, or grooved in such a manner that permits water accumulation are prohibited.
- (D) Curb ramps having slopes less than 1:10 (10%) shall, for the purpose of warning, have a surface texture that significantly contrasts with that of the surrounding surfaces.

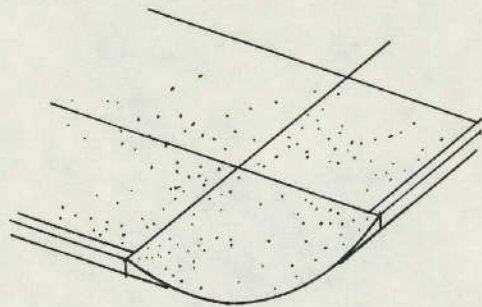


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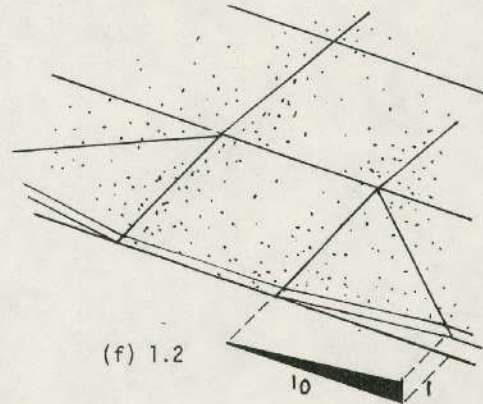
- (E) The minimum width of a curb ramp shall be 36 inches (91 cm), exclusive of flared sides. Curb ramps between 36 inches and 48 inches (91 cm and 122 cm) wide and without side protection shall have flared sides with slopes not exceeding the slope and rise ratios set out in Table (f)1, applied at the curb line. See Figure (f)1.3. Ramps that are 48 inches wide or wider are not required to have flared or protected sides.
- (F) Curb ramps intersecting with pedestrian walks shall have flared sides. The maximum allowable slope of the flare shall be 1:10 (10%). See Figures (f)1.1 and (f)1.2.
- (G) Curb ramps shall be designed so that the "cradle" will allow wheelchair footrests to clear the adjoining surface during transition. The minimum angle from surface to surface shall be 170 degrees. See Figure (f)2.

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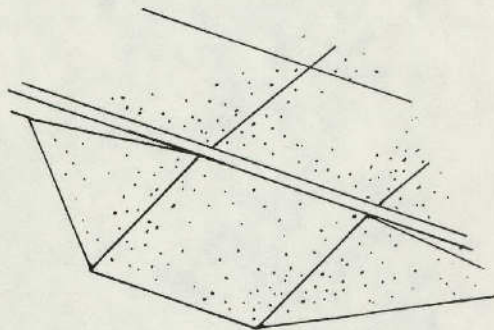
Table (f)1		
Maximum Allowable Slope %	Maximum Rise	Maximum Horizontal Projection (Run)
16.7% (1:6)	3 inches (8 cm)	18 inches (46 cm)
12.5% (1:8)	7 inches (18 cm)	56 inches (142 cm)
11.0% (1:9)	8 inches (20 cm)	72 inches (183 cm)



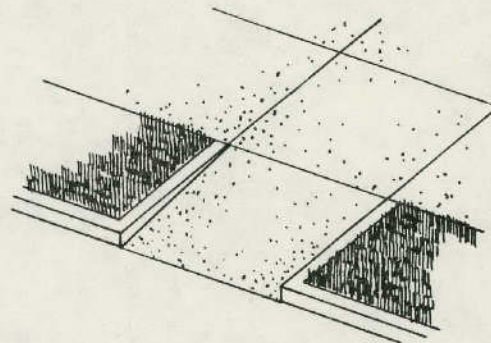
(f) 1.1



(f) 1.2



(f) 1.3



(f) 1.4

FIGURE (f) 1

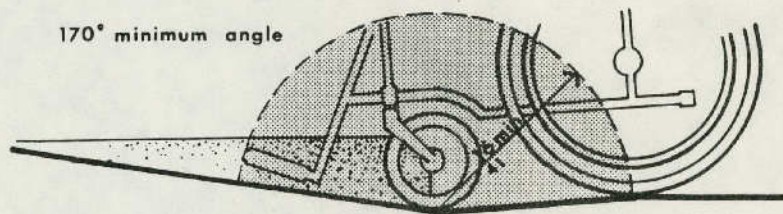


FIGURE (f) 2

inches  
centimeters

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- (g) Sidewalks and Building Approaches. When sidewalks or other defined walkways are part of an accessible route to buildings or facilities, they shall adhere to the standards and specifications of this subsection.
- (1) Width. Walkways in excess of 30 feet (9 m) in length shall be a minimum of 44 inches (112 cm) wide. A minimum width of 36 inches (91 cm) is acceptable for walkways less than 30 feet (9 m) in length and having no drop-off hazards, obstacles, or turning requirements greater than 90 degrees.
  - (2) Surface. Walk finishes and materials shall provide a surface that is firm, stable, and slip-resistant. Irregular surfaces such as cobblestone or improperly laid flagstone and brick are not acceptable.
  - (3) Changes in Level. Walks shall have a continuous common surface not interrupted by steps or abrupt changes in level. Level changes not exceeding 3/4 inches (2 cm) having beveled edges are acceptable.
  - (4) Slope. Walks or portions of walks exceeding a slope of 1:20 (5%) shall be classified as ramps and shall comply with Subsection (h).

EXCEPTION: A slope not exceeding 6% may be permitted

on walks less than 30 feet (9 m) in length.

- (5) Obstructions. Extreme care should be taken so that objects such as receptacles, dispensing machines, signs, flower boxes, trees, and other plants are not placed in such a manner that hazards are created along a walkway. See

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Subsection (d).

- (A) No protrusions shall reduce the clear width of any portion of a walkway to less than 36 inches (9 cm).
  - (B) An overhead clearance (headroom) of at least 80 inches (203 cm) must be provided the entire length and width of a walkway.
  - (C) Objects projecting from walls shall conform to the specifications contained in Subsection (d).
- (6) Walks at Entries. Walks terminating at accessible building entries shall have landings complying with the applicable standards and specifications of Subsection (i).

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- (h) Ramps. Any part of an accessible route with a slope greater than 1:20 (5%) shall be considered a ramp and shall comply with this subsection. See Figures (h)1 and (h)2.

EXCEPTIONS: 1. Sloped surfaces less than 6% and less than 30 feet (9 m) in length may be exempted.

2. Aisles and floor surfaces within the seating areas of theaters and auditoriums are exempted if the slope does not exceed 1:10 (10%).

- (1) Slope and Rise. Ramps shall not exceed the slope and rise ratios set out in Table (h)1.
- (2) Width. The minimum clear width of a ramp shall be 48 inches (122 cm).

EXCEPTION: Single-run ramps not in excess of 30 feet (9 m) in lengths may have widths of no less than 36 inches (91 cm).

- (3) Landings. Ramps shall have level landings at the bottom and top of each run complying with the following:
- (A) The landings shall be at least as wide as the widest ramp run leading to it.
- (B) The landing length shall be a minimum of 60 inches (152

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cm) clear.

- (C) There shall be a level landing of at least 60x60 inches (152x152 cm) wherever ramps change direction.

EXCEPTION: Level platforms shall not be required when change of direction does not exceed 45 degrees and the intersecting surfaces are blended so that an abrupt level differential is not created.

- (D) If a doorway is located at a landing, then the area in front of the doorway shall comply with Paragraph (2), Subsection (i) of this section.

- (4) Handrails. Any ramp or portion of a ramp having a horizontal projection greater than 72 inches (183 cm) shall have handrails on both sides. Handrails are not required on curb ramps complying with Subsection (f). Ramp handrails shall comply with this paragraph.

- (A) Handrails shall be provided along both sides of ramp segments. The inside handrail on switchback or dog-leg ramps shall always be continuous.
- (B) Where handrails are not continuous, they shall extend at least 12 inches (30 cm) beyond the top and bottom of the ramp segment and shall be parallel with the floor or ground surface. Full extensions shall not be required where such extensions would create protruding hazards.

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- (C) Handrails that are wall-mounted or are located adjacent to another surface or object shall have a clear space between the rail and the wall surface or object of at least 1-1/2 inches (4 cm).
  - (D) Handrail gripping surfaces shall be continuous without interruption by mounting brackets, mullions, or newel posts.
  - (E) Handrails shall be mounted not less than 30 inches (76 cm) nor more than 34 inches (86 cm) above the ramp surface and secured so that they can support a horizontal thrust of 50 pounds per linear foot.
  - (F) The diameter or width of the gripping surface of handrails shall be 1-1/4 inches to 1-1/2 inches (3 to 4 cm), or shaped to provide an equivalent gripping surface. Handrails shall not rotate in their mountings.
  - (G) Open-sided ramp segments and landings not protected by curbs, walls, or other edge protective features, shall have intermediate horizontal or vertical rails or other features arranged so that the passage of a 9 inch (23 cm) sphere at the ramp surface is prohibited. See Figure (h)2.
  - (H) Where full extensions would create protruding hazards, rail termination cues shall be provided. Such cues may include but are not limited to those illustrated in Figure (p)3.
- (5) Surfaces and Cross-slopes. Ramp surfaces shall have a

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slip-resistant texture or finish such as is provided by exposed crushed stone aggregate concrete, rubber, raised abrasive strips, grooves, or other roughened finish.

Surfaces that are raised, etched, or grooved in such a manner that permits water accumulation are prohibited. The cross-slope of ramp surfaces shall be no greater than 1:50.

- (6) Edge Protection. Ramps and landings with drop-offs shall have curbs, walls, railings, or projecting surfaces that prevent persons from slipping off the ramp. Curbs shall be a minimum of 2 inches (5 cm) high. See Figure (h)2.



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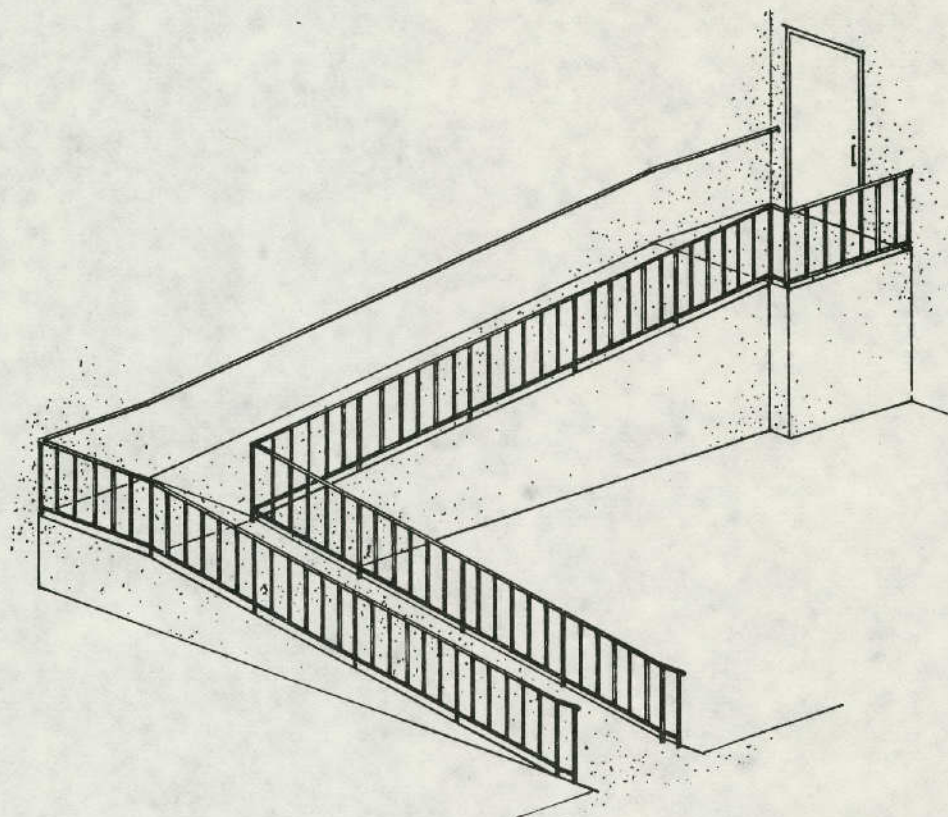


FIGURE (h) 1

Maximum Allowable Slope %	Table (h)1	
	Maximum Rise	Maximum Horizontal Projection (Run)
16.7% (1:6)	3 inches (8 cm)	18 inches (46 cm)
12.5% (1:8)	7 inches (18 cm)	56 inches (142 cm)
10.0% (1:10)	9 inches (23 cm)	96 inches (244 cm)
8.3% (1:12)	30 inches (76 cm)	30 feet (9 m)
7.1% (1:14)	34 inches (86 cm)	40 feet (12 m)
6.0% (1:16)	44 inches (112 cm)	60 feet (18 m)

inches  
centimeters

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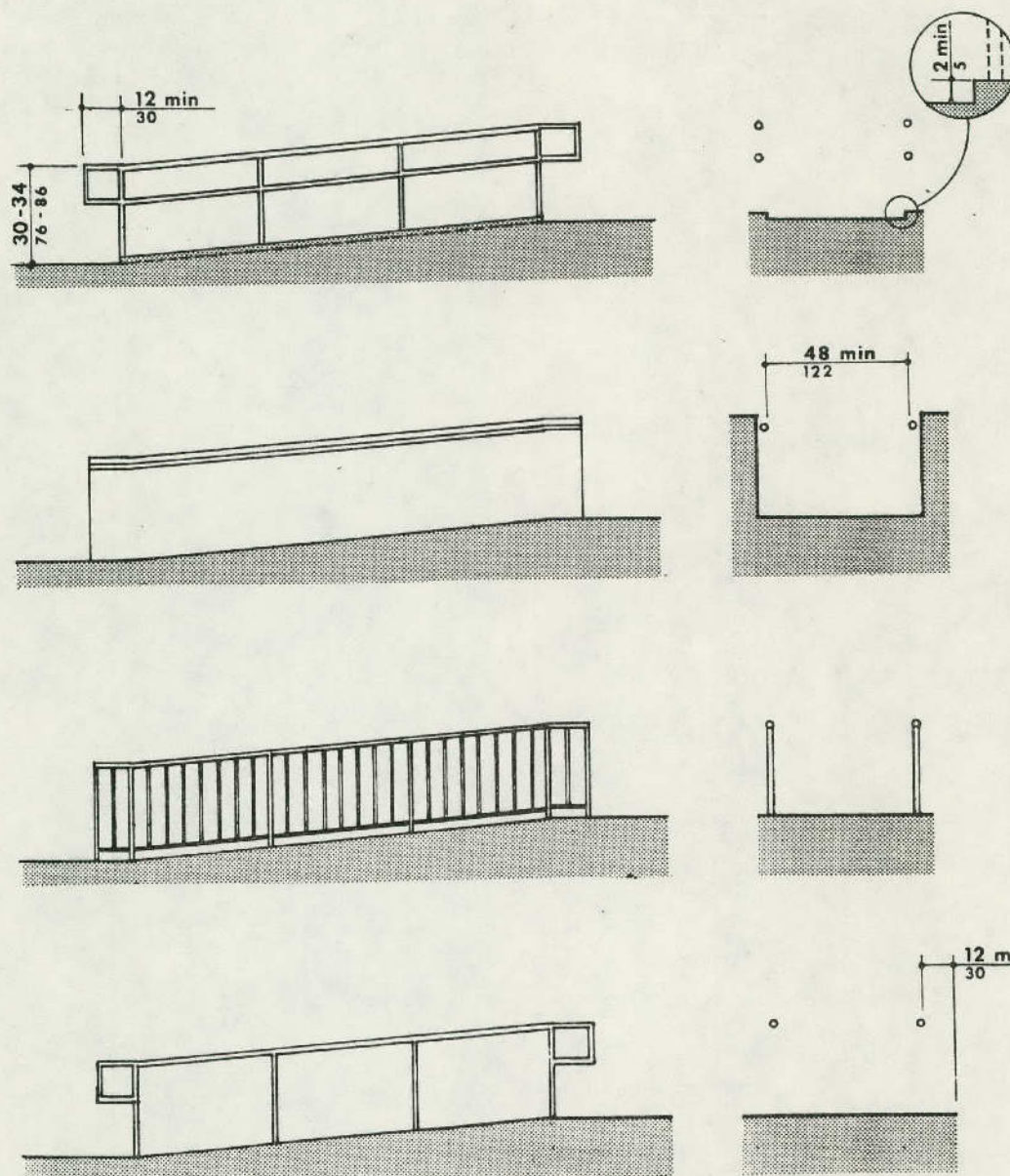


FIGURE (h) 2

inches  
centimeters

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(i) Entrances.

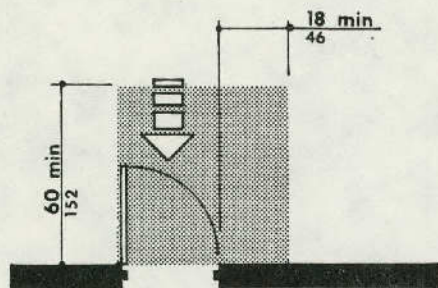
- (1) Appropriate Number. An appropriate number, but always at least one, of principal entrances to a building or facility shall be part of an accessible route and shall comply with this subsection. An appropriate number of accessible entries is dependent on the design functions of any building, complex, or facility, and the provisions of a single accessible entry is insufficient to satisfy the need at many buildings and facilities; therefore, the State Purchasing and General Services Commission shall have the right to determine the appropriate number of accessible entrances in any given building or facility subject to these rules.
- (2) Entry Platforms. Landings, porches and platforms at accessible entrances shall comply with the applicable specifications shown in Figures (i)1.1 through (i)1.3. A maximum slope of 1:50 (2.0%) is permitted to allow for water run-off; less than 2.0% is preferred. Slopes expressed in terms of 1/4 inch per foot shall be considered 2.0% and shall be acceptable.
- (3) Door Clearances. Accessible entrances shall have doors and door openings complying with Subsection (j).
- (4) Internal Access. All accessible entrances shall be connected by an accessible route to all spaces and elements where accessibility is required within a building or facility.
- (5) Service Entrances. A service entrance shall not be the sole accessible entrance unless it is the only entrance to a

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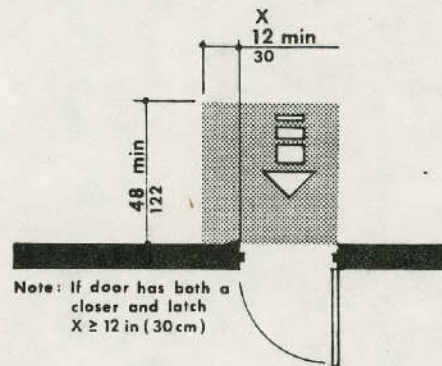
building or facility.



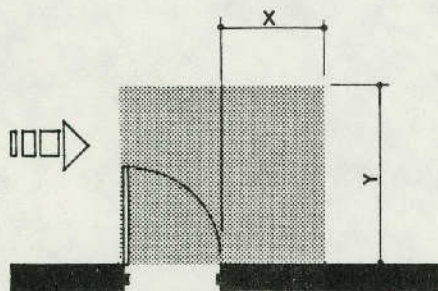
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(i) 1.1

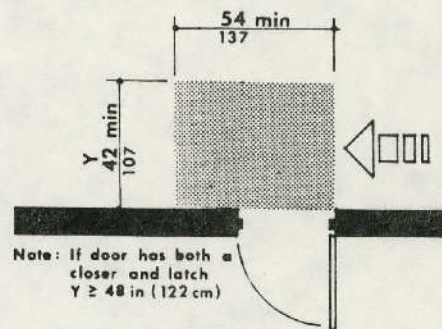


Note: If door has both a closer and latch  
 $X \geq 12$  in (30 cm)

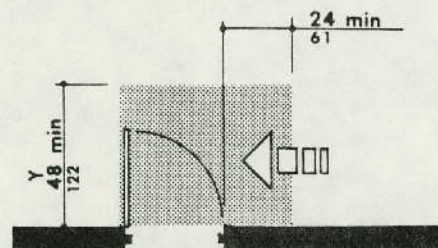


Note: If  $Y \geq 60$  in (152 cm),  $X \geq 36$  in (91 cm)  
If  $Y \geq 54$  in (137 cm),  $X \geq 42$  in (107 cm)

(i) 1.2

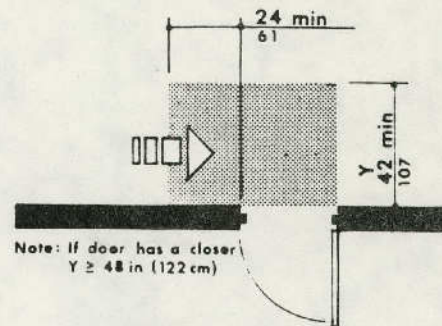


Note: If door has both a closer and latch  
 $Y \geq 48$  in (122 cm)



Note: If door has a closer  $Y \geq 54$  in (137 cm)

(i) 1.3



Note: If door has a closer  
 $Y \geq 48$  in (122 cm)

FIGURE (i) 1

inches  
centimeters

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(j) Doors and Door Openings. All doors, door openings, and gates to applicable spaces and elements of buildings and facilities and along accessible routes, shall comply with the requirements of this subsection.

- (1) Revolving Doors and Turnstiles. Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible route.
- (2) Double-Leaf Doorways. If doorways have two door leaves, then at least one leaf shall meet the specifications in Paragraphs (3) and (4) below. That leaf shall be an active leaf.
- (3) Clear Width. Doorways shall have a minimum clear opening of 32 inches (81 cm) with the door open 90 degrees, measured between the face of the door and the stop. See Figures (j)1.1 and (j)1.2. Openings more than 24 inches (61 cm) in depth shall have minimum door widths of 36 inches (91 cm). See Figure (j)1.3. Door widths shall be increased in proportion to the width of the passage leading to it when turning requirements dictate. Minimum ratio requirements shall be as shown in Figures (j)3.1 through (j)3.3.

EXCEPTION: Door clearances of 30 inches (76 cm) are

permitted if;

1. the depth of the opening is no greater than 8 inches (20 cm);
2. the door swings open in excess of 90

degrees; and

3. a clear area of 60x60 inches (152x152 cm)

is provided on each side of the doorway.

- (4) Maneuvering Clearances At Doors. Minimum maneuvering clearances for doors that are not automatic shall be as shown in Figures (i)1.1 through (i)1.3. The floor or ground area within the required clearances shall be level and clear. Entry doors to acute care hospital bedrooms for inpatients shall be exempt from the requirements for space at the latch side of the door if the door is at least 44 inches (112 cm) wide.
- (5) Two Doors in Series. The minimum space between two hinged or pivoted doors in series shall be 48 inches (122 cm) plus the width of any door swinging into the space. If the space between two doors in a series is not sufficient to provide the minimum 48 inches (122 cm) clearance, the doors shall swing either in the same direction or at least one shall swing away from the space between the doors. See Figures (j)2.1 and (j)2.2.
- (6) Raised Thresholds and Floor-level Changes at Doorways. Changes in level at doors shall not exceed 1/2 inch (13 mm) in height and shall be beveled with a slope no greater than 1:2.

EXCEPTION: A maximum height of 3/4 inch (19 mm) is

permitted when doors remain open during

passage such as doors without closers,

sliding doors, and automatic doors.

- (7) Door Hardware. Handles, knobs, pulls, latches, locks, and other operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or severe twisting of the wrist to operate. The force required to activate door hardware shall be not greater than 5 lbf. Preferred designs include but are not limited to lever-operated mechanisms, push-type mechanisms, and U-shaped handles. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. Doors to hazardous areas such as loading platforms, boiler rooms, mechanical and electrical rooms, and to other areas that might be dangerous to a blind person, shall be made identifiable to the touch by a textured surface on the door handle, knob, pull, or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface.

IMPORTANT: Such textured surfaces shall NOT be provided

for emergency exit doors or any doors other

than those to hazardous areas.

- (8) Door Closers. If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position



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of 70 degrees, the door will take at least 3 seconds to move to a point 3 inches (8 cm) from the latch, measured to the leading edge of the door.

- (9) Door Opening Force. The maximum force for pushing or pulling open a door shall comply with this paragraph. For hinged doors, the force shall be applied perpendicular to the door at the door opener or 30 inches (76 cm) from the hinged side, whichever is farther from the hinge. For sliding or folding doors, the force shall be applied parallel to the door at the door pull or latch.

(A) Exterior hinged doors shall not exceed 8.5 lbf. Slight increases in opening force shall be allowed where 8.5 lbf is insufficient to compensate for air pressure differentials.

(B) Sliding doors, folding doors and interior hinged doors shall not require a force exceeding 5 lbf.

(C) Fire doors shall be adjusted to meet the minimum opening force permitted by governing fire safety standards.

- (10) Automatic and Power-assisted Doors. If automatic or power-assisted doors are utilized within a building or facility, they shall comply with this paragraph.

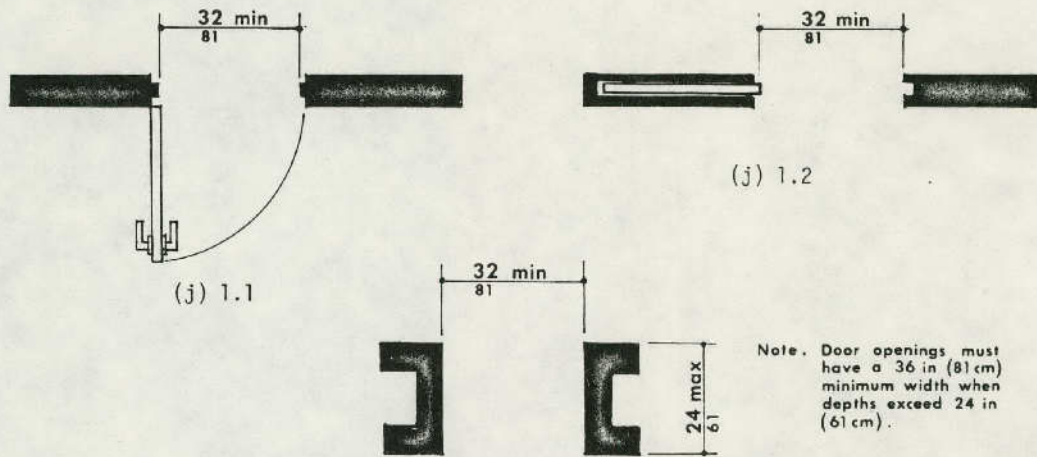
(A) Automatic doors shall comply with American National Standard for power-operated doors, ANSI A156.10-1979. Custom designed installation utilizing slow-opening, low-powered automatic doors as described in Paragraph 1.1.1 of ANSI A156.10-1979, shall not open to back check

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faster than 3 seconds and shall require no more than 15 lbf to stop door movement.

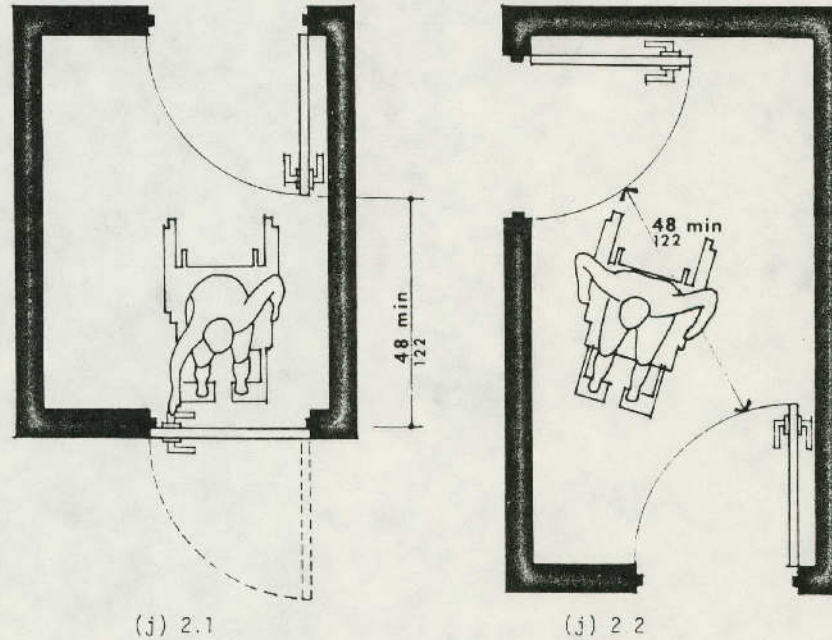
- (B) When power-assisted doors are utilized, the door-opening force shall comply with Paragraph (9) above except in power failure situations.

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(j) 1.3

FIGURE (j) 1



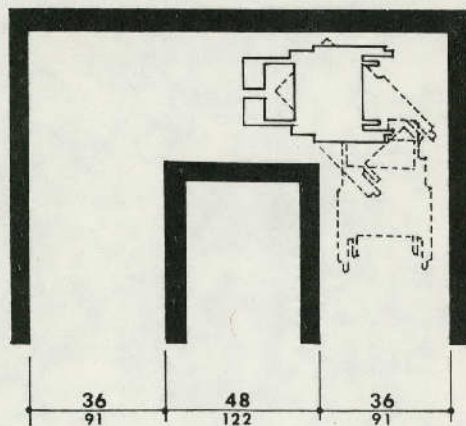
(j) 2.1

(j) 2.2

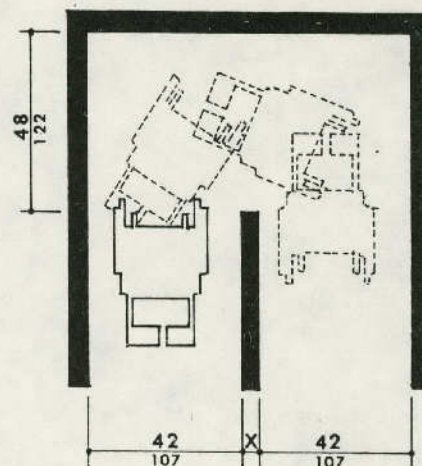
FIGURE (j) 2

inches  
centimeters

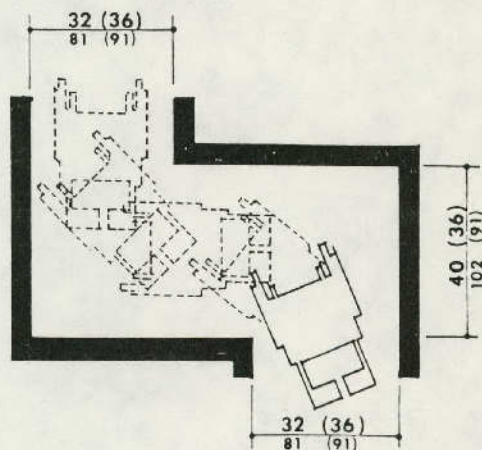
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(j) 3.1



(j) 3.2



(j) 3.3

FIGURE (j) 3

inches  
centimeters

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(k) Corridors, Halls and Passageways. All corridors, halls, and passageways serving all applicable spaces and elements of a building or facility shall be considered part of an accessible route and shall comply with this subsection.

(1) Width. The minimum width of corridors, halls, and passageways shall be 44 inches (112 cm). There shall be no projections in the 44-inch (112 cm) clear space.

EXCEPTION: Clearance of no less than 36 inches (91 cm)

are allowed for distances less than 30 feet

(9 m) provided all intersecting passageways,

doors, door openings, and maneuvering

clearances comply with Subsections (i) and

(j) above.

(2) Floor Surfaces. Floor finishes and materials shall provide a surface that is firm, stable, and slip-resistant. Irregular surfaces such as can be caused by improperly laid brick or flagstone are not permitted.

(3) Protruding Objects. Objects projecting into corridors, halls, and passageways shall comply with Paragraph (6), Subsection (d), of this section.

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- (1) Toilet Rooms. When toilet facilities are provided, an appropriate number but never less than one shall comply with this subsection.

NOTE: When buildings contain separate toilet rooms

for children and adults, such as in school facilities, standards and specifications applicable to both groups shall be required.

See Paragraph (8), Subsection (d) and Table

(d)1 of this section for standards and specifications for restrooms used primarily by children.

- (1) Appropriate Number and Location.

- (A) At least 20% of the total number of restrooms within a building or facility, shall comply with the standards and specifications of this subsection and shall be located in places considered equitable to the remaining units. Accessible mens and womens restrooms shall be required except in buildings and facilities where only unisex restrooms are provided.

- (B) In multi-level structures, toilet rooms shall be located so that handicapped persons shall not be required to travel more than two floor levels to reach an accessible unit. For purposes of consistency, it is recommended that multi-level buildings have accessible toilet rooms

located on the main entry level.

- (C) Horizontal distances from any part of a building to at least one accessible toilet room per sex, should not exceed 250 feet (76 m) if possible.
- (2) Doors and Entrances. All doors to and within applicable toilet rooms shall comply with Subsection (j) above. Doors without locking devices shall not swing into the clear floor space required for any fixture. Alcove or vestibule entries in applicable toilet rooms shall comply with Subsection (j) above, and shall not have door configurations in conflict with that subsection.
- (3) Clear Floor Space. All applicable fixtures and controls required by this subsection to be accessible, shall be on an accessible route. An unobstructed turning space of at least 60x60 inches (152x152 cm) shall be provided in all applicable toilet rooms. The clear floor spaces at fixtures and controls, the accessible route, and the turning space may overlap provided the clear space under fixtures is in compliance with Figure (1)7.
- (4) Toilet Stalls. If toilet stalls are provided in toilet rooms required to be accessible, then a reasonable number but always at least one shall:
  - (A) be on an accessible route.
  - (B) have the size and arrangement complying with appropriate standards and specifications and in the configurations illustrated in Figures (1)1.1 and (1)1.2.

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- (C) have a toe clearance of no less than 9 inches (23 cm) under the front partition and at least one side partition. If the depth of the stall is greater than 60 inches (152 cm) then a toe clearance is not required.
- (D) have out-swinging doors complying with Subsection (j) above. Door openings greater than 32 inches shall be required when the approach and turning requirements restrict wheelchair movement. Maneuvering clearance at stall openings shall be as shown in Figure (i)1 or shall provide space for turning ratios sufficient to permit wheelchair entry and exit as shown in Figure (1)1. To make it easier for users to close toilet stall doors, it is recommended that spring hinges, closers, or pull-bars mounted on the inside surface of the door near the hinge side be provided.

EXCEPTION: Door openings of 30 inches (76 cm) are acceptable if a clear floor area of at least 60x48 inches (152x122 cm) is provided in front of the stall.

- (E) have grab bars complying with the length and positions shown in Figures (1)1 through (1)3. Bars may be mounted by any desired method so long as they have a gripping surface at the locations shown, do not obstruct the required clear floor area, and that comply as follows:
  - (i) the outside diameter of the gripping surface shall



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be 1-1/4 inches to 1-1/2 inches (3 to 4 cm).

(ii) if grab bars are mounted on or adjacent to a wall, the space between the wall and the grab bar shall be 1-1/2 inches (4 cm).

(iii) the structural strength of grab bars, their fasteners, and mounting devices shall be such that they can support at least 250 lbf.

(iv) primary grab bars shall be mounted so that they are horizontal to the floor at heights of 33 to 36 inches (84 to 91 cm) above the floor. Secondary or supplemental grab bars may be mounted vertically or diagonally provided they do not interfere with the use of the primary bars. All grab bars and any wall or other adjacent surface shall be free of any sharp or abrasive elements.

(v) have water closets complying with Paragraph (5) below.

(F) have toilet paper dispenser within easy reach of the water closet but shall not interfere with the use of the grab bars. See Figure (1)2.2 for preferred location.

(5) Water Closets. At least one water closet in each accessible toilet room shall comply with this paragraph.

(A) Clear Floor Space. Clear floor space for water closets not in stalls shall comply with applicable dimensions per Figure (1)3.1 through (1)3.3. Clear floor space may be arranged to allow either a left-handed or

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right-handed approach.

- (B) Height. The height of accessible water closets shall be 17 to 19 inches (43 to 48 cm) measured from the floor to the top of the toilet seat. Thick seats and filler rings may be used to adapt standard fixtures to the proper heights.
- (C) Flush Controls. Flush controls shall be hand operated and shall be mounted on the wide side of the toilet area no more than 44 inches (112 cm) nor less than 28 inches (71 cm) above the floor.
- (6) Urinals. If urinals are provided, a reasonable number but always at least one, shall be on an accessible route and shall comply with this paragraph.

EXCEPTION: Urinal specifications shall not be

required in toiletrooms having at least

one accessible water closet with the rim

(not including the seat) no higher than 17

inches (43 cm) above the floor.

- (A) Height. Urinals shall be floor-mounted, or wall-hung with an elongated rim mounted no higher than 17 inches (43 cm).
- (B) Clear Floor Space. A clear floor area of at least 30x48 inches (76x122 cm) shall be provided in front of urinals to allow a forward approach.

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- (C) Flush Controls. Flush controls shall be hand-operated and shall be mounted on the wide side of the toilet area no more than 44 inches (112 cm) nor less than 28 inches (71 cm) above the floor.
- (7) Lavatories. If lavatories are provided, a reasonable number but always at least one shall comply with this paragraph. Lavatory approach accessibility may be satisfied by complying with either Subparagraph (A) or (B) below.
  - (A) Frontal approach accessibility shall be achieved by complying with the height and space requirements shown in Figures (1)4.1 and (1)4.2.
  - (B) Side approach accessibility can be achieved by complying with the height and space requirements shown in Figures (1)4.3 and (1)4.4.
  - (C) Hot water and drain pipes under lavatories shall be insulated or otherwise covered and there shall be no sharp or abrasive surfaces under the lavatories.
  - (D) Faucet controls and other operating devices relative to the use of lavatories, shall be within the reach limitations prescribed in Subsection (c) and as shown in Figure (1)4. Faucet controls shall be operable with one hand and shall not require tight grasping, pinching, or severe twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf. Lever-operated, push-type, and electronically controlled mechanisms are examples of preferred designs.

Self-closing valves shall remain open for at least 10 seconds.

(8) Toilet Room Fixtures and Equipment.

- (A) Mirrors. If mirrors are provided, an appropriate number but never less than one, shall be mounted so that the bottom edge is no higher than 40 inches (102 cm) from the floor. They shall be mounted on an accessible route at a location consistent with that of other mirrors in in the same restroom.

EXCEPTION: Mirrors having a permanent (fixed)

tilt may be mounted higher than the

prescribed height provided the viewing

level is equal to the 40-inch (102 cm)

height at a distance of approximately

48 inches (122 cm). See Figure (1)5.

- (B) Controls, Dispensers, and Other Equipment. At least one of each type of control, dispenser, or other operable equipment that is provided in a toilet room shall be on an accessible route and shall:

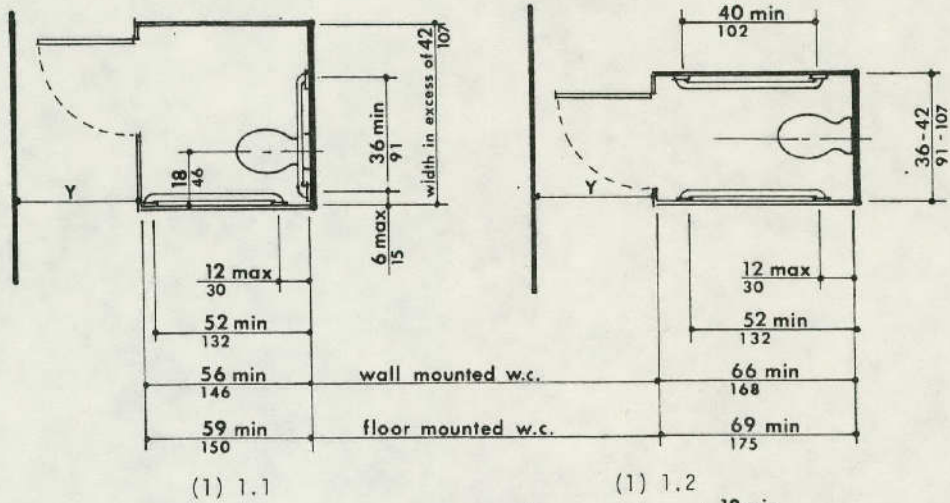
- (i) be no higher than 48 inches (122 cm) above the floor for frontal approach and 54 inches (137 cm) maximum for side approach. A minimum height of 28 inches is recommended.

- (ii) have controls that are operable with one hand and

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not requiring tight grasping, pinching or severe twisting of the wrist. The force required to activate operating controls shall be no greater than 5 lbf.

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If stall door width is:  
32 in (81 cm), Y shall be 40 in (102 cm) min.  
36 in (91 cm), Y shall be 36 in (91 cm) min

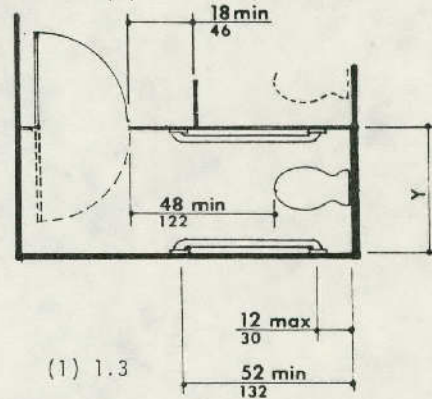


FIGURE (1) 1

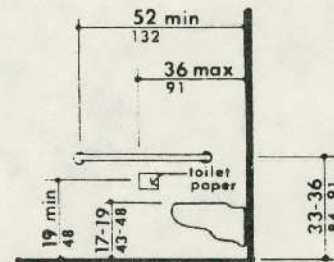
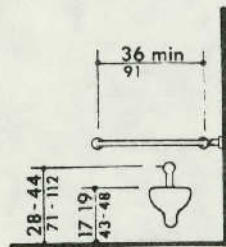


FIGURE (1) 2

inches  
centimeters

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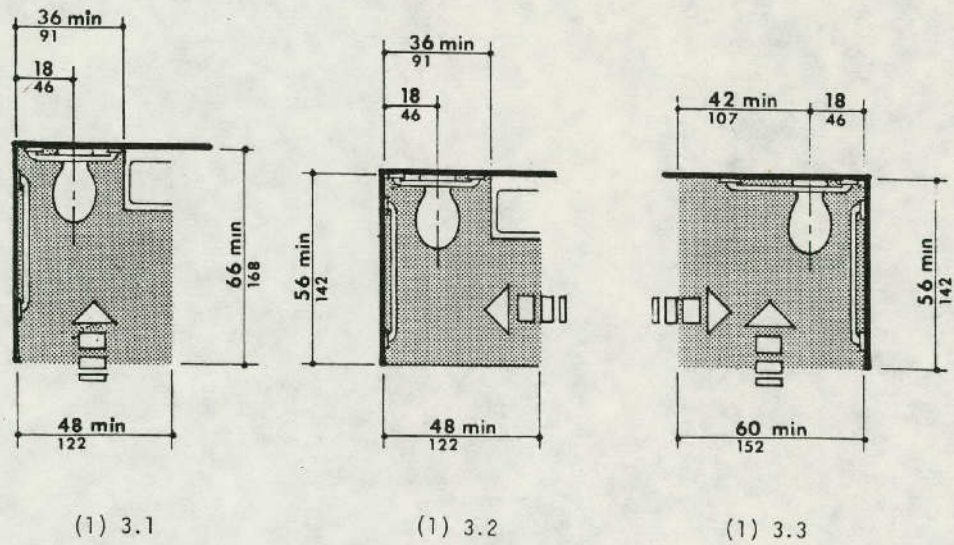


FIGURE (1) 3

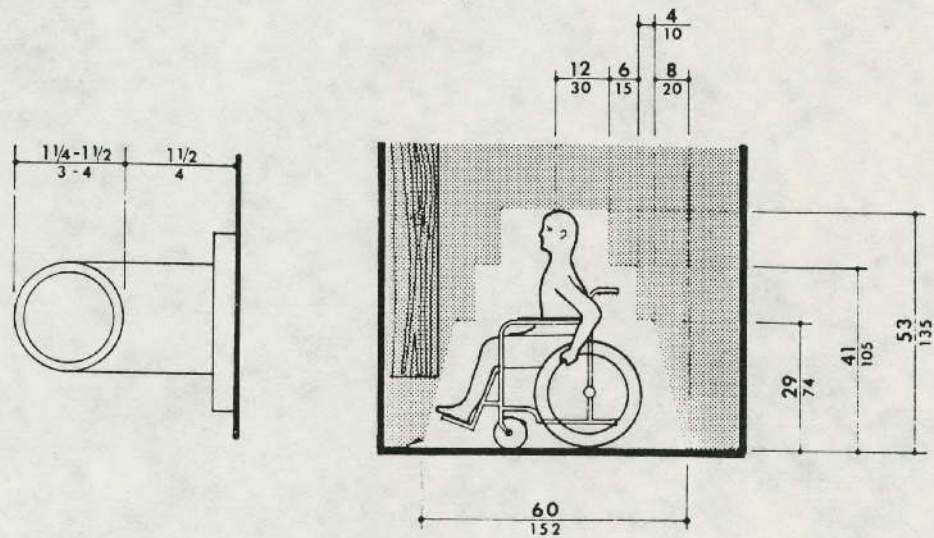


FIGURE (1) 6

FIGURE (1) 7

inches  
centimeters



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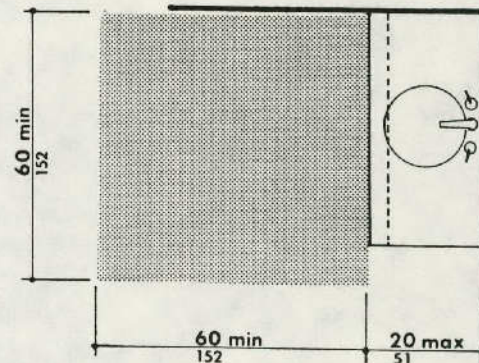
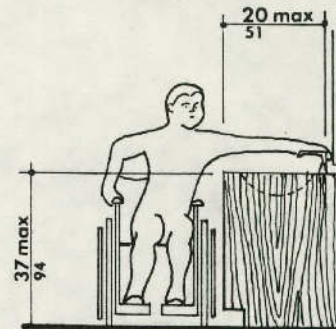
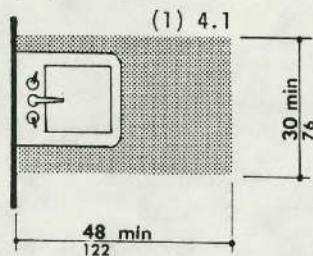
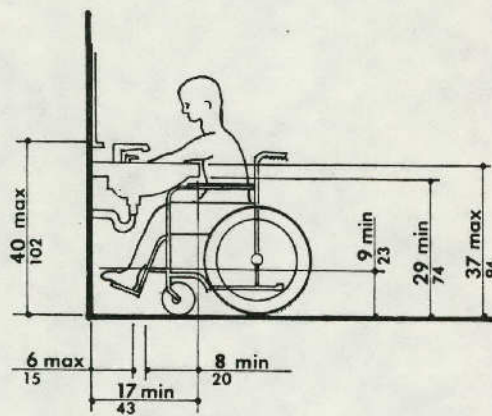


FIGURE (1) 4

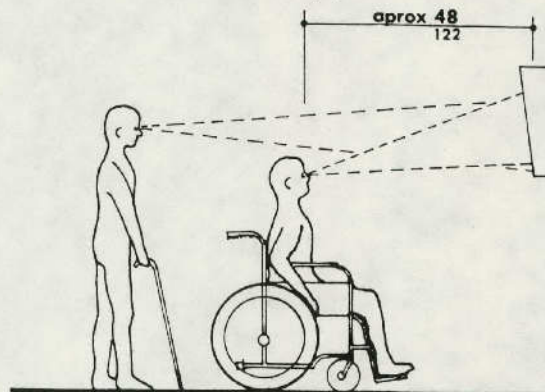


FIGURE (1) 5

inches  
centimeters



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- (m) Elevators. Elevators or other means of vertical transportation suitable for wheelchair use, shall be provided in buildings and facilities having more than one level. All passenger elevators within a building or facility required to provide vertical access, shall be on accessible routes, shall serve all levels normally used by the general occupants and visitors, and shall comply with the standards and specifications contained in this subsection.

EXCEPTION: Exemptions may be allowed for mezzanines,

balconies, porches, galleries, verandas,

basements, penthouses, and other areas having

insufficient functions unrelated to the buildings

purpose when such areas; contain less than 2000

square feet of floor space; do not contain

activities and functions involving the sale

of goods or service; and do not contain

educational or employment opportunities not

available in accessible locations within the

same building.

- (1) Automatic Operations. If elevators are user operated, each car shall be equipped with a self-leveling feature that will automatically bring the car to floor landings within a

tolerance of 1/2 inch (13 mm) under rated loading to zero loading conditions. This self-leveling feature shall be automatic and independent of the operating device and shall correct for overtravel and undertravel.

- (2) Hall Call Buttons. Call buttons in elevator lobbies and halls shall be no higher than 54 inches (137 cm) above the floor for parallel approach and 48 inches (122 cm) for frontal approach. Such call buttons shall have visual signals to indicate when each call is registered and when each call is answered. Call buttons shall be 3/4 inch (19 mm) in the smallest dimension. When two call buttons in a set are provided, the button designating the up direction shall be on top.
- (3) Hall Lanterns. A visible and audible signal shall be provided at each hoistway entrance to indicate which car is answering a call. Audible signals shall sound once for the up direction and twice for the down direction, or shall have verbal annunciators that say "up" or "down". Visible signals shall have the following features:
  - (A) Hall lantern fixtures shall be mounted so that their centerline is at least 72 inches (183 cm) above the lobby floor.
  - (B) Visual elements shall be at least 2-1/2 inches (6 cm) in the smallest dimension.
  - (C) Signals shall be visible from the vicinity of the hall call button. In-car lanterns, visible from the vicinity

of hall call buttons, and conforming to the above requirements, shall be acceptable.

- (4) Raised or Indented Characters on Hoistway Entrances. All elevator hoistway entrances shall have raised or indented floor designations provided on both jambs. The centerline of the characters shall be 60 inches (152 cm) from the floor. Such characters shall be 2 to 4 inches (5 to 10 cm) high, shall be raised or indented at least 1/8 inch (3 mm), shall comply with Paragraphs (1) and (2), Subsection (s) of this section. Applied plates are acceptable if they are permanently fixed to the jambs.
- (5) Door Protective and Re-opening Device. Elevator doors shall open and close automatically. They shall be provided with re-opening device that will stop and reopen the car and hoistway doors automatically if the doors become obstructed by an object or person. The device shall be capable of completing these operations without requiring contact for an obstruction passing through the opening at heights of 5 and 29 inches (13 and 74 cm). Door re-opening devices shall remain effective for at least 20 seconds if the doorway remains unobstructed. After 20 seconds, the door may begin to close; however, door closing movement must be stoppable when a person or object exerts minimal pressure on the door edge.
- (6) Door and Signal Timing for Hall Calls. The minimum acceptable time from notification that a car is answering a

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call until the doors of that car start to close shall be calculated from the following equation:

$$T = \frac{D}{1.5 \text{ ft/s}} \quad \text{or} \quad T = \frac{D}{46 \text{ cm/s}}$$

where T = total time in seconds and D = distance from a point in the lobby or corridor 60 inches (152 cm) directly in front of the farthest call button controlling that car to the centerline of its hoistway door. See Figure (m)1. For cars with in-car lanterns, T begins when the lantern is visible from the vicinity of the hall call buttons and an audible signal is sounded.

- (7) Door Delay for Car Calls. The minimum time for elevator doors to remain open in response to a car call shall be 3 seconds.
- (8) Door and Floor Plan of Elevator Cars. The floor area of elevator cars shall provide space for wheelchair users to enter the car, maneuver within reach of controls, and exit the car. Acceptable door openings and inside dimensions shall be as shown in Figures (m)3.1 through (m)3.4. Door openings shall never be less than 32 inches (81 cm) wide. The clearance between the car platform sill and the edge of any hoistway landing shall be no greater than 1-1/4 inches (3 cm).
- (9) Illumination Levels. The level of illumination at the car controls, platform, and car threshold and landing sill shall be at least five footcandles.
- (10) Car Controls. Elevator control panels shall have the

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following features:

- (A) Buttons. All control buttons shall be at least  $3/4$  inch (2 cm) in their smallest dimensions. They may be raised, flush, or recessed.
- (B) Tactile and Visual Control Indicators. All control buttons shall be designated by raised or indented standard alphabet characters for letters, Arabic characters for numerals, or standard symbols as shown in Figure (m)2. Raised and indented characters and symbols shall comply with Subsection (s). The call button for the main entry floor shall be designated by a raised or indented star at the left of the floor designation. See Figure (m)2. All raised or indented designations for control buttons shall be placed immediately to the left of the button to which they apply. Applied plates, permanently attached, are an acceptable means to provide raised or indented control designations. Floor buttons shall be provided with visual indicators to show when each call is registered. The visual indicators shall be extinguished when each call is answered.
- (C) Height. No floor buttons shall be higher than 54 inches (137 cm) above the floor for parallel approach and 48 inches (122 cm) for frontal approach. Emergency controls, including the emergency alarm and emergency stop, shall be grouped at the bottom of the panel and should have their centerlines no less than 35 inches (89

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cm) from the floor. See Figure (m)2.

- (D) Location. Controls shall be located on a front wall if cars have center opening doors, and at the side or front wall next to the door if cars have side opening doors. See Figure (m)3.2 through (m)3.3.
- (E) Car Position Indicators. In elevator cars, a visual car position indicator shall be provided above the car control panel or over the door to show the position of the elevator in the hoistway. As the car passes or stops at a floor served by the elevators, the corresponding numeral shall illuminate and an audible signal shall sound. A single-sounding tone shall be sufficient. The audible signal shall be no less than 20 decibels with a frequency no higher than 1500 Hertz. An automatic verbal announcement of the floor number at which a car passes may be substituted for the audible signal. The visual indicator shall be at least 1/2 inch (13 mm) high.
- (F) Emergency Communications. If an emergency two-way communication system is provided, the in-cab controlling devices shall be no higher than 54 inches (137 cm) for side approach or 48 inches (122 cm) for frontal approach measured from the floor. They shall be identifiable by symbols and lettering complying with Subsection (s) and located adjacent to the devices. If the system uses a hand-set, the length of the cord from the panel to the

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hand-set shall be at least 29 inches (74 cm).

(11) Handrails. At least one in-cab handrail shall be provided.

If only one handrail is provided, it should be located on the rear wall.

(A) Handrails shall be mounted not less than 32 inches (81 cm) nor more than 36 inches (91 cm) above the floor, measured to the top of the rail, and secured to support a horizontal thrust of 50 pounds per linear foot and not rotate in their mountings.

(B) The diameter or width of the gripping surface of handrails shall be 1-1/4 to 1-1/2 inches (3 to 4 cm), or shaped to provide an equivalent gripping surface.

(C) The clear space between the handrail and the wall surface shall be no less than 1-1/2 inch (4 cm).

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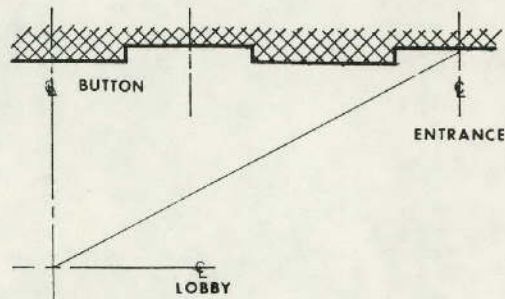


FIGURE (m) 1

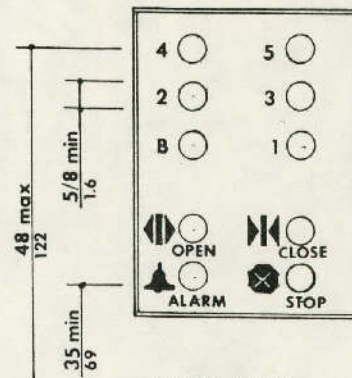
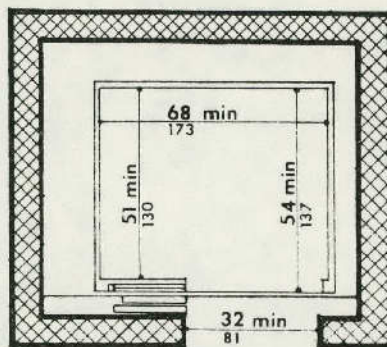
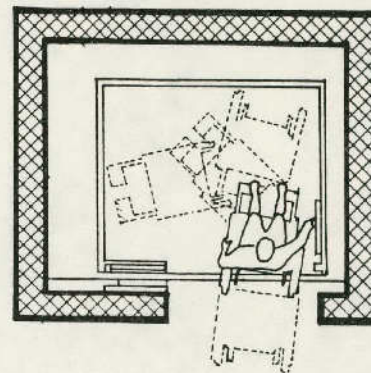


FIGURE (m) 2

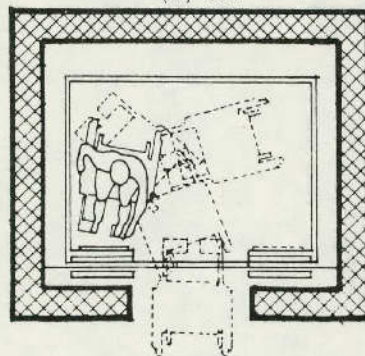


Note: Cabs less than 68 inches (173 cm) but no less than 54 inches (137 cm) are allowed if capacity is less than 2000 lb. A center opening door may necessitate increasing the width.

(m) 3.1

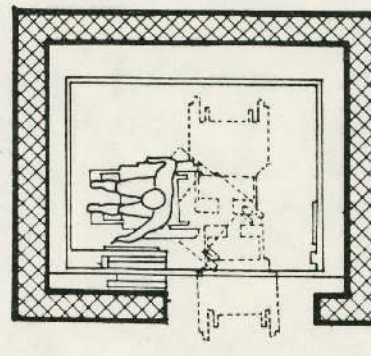


(m) 3.2



(m) 3.3

FIGURE (m) 3



(m) 3.4

inches  
centimeters



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- (n) Drinking Fountains and Water Coolers. If drinking fountains or water coolers are provided, an appropriate number but never less than one shall be on accessible route and shall comply with the standards and specifications of this subsection.

NOTE: See Paragraph (8), Subsection (d), and Table (d)1

for mounting heights suitable in schools and

other facilities used primarily by children.

- (1) Appropriate Number. A minimum of 30% of the total number of units located within a building or facility shall be considered appropriate provided they are strategically located throughout the facility. At least one accessible drinking unit on each floor level of a multi-story building or facility shall be provided. The appropriate number of accessible units in exterior locations, such as in parks and recreational and sports facilities, shall be based on the total number of units provided and the distance and location of the units.

- (2) Clearances.

- (A) For frontal approach, wall and postmounted cantilevered units shall have a clear knee space between the bottom of the apron and the floor or ground, of 25 to 27 inches (64 to 69 cm) high, 30 inches (76 cm) wide, and 17 to 19 inches (43 to 48 cm) deep. Such units shall also have a minimum clear floor space of 30x48 inches (76x122 cm) to allow a person in a wheelchair to approach the unit

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facing forward. See Figure (n)1.1 and (n)1.2. Such units shall not create protruding hazards per Subsection (d)(6).

(B) Free-standing or built-in units not having a clear space under them, shall have a clear floor space in front sufficient in size to allow a person in a wheelchair to make a parallel approach to the unit. See Figures (n)1.3 and (n)1.4.

(3) Spouts. Accessible drinking units shall have up-front spout outlets no higher than 36 inches (91 cm) measured from the floor. The spout shall direct the water flow in a trajectory that is parallel or nearly parallel to the front of the unit. The spout shall provide a flow of water approximately 4 inches (10 cm) high so that a cup or glass may be inserted under the flow of water.

(4) Controls. Controls shall be up-front no higher than 36 inches (91 cm) nor lower than 28 inches (71 cm) above the floor. They shall be operable with one hand and shall not require tight grasping, pinching or severe twisting of the wrist. The force required to activate controls shall be no greater than 5 lbf.

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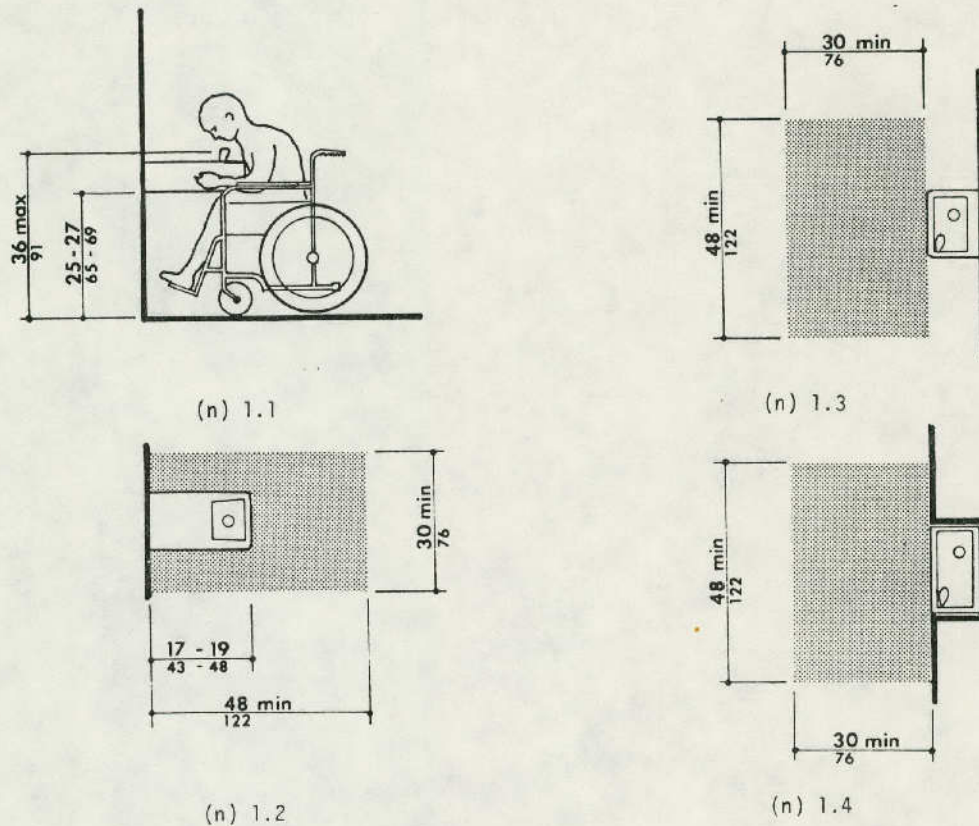


FIGURE (n) 1

inches  
centimeters

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(o) Telephones. If public telephones are provided, they shall comply with this subsection.

(1) Appropriate Number. When single units are scattered throughout a building or facility, at least one on each level located no farther than 250 feet (91 m) from any point of the building or facility at that level shall be provided. At least one unit in every "bank" of units shall be considered appropriate.

(2) Clear Floor or Ground Space. A clear floor or ground space sufficient in size to allow either a forward or parallel approach by a person using a wheelchair shall be provided at telephones. See Figures (o)1 and (c)4 for minimum space requirements. Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

(3) Mounting Heights. The highest operable part of the telephone shall be within the reach ranges specified in Subsection (c) of this section. Also see Figure (o)1.

(4) Enclosures. If telephone enclosures are provided, they may overhang the clear floor space required in Paragraph (2) of this subsection, within the following limits.

(A) Side Reach. The overhang as shown in Figure (o)1.1, shall be no greater than 12 inches (30 cm). The height of the lowest overhanging part shall be no greater than 27 inches (68 cm) as shown in Figure (o)1.1.

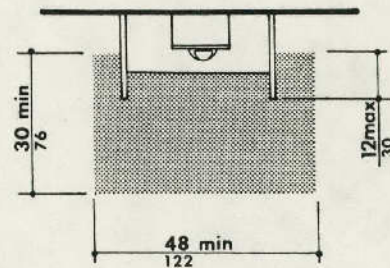
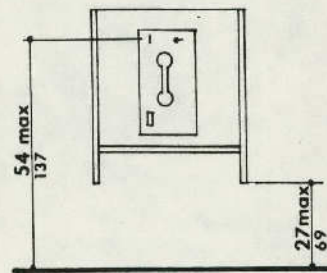
(B) Full-height Enclosures. Entrances to full-height

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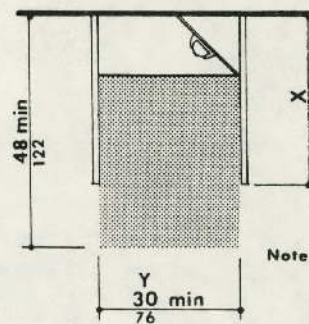
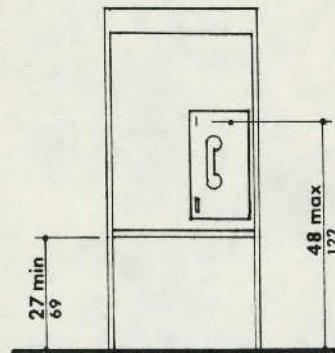
enclosures shall have a minimum clear opening of 30 inches (76 cm). See Figure (o)1.2.

- (C) Forward Reach. If the overhang is greater than 12 inches (30 cm) then the clear width of the enclosure shall be 30 inches (76 cm) minimum. See Figure (o)1.3.
  - (D) Where telephone enclosures protrude into halls, corridors, or aisles, they shall not be in violation of Paragraph (6) Subsection (d) of this section.
- (5) Controls. Telephones should have pushbutton controls where service for such equipment is available.

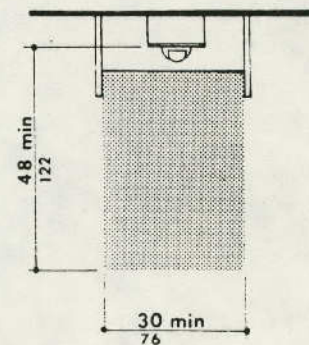
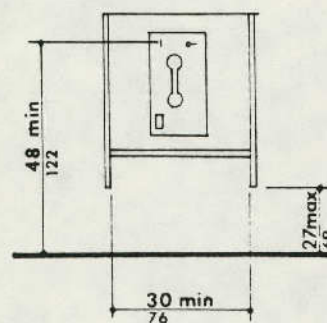
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(o) 1.1



(o) 1.2



(o) 1.3

FIGURE (o) 1

inches  
centimeters

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(p) Stairs. All stairs or sets of steps, both interior and exterior, in excess of four in a series and connecting levels not served by an elevator, shall comply with this subsection.

- (1) Treads and Risers. On any given flight of stairs, all steps shall have uniform riser heights and uniform tread widths (run). Stair treads shall have runs no less than 11 inches (28 cm) measured from riser to riser. See Figure (p)1.
- (2) Nosings. The underside of nosings shall not be abrupt. The radius of curvature at the leading edge of the tread shall be no greater than 1/2 inch (13 mm). Risers shall be sloped or the underside of the nosings shall have an angle not less than 60 degrees from the horizontal. Nosings shall project no more than 1-1/2 inches (4 cm) measured from the face of the risers. See Figure (p)1.
- (3) Handrails. Stairways shall have handrails at both sides of all stairs.

EXCEPTION: Stairways of less than 44 inches (112 cm) in width may have handrails on only one side provided that no open-sided conditions exist. The application of handrails on "both sides" may not be appropriate in some outdoor situations; however, exterior steps having in

excess of four risers in a series, shall

have at least one handrail where the

normal flow of traffic would be expected.

- (A) Handrails shall be mounted not less than 32 inches (81 cm) nor more than 34 inches (86 cm) above the leading edge of the treads and secured to support a horizontal thrust of 50 pounds per linear foot.

NOTE: See Paragraph (8), Subsection (d), and Table

(d)1 of this section for handrail mounting

heights in schools and other facilities

used primarily by children.

- (B) The diameter or width of the gripping surface of handrails shall be 1-1/4 to 1-1/2 inches (3 to 4 cm), or shaped to provide an equivalent gripping surface. Handrails shall not rotate in their mountings.
- (C) Handrails shall be continuous wherever possible. The inside handrail on switchback or dog-leg stairs, shall always be continuous. When it is not possible for handrails to be continuous, they shall extend at least 12 inches (30 cm) beyond the top and bottom riser. The top extension shall be parallel with the floor or ground surface. At the bottom, the handrails shall continue to slope for the distance of the width of one tread from



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the bottom riser then be horizontal for the minimum 12 inch (30 cm) distance. See Figure (p)2. Full extensions shall not be required where such extensions would create protruding hazards.

- (D) When handrails are attached to or mounted adjacent to a wall or other surface, the clear space between the surface and the handrail shall be no less than 1-1/2 inches (4 cm).
- (E) Gripping surfaces shall be uninterrupted by newel posts, balusters, or other construction elements or obstructions.
- (F) Where full extensions would create protruding hazards, rail termination cues shall be provided. Such cues may include but are not limited to those illustrated in Figure (p)3.

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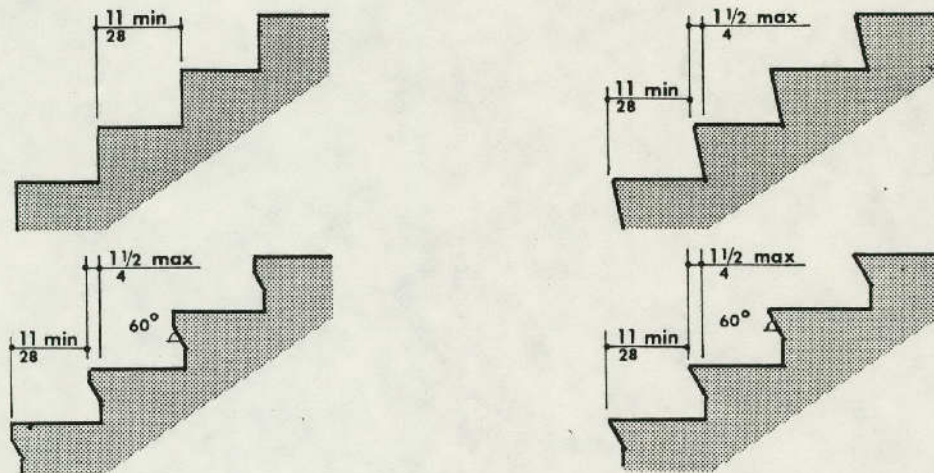


FIGURE (p) 1

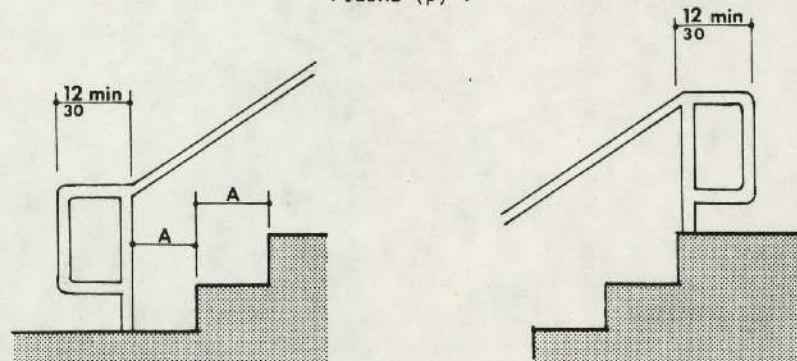


FIGURE (p) 2

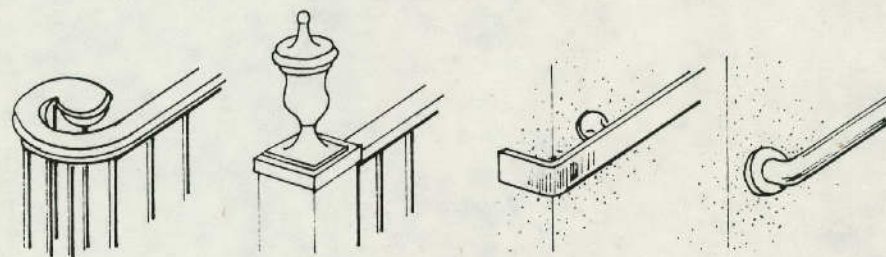


FIGURE (p) 3

inches  
centimeters

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- (q) Alarms. If emergency warning systems are provided in a building or facility, they shall be both audible and visual and shall comply with this subsection.

EXCEPTION: Compliance with this subsection shall not be required in places where special coded systems are appropriate, such as in hospitals, places of detention, theaters, auditoriums or other places of assembly.

- (1) Audible Alarms. Audible emergency alarms should produce a sound that exceed the prevailing equivalent sound level in the room or space by at least 15 decibels. Sound levels for alarm signals shall not exceed 120 decibels.
- (2) Visual Alarms. If electrically powered internally illuminated emergency exit signs are provided, they shall flash as visual emergency alarms in conjunction with audible emergency alarms. The flashing frequency of visual alarm devices shall be less than 5 Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms. If exit signs are not provided or are not internally illuminated, alternate light units shall be used as visual alarms. The units shall be installed on the same system as the audible devices and shall flash when in

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emergency mode. They shall be located in a manner that will help identify exit routes.

- (3) Manually activated. If warning devices have manually operated controls, such controls shall be on accessible routes and shall be located in compliance with Subsection (r).

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- (r) Controls and Operating Mechanisms. All controls and devices having mechanical or electrical operating mechanisms which are expected to be operable by occupants, visitors, or other users of a building or facility, shall comply with this subsection. Such mechanisms may include, but are not limited to thermostats, light switches, alarm activating units, ventilators, electrical outlets, etc.

NOTE: See Paragraph (8), Subsection (d), and Table (d)1

of this section for mounting heights suitable

for schools and other facilities used

primarily by children.

- (1) Clear Floor Space. A clear floor space that allows a forward or parallel approach by a person using a wheelchair shall be provided at all controls. The space shall never be less than an area 30x48 inches (76x122 cm) and shall be situated in a manner complying with Subsection (c).
- (2) Height. The highest operable part of any device, control, or mechanism shall be no higher from the floor than 48 inches (122 cm) for frontal approach or 54 inches (137 cm) for side approach except where the use of special equipment dictates otherwise. Electrical and communications systems receptacle on walls shall be mounted no less than 12 inches (38 cm) above the floor.
- (3) Operation. Controls and operating mechanisms shall be operable with one hand and shall not require tight grasping,

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pinching, or severe twisting of the wrist. The force  
required to activate controls shall be no greater than 5 lbf.

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- (s) Signage. When signage is used for emergency information or general circulation directions or for the identification of rooms and spaces, at least one unit of signage shall be provided for each function and each room or space that is identified.
- (1) Character Proportion. Letters and numbers on signs shall have width-to-height ratios between 3:5 and 1:1, and a stroke width-to-height ratio between 1:5 and 1:10.
- (2) Color Contrast. Characters and symbols shall contrast with their background.
- (3) Raised or Indented Characters or Symbols. Letters, numbers, symbols, or pictographs on signs shall be raised or incised at least 1/32 inch (80 mm). Characters or symbols shall be at least 5/8 inch (16 mm) high. Indented characters or symbols shall have a stroke width of at least 1/4 inch (6 mm).

NOTE: 1. Some blind persons have difficulty in distinguishing excessively large characters.

It is recommended that characters no higher than 2 inches (5 mm) in height be used for purposes of identification for the blind.

2. Braille characters may be used in addition to standard alphabet characters and numbers.

Braille characters should be placed to the

left of standard characters. Raised borders

around raised characters are discouraged.

- (4) Mounting Height and Location. Room identification signs shall be mounted on the wall surface on the handle side of doors at approximately 60 inches (152 cm) above the floor and within 8 inches (20 cm) from the outside edge of the door frame. See Figure (s)1. Where it is appropriate for tactile signage to be used for purposes other than room or space identification, the characters and symbols shall be placed to the left of the feature to be identified.



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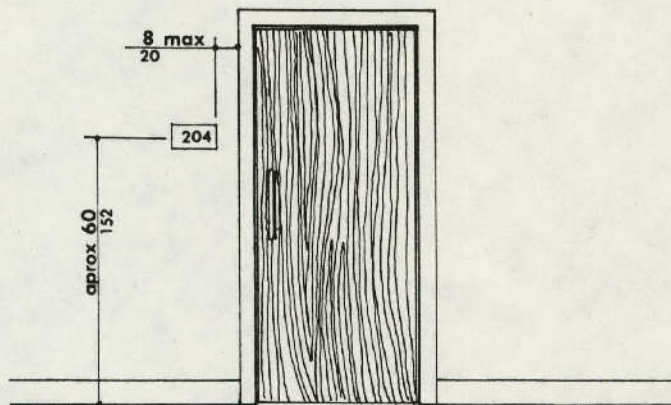


FIGURE (s) 1

inches  
centimeters

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- (t) Tactile Warning. Doors that lead to areas that might prove dangerous to blind persons shall be identifiable to the touch by a textured surface on the door handle, knob, pull, or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Openings without doors that lead to dangerous areas shall be identifiable by a textured border on the floor surface in front of the dangerous area. The border shall be at least 24 inches (61 cm) wide and sufficient in length to cover the hazardous area. The texture shall significantly contrast with that of the surrounding floor or ground surface and may consist of exposed aggregate, concrete, rubber, plastic cushioned surfaces, raised strips, grooves, or any other roughened or abrasive finish. If grooves are used, they must be placed in such a manner that water accumulation is not possible.

CAUTION: Textured surface shall not be provided on

emergency exit doors or any doors other than

those to hazardous areas.

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- (u) Areas of Assembly. Assembly areas as defined in Subsection (b) shall comply with this subsection.

(1) Spectator Areas.

- (A) Appropriate Number. The appropriate number of seating spaces usable by persons in wheelchairs shall be based on building or facility function and the configuration of the spectator areas, as a whole, but never less than the numbers specified in Table (u)1.

TABLE (u)1

<u>Seating Capacity</u>	<u>Min. # of Spaces</u>
50 - 100	2
101 - 300	4
301 - 600	6
Over 600	1.0% of total

- (B) Placement of Wheelchair Seating. The location of wheelchair areas shall be on accessible routes and shall be an integral part of any seating plan and shall be dispersed so that they are located on a basis equal to that provided for the majority of the audience. Provisions shall be made so that spectators in wheelchairs can sit next to at least one non-disabled spectator. Examples of equitable and non-equitable locations follow.

- (i) Wheelchair locations on each side of a football stadium or gymnasium and located within one-third of either side of the center line of the playing surface and at levels comparable to the regular seating would be considered equitable.

(ii) If regular seating is located on the playing surface of a gymnasium, such as that provided by folding bleachers, a wheelchair space on the floor could be considered equitable if good sight lines are provided and if the occupant is not exposed to injurious conditions.

(iii) If all regular seating were raised above a playing surface, wheelchair spaces located on that surface would not be considered equitable unless other accessible wheelchair spaces were also located within the regular raised seating areas.

(iv) Spaces located outside the defined seating areas of a theater would not be considered equitable.

(v) Spaces located beyond the end zone of a football stadium or behind the basketball court goals in a gymnasium, even from a lofted area, would not be considered equitable unless other accessible and equitable seating locations were available.

(C) Size and Configuration of Wheelchair Seating Areas. The ground or floor surface at wheelchair locations shall be level (within 2.0% slope) and shall provide clear spaces as shown in Figure (u)1 and shall accommodate two people in wheelchairs.

EXCEPTION: When more than four wheelchair spaces

(2 pairs) are provided in any given

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area, the remaining number of spaces

shall not be required to be situated

in pairs.

(D) Placement of Listening Devices. If listening devices are provided at individual fixed seats, then such seats should be located within a 50 foot (15 m) viewing distance of the stage, playing, or performing area and shall have a complete view of such area.

(2) Performing Areas. An accessible route shall connect wheelchair seating locations with performing areas including gymnasium floors, stages, arena floors and support areas such as dressing rooms, rehearsal areas, locker rooms, etc. If such route is located outside the assembly area, consideration must be given to provide the shortest possible route and to protect the users from adverse conditions.

EXCEPTIONS: 1. Performing areas containing less than

800 square feet of floor space may be

exempted from compliance.

2. Dressing rooms, locker rooms, equipment rooms, or other performing area support facilities containing a total of less than 800 square feet of floor space or

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that serve functions that are available  
in other accessible locations within  
the same general area may be exempted  
from compliance.

3. Stage-like areas not meeting the  
definition criteria of Subsection (b) of  
this section, or that contain less than  
800 square feet of floor space, may  
be exempted from compliance.

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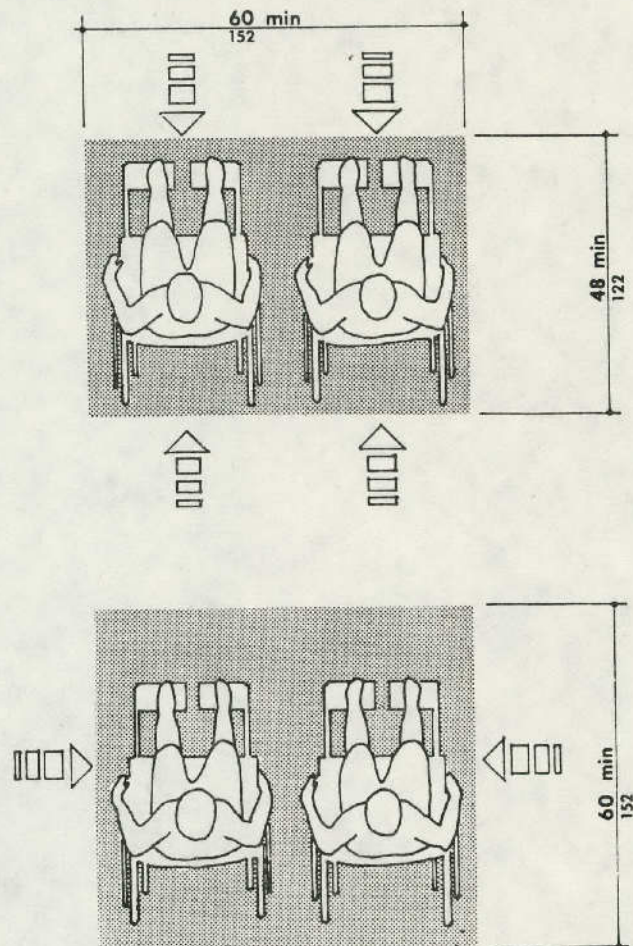


FIGURE (u) 1

inches  
centimeters

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- (v) Platform Lifts. Under certain conditions and with the approval of of State Purchasing and General Services Commission, platform lifts may be used as an alternative to ramps or elevators as a means of vertical accessibility. When lifts are considered appropriate, they shall comply with applicable safety regulations in addition to the following:

- (1) Platform Size. The minimum clear floor area shall be no less than 48 inches (122 cm) deep (in line of travel) and 30 inches (76 cm) wide.

EXCEPTION: A minimum depth of 40 inches (102 cm) is

allowed if adequate protection and footrest clearances are provided.

- (2) Controls. Operating mechanisms shall be located so that a forward or side approach reach is possible from either direction of travel and shall be mounted between 28 inches (71 cm) and 48 inches (122 cm) above the platform floor. All control devices shall be operable with one hand and shall not require tight grasping, pinching, or severe twisting of the wrist.

- (3) Handrails. There shall be at least one handrail or other gripping surface complying with the following:

- (A) Handrails shall be mounted not less than 32 inches (81 cm) nor more than 36 inches (91 cm) above the floor, and secured to support a horizontal thrust of 50 pounds per linear foot. Rails shall not rotate in their mountings.



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- (B) The diameter or width of the gripping surface of handrails shall be 1-1/4 to 1-1/2 inches (3 to 4 cm), or shaped to provide an equivalent gripping surface.
- (C) The clear space between the handrail and the wall surface shall be no less than 1-1/2 inches (4 cm).
- (4) Wheelstops and Guard Rails. Wheelstops and guard rails shall be provided wherever necessary to prevent wheelchairs from rolling or slipping off the platform edge.
- (5) Approach. Lifts shall be considered part of an accessible route and shall be approachable in accordance with dimensional requirements of Subsections (c)1 and (j)4 of this section.

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- (w) Special Use Areas, Components, and Spaces. Areas of buildings and facilities not otherwise covered or referenced in these standards but which are considered essential for use by handicapped persons, shall be accessible by complying with the standards and specifications which are appropriate and applicable to the particular space or element. Such special areas may include but are not limited to play areas, dining areas, check-out counters, service aisles, food serving lines, exercise rooms, laboratories, darkrooms, swimming pools, concession stands, atriums, fishing piers, hike and bike trails, picnic areas, out door amphitheaters, courtyards, and plazas.

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(x) Dwelling Units. If dwelling units are provided in a building or facility covered by law, a reasonable number shall be made accessible and usable by complying with this and other appropriate subsections of this section multi-unit buildings or complexes, all portions that are considered to have essential or equivalent use by handicapped occupants shall be on accessible routes and shall comply with this and other appropriate subsections. Such portions and areas may include but are not limited to dining areas, laundry rooms, study areas, game rooms, visitor areas, and recreation rooms.

(1) Appropriate Number. The appropriate number of dwelling units in multi-unit facilities shall be not less than 10% for housing projects designated for the exclusive use of the handicapped and elderly, and not less than 5.0% for all others.

EXCEPTION: In some cases where it is determined, with approval of the State Purchasing and General Services Commission, that the applicable percentage would be in excess of the needs of a particular facility, part but not all of the units comprising the approximate percentage, may be designed so that adaptability and installation of accessible

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fixtures and equipment can easily be  
accomplished when needed. Such  
determinations shall be made on a  
case-by-case basis together with the  
extent of compliance required to be  
accomplished during construction or  
renovation.

- (2) Minimum Requirements. An accessible dwelling unit shall be on an accessible route and shall have the following accessible elements and spaces as a minimum.
- (A) Common spaces and elements serving individual accessible dwelling units shall be connected to the dwelling unit by an accessible route and shall have maneuvering spaces complying with Subsection (c) of this section.
  - (B) At least one accessible route shall connect the accessible entrances with all accessible spaces and elements within the dwelling units.
  - (C) If parking spaces are assigned for use with individual dwelling units, then at least one parking space per accessible dwelling unit shall comply with Paragraphs (2) and (3), Subsection (e) of this section.
  - (D) Doors to and within accessible spaces that are intended for passage shall comply with Subsection (j) of this

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section.

- (E) A reasonable number, but always at least one, of accessible entrances to the dwelling unit shall comply with Subsection (i) of this section.
- (F) All controls in accessible spaces shall comply with Paragraph (3), Subsection (r) of this section. Those portions of heating, ventilating, and air-conditioning equipment requiring regular periodic maintenance and adjustment by the resident of a dwelling shall be accessible to people in wheelchairs. If air distribution registers must be placed in or close to ceilings for proper air circulation, this specification shall not apply to the registers.
- (G) If emergency alarms are provided, a reasonable number, but always at least one, of alarm connections complying with Subsection (q) shall be provided in the dwelling unit.
- (H) If telephones are installed in the dwelling unit, a reasonable number but always at least one shall comply with Paragraphs (2), (3), and (4), Subsection (o) of this section.
- (I) A reasonable number, but always at least one, of full bathrooms shall comply with Paragraph (3) of this subsection. A full bathroom shall include a water closet, a lavatory, and a bathtub or shower.
- (J) The following spaces shall be accessible and shall be on

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an accessible route:

- (i) the living room;
- (ii) the dining area;
- (iii) the kitchen area;
- (iv) the sleeping area, or the bedroom in one-bedroom dwelling units, or at least two bedrooms or sleeping spaces in dwelling units with two or more bedrooms;
- (v) patios, terraces, balconies, carports, and garages, if provided with the dwelling unit.

(3) Bathrooms. Bathrooms shall be on an accessible route and shall comply as follows:

(A) Doors. Doors shall not swing into the clear floor space required for any fixture.

(B) Water Closets.

(i) Clear floor space at the water closet shall be as shown in Figures (1)3.1, (1)3.2, and (1)3.3.

(ii) The height of the water closet shall be at least 15 inches (38 cm) measured to the top of the toilet seat.

(iii) If provided, grab bars shall be installed as shown in Figures (1)1, (1)2, and (1)3. If grab bars are not installed during construction or renovation, structural reinforcement or other provisions that will allow installation of grab bars at a later time shall be provided in locations matching those

shown in Figures (1)2.1 and (1)2.2.

- (iv) The toilet paper dispenser shall be installed as shown in Figure (1)2.2.

(C) Lavatory, Mirrors, and Medicine Cabinets.

- (i) The lavatory and mirror shall comply with Paragraphs (7) and (8), Subsection (1) of this section.
- (ii) If a medicine cabinet is provided above the lavatory, then the bottom of the medicine cabinet shall be located with a usable shelf no higher than 44 inches (112 cm) above the floor.

(D) Bathtub. If a bathtub is provided, then it shall have the following features:

- (i) Floor Space. Clear floor space at bathtubs shall be as shown in Figure (x)1.
- (ii) Seat. An in-tub or a seat at the head end of the tub shall be provided as shown in Figure (x)1. The structural strength of seats and their attachments shall be able to support 250 lbf. Seats shall be securely mounted and shall not slip during use.
- (iii) Grab Bars. If grab bars are not installed during construction or renovation, structural reinforcement or other provisions that will allow installation of grab bars at a later time shall be provided in the locations matching the grab bars shown in Figure (x)3.1 through (x)3.5.

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- (iv) Controls. Faucets and other controls shall be located as shown in Figure (x)3.1 and shall not require tight grasping, pinching, or severe twisting of the wrist. The force required to operate controls shall be no greater than 5 lbf.
  - (v) Shower Unit. A shower spray unit with a hose at least 60 inches (152 cm) long that can be used as a fixed shower head or as a hand-held shower shall be provided.
- (E) Showers. If a shower is provided, it shall have the following features:
- (i) Size and Clearances. Shower stall size and clear floor space shall comply with Figure (x)4.1. The shower stall should be no less than 36x36 inches (91x91 cm).
  - (ii) Seat. A seat shall be provided in the shower stall as shown in Figure (x)4.2. The seat shall be 17 to 19 inches (43 to 48 cm) high measured from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall be able to support at least 250 lbf. Seats shall be securely mounted and shall not slip during use.
  - (iii) Grab Bars. If provided, grab bars shall be installed and comply as shown in Figures (x)4.4 and



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- (x)4.5. If grab bars are not installed during construction or renovation, structural reinforcement or other provisions that will allow installation of grab bars at a later time shall be provided in the locations matching the grab bars shown in the same figures.
- (iv) Controls. Faucets and other controls shall be located as shown in Figure (x)4.5 and shall not require tight grasping, pinching, or severe twisting of the wrist. The force required to activate operating controls shall be no greater than 5 lbf.
- (v) Shower Unit. A shower spray unit with a hose at least 60 inches (152 cm) long that can be used as a fixed shower head at various heights or as a hand-held shower head shall be provided.
- (F) Bathtub and Shower Enclosures. Enclosures for bathtubs or shower stalls shall not obstruct controls or impede transfer from wheelchairs onto shower or bathtub seats. Enclosures on bathtubs shall not have tracks mounted on their rims.

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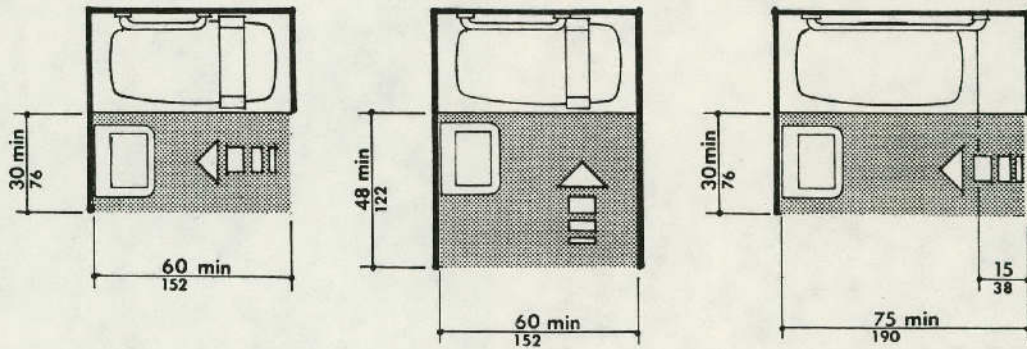


FIGURE (x) 1

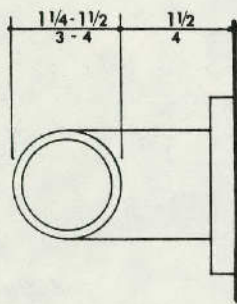


FIGURE (x) 2

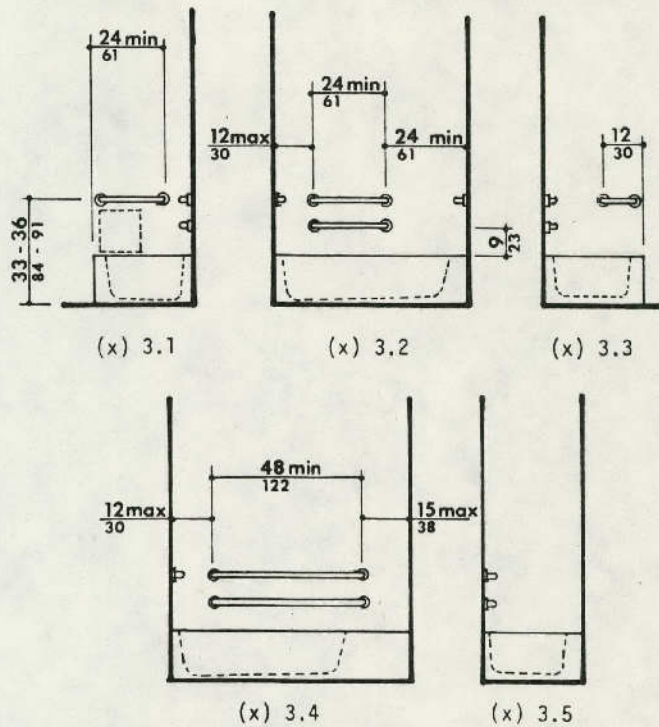
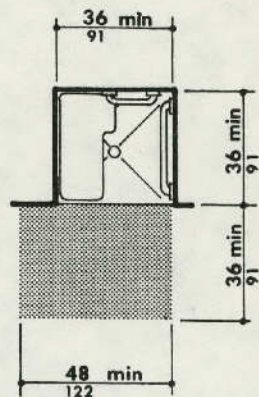


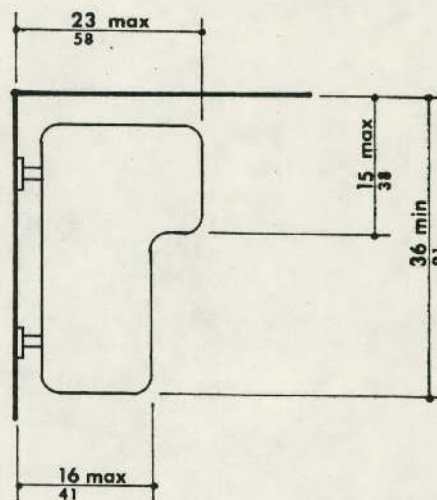
FIGURE (x) 3

inches  
centimeters

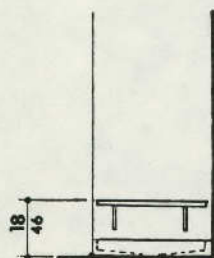
State Purchasing and General Services Commission  
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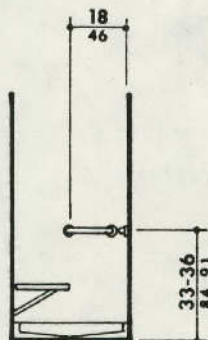
(x) 4.1



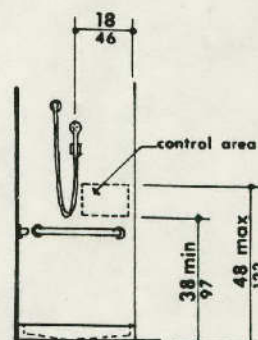
(x) 4.2



(x) 4.3



(x) 4.4



(x) 4.5

FIGURE (x) 4

inches  
centimeters

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Centralized Services Division

Centrex System  
117.1-.5

These rules are promulgated pursuant to the authority of Section 10.09 of  
Article 601b, V.T.C.S.

117.1 Telephone Service.

- (a) The Commission provides a telephone service, known as the "Centrex System," to State departments and agencies in the Capitol Complex area of Austin.

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117.2 Monthly Payment.

- (a) Each State department or agency will be responsible for payment of of monthly Centrex telephone services. Monthly charges will be assessed for centrex telephone service for which monthly payment to the Commission will be the responsibility of each separate State department or agency, in order to continue Centrex telephone service.

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117.3 Directory.

- (a) The Commission will prepare and issue annually a revised Centrex telephone directory by not later than December 31 of each year. All State department and agency information, to be contained in the Centrex Directory, is required to be provided to the Commission by each separate State department or agency. Such information is required to be submitted in written format by a date to be designated each year by the Commission.

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117.4 Issuance of Directories.

- (a) The Commission will not issue more than one Centrex Directory for each telephone instrument which an agency has on the Centrex System. As long as supplies are available, additional directories may be requested by an agency subject to payment of a fee or a charge.

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117.5 Arrangements For Equipment.

- (a) An agency on the Centrex System may arrange for its telephone equipment directly with the telephone company and need not go through the Commission for approval.



State Purchasing and General Services Commission  
Centralized Services Division

Interagency Cooperation Contracts  
117.11-.18

These rules are promulgated pursuant to the authority of Article 4413(32),  
V.T.C.S.

117.11 General.

- (a) The statutory authority for the Interagency Cooperation Contract  
is Article 4413(32), V.T.C.S.

117.12 Definition of Terms and Phrases.

(a) Definition of terms and phrases as used in this category of rules:

- "BASES FOR CALCULATING REIMBURSABLE COSTS" when used in the contract itself shall mean an approximation of actual costs by expense category. Expense categories in this section shall be those established in the statute, i.e., personal services, services of equipment, and supplies and materials; and it shall not be necessary, for purposes of the Commission's approval of the contract, to give a more detailed accounting within these categories. In the submission of a voucher under an interagency contract, this term shall mean a detailed itemization of expenses within an expense category. (See Section 117.18.)
- "PERFORMING AGENCY" will be the agency which will supply the service called for in the agreement.
- "RECEIVING AGENCY" will be the agency to receive the services called for in the agreement.

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117.13 Guidelines to Determine Validity of Proposed Interagency Contract.

(a) Guidelines used by the Commission to determine validity of proposed interagency contract are as follows:

- (1) Whether services specified are necessary and essential for activities and work that are properly within the statutory functions and programs of the affected agencies;
- (2) Whether the proposed arrangements serve the interest of efficient and economical administration of the State government; and
- (3) Whether reimbursement costs are fair, equitable and realistic.

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Centralized Services Division

117.14 Review and Approval.

- (a) Except as provided in (b) below, all proposed interagency contracts involving a total reimbursement amount of \$350.00 or more must be sent to the Commission for review and approval before such contract(s) may become effective.
- (b) In the event of unusual, non-recurring situations which cannot reasonably be foreseen far enough in advance to allow for the formal contract procedure described in (a) above to be followed, the Commission may review and approve the proposed contract orally, provided that a formal contract containing the same terms and conditions approved orally shall be filed with the Commission before any reimbursements under the contract may be approved by the Commission. Situations giving rise to the use of this procedure may not be those that are easily foreseeable, usual, or frequently recurring.

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117.15 Basic Contract Requirements.

- (a) Contract must be for "special" or "technical" services to come under the law. Contract can be for "service of employees", "service of materials", or "services of equipment." Capital outlay items cannot be purchased through an Interagency Cooperation Contract by the performing agency; however, the Performing Agency can charge a fair rental fee for the use of its equipment owned prior to entering the Interagency Cooperation Contract in performance of the contract. The Performing Agency cannot purchase equipment for the Receiving Agency by means of an Interagency Cooperation Contract.
- (b) Contract cannot be made for construction of a highway, street, road or other building or structure for any other agency, except as otherwise provided by law.
- (c) Contract cannot be made for services, supplies, or materials to another agency which are required by Section 21 (constitutional items) of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest bidder.
- (d) The contract period must be shown. The contract must be written for the current biennial period or less. An Interagency Contract cannot transcend the current biennium; it must coincide with or be for a lesser period within the biennium.
- (e) Contract must specify kinds and amounts of services to be rendered. To be reimbursed for performing contract services, the amount of monies to be expended must be listed separately by appropriation item or account out of which like expenditures would

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Centralized Services Division

normally be made.

- (f) Contract must show bases for calculating reimbursable costs and the maximum amount of cost during time period covered by agreement.
- (g) Contract, to be valid, must have the advance approval of the administration of the State agencies which are parties thereto, and of the Commission. Contracts cannot become effective until after the date they are received at the Commission.
- (h) The Performing Agency and the Receiving Agency must show the specific statutory authority by which each may perform its separate contract activity. Citing Article 4413(32), V.T.C.S., will not satisfy this requirement for either agency.

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117.16 Prohibited Contracts.

- (a) No contract may be entered into or performed which will require or permit an agency of the State to exceed its constitutional or statutory duties and responsibilities, or the limitations of its appropriated funds.
- (b) An agency cannot contract for performance of a service to another State agency when it already has statutory obligation to provide such service to that agency.
- (c) Performing Agency cannot subcontract for work to be performed. The Performing Agency must perform the work.
- (d) (REPEALED)
- (e) The Performing Agency can employ an outside consultant only if such is incidental to the work to be performed.

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117.17 Amending an Interagency Contract.

- (a) A valid interagency contract can be amended to extend or shorten the contract period but cannot be extended for a period to end beyond the biennial appropriation or a one-year appropriation, when such is the case.
- (b) A valid interagency contract can be amended to decrease or increase the quantity of service called for under the current contract, but cannot be used to add new or different items of work not already authorized by the existing contract.
- (c) A valid interagency contract can be amended to increase or decrease the dollar amount of the current contract.



117.18 Submission of Vouchers for Reimbursement.

- (a) Submission of vouchers for reimbursement shall be on standard forms required by the Comptroller and shall conform to the broad categories of expense described in the statute and in Section 117.12(a) defining "bases for Calculating Reimbursable Costs". Detail and support data within such categories shall be submitted with each voucher as follows:
- (1) Personal Services expense will include salaries, wages, consultation fees, and/or travel, and shall be itemized in the following manner. In no case, however, can the total of these items of expense over the life of the contract exceed the totals listed for personal services in the contract.
    - (A) Salaries and/or Wages that are to be reimbursed for performance of a contract shall be listed in detail by each employee's name and amount of salary and/or wages to be charged against the contract. Only employees used in the performance of the contract can be so listed.
    - (B) Consultation Fees must list the name of the consultant, social security number, and amount of fee to be paid for performance of the contract services.
    - (C) Travel to be reimbursed must have a copy of the travel voucher attached as support for the voucher.
  - (2) Equipment Usage expense will include charges for the use of all equipment owned prior to entering the contract, and that is being used in the performance of the contract. A detailed listing of each piece of equipment for which there is to be a

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charge, along with the actual cost of the equipment and date acquired, must be attached for support of the voucher. Only actual depreciation, or equivalent charges, for equipment usage will be allowed. Totals listed for these items must never exceed the amount listed for equipment usage expense in the contract.

- (3) Supplies and Materials used in performance of a contract to be reimbursed must be listed by the item used and the charge for that item. Telephone charges and postage are included in this item. Totals listed for these items of expense must never exceed during the life of the contract the amount shown for supplies and materials on the face of the contract.

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Centralized Services Division

Messenger Service  
117.31-.34

These rules are promulgated pursuant to the authority of Section 11.02 of Article 601b, V.T.C.S.

117.31 General.

- (a) The Commission shall provide and operate a Messenger Service, handling unstamped or non-metered written communications between State agencies located in Austin.

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117.32 State Warrants.

- (a) State warrants may be delivered by the Messenger Service upon agreement between the State Comptroller, the Commission, and the agency concerned.

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117.33 Stamped Mail.

- (a) Stamped mail may be delivered to and from the United States Capitol Station Post Office upon agreement of the State agency and the Commission.

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117.34 Meter Mail.

(a) The Messenger Service may meter mail for State agencies upon agreement of the State agency and the Commission. Each State agency must furnish funds to cover amounts of postage to be metered, as agreed by the State agency and the Commission.

(1) No mail shall be metered for a State agency in excess of funds provided by the Agency.

(2) The Messenger Service will provide each agency utilizing the metered mail service with a monthly report showing the amounts of postage used and volume of mail metered.

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Centralized Services Division

Business Machine Repair  
117.41-.43

These rules are promulgated pursuant to the authority of Section 11.03 of Article 601b, V.T.C.S.

117.41 General.

- (a) Business Machine Repair services are offered to State agencies located in Austin. (Attorney General's Opinion Nos. M-1199 and M-1284, 1979.)

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Centralized Services Division

117.42 Machines Entitled to Service.

- (a) Only State-owned business machines shall be serviced by the  
Commission's Business Machine Repair Service.



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117.43 Payment for Repair.

- (a) Payment for repair service shall be secured by voucher prepared by the Commission, promptly verified by the appropriate agency. The Commission may refuse to do additional repair work for an agency so long as that agency holds unprocessed a previous voucher.

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Centralized Services Division

Central Store  
117.51-.57

These rules are promulgated pursuant to the authority of Section 11.04 of Article 601b, V.T.C.S.

117.51 Operation Authority.

- (a) The Central Store is operated pursuant to Section 11.04 of Article 601b, V.T.C.S., for State agencies where they can secure their needs for desk top supplies without delay and with a minimum of paperwork and administrative cost.

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Centralized Services Division

117.52 Purchases.

- (a) Purchases from the Central Store can only be made by State agencies.

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Centralized Services Division

117.53 Credit Card.

- (a) Each State agency must have a credit card issued by the Commission in the possession of the agency employee at the time purchases are made at the Central Store.

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Centralized Services Division

117.54 Responsibility for Loss of Merchandise.

- (a) The Commission is not responsible for loss of any merchandise  
after sales slip is signed by purchasing agency employee.

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Centralized Services Division

117.55 Supplies.

- (a) Only authorized agency personnel can draw supplies from the store.

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Centralized Services Division

117.56 Purchase Vouchers.

- (a) The Commission submits a purchase voucher after the close of each month to the purchasing agencies with copy of signed charge slips attached.

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117.57 Prompt Processing.

- (a) Prompt processing of all purchase vouchers under this category of rules is necessary for continued use of credit cards.



State Purchasing and General Services Commission  
Automated Services Division

Automated Services  
119.1-.1

These rules are promulgated pursuant to the authority of Article 6252-17a, V.T.C.S., and Attorney General Opinion No. H-621, 1975.

119.1 Requests For Information.

- (a) All requests for information contained in computer files maintained by the Automated Services Division for and on behalf of other State agencies shall not be filled by that Division without first receiving written authorization from the State agency involved approving the requested information. (This section refers only to requests received pursuant to Article 6252-17a, V.T.C.S.)

State Purchasing and General Services Commission  
Telecommunications Services Division

Telecommunications Services  
121.1-.8

These rules are promulgated pursuant to the authority of Article 10 of Article 601b, V.T.C.S.

121.1 General.

- (a) The State Telecommunications System authorized by Sections 10.01 - 10.08 of Article 601b, V.T.C.S., will be administered by the Commission through its Telecommunications Services Division. The System will be referred to hereafter by the designation "STS".

121.2 Definitions.

- "AUTOMATIC NUMBER IDENTIFICATION (ANI)" is special equipment installed for obtaining and storing for record purposes data on toll calls by originating station number, date, time, length of call, and called number. (Also referred to as Automatic Identification, Outdial - AIOD)
- "BAUD" is the unit of modulation rate. One baud corresponds to a rate of one unit interval per second. The modulation rate is expressed as the reciprocal of the duration in seconds of the unit interval. EXAMPLE: If the duration of the interval is .020 seconds (20 milliseconds) the modulation rate is 50 baud.
- "BIT RATE" is the quantity, per unit of time, (usually per second) of binary digits which pass a given point on a communication line or channel in a continuous serial stream.
- A "DEDICATED CIRCUIT" is a circuit obtained and reserved for the exclusive use of the agency requesting it. For the purpose of this section, dedicated circuits provided from the STS are exclusively intercity, and interconnect with agency owned, or leased local loops, modems, and terminal equipment, etc., at the telecommunication carrier's toll center main connecting frame at each city in which the dedicated circuits terminate.
- "DIAL UP" is a method by which connections between customers is established by electronic and mechanical apparatus, controlled by manipulation of dials operated by the calling

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Telecommunications Services Division

party.

- "DIGITAL AND/OR SPECIALIZED NETWORK SERVICES" are special purpose telecommunication services generally operated by a single agency using the STS switched network and/or dedicated circuits for its intercity transmission media.
- "INTERCONNECT DEVICES" are those devices required by federal and/or state legislative action or court rulings for protective isolation between circuits provided by the telecommunication common carriers or utilities, and non-certified equipment.
- "MAIN CONNECTING FRAME" is the connecting point where STS circuitry interconnects with the agency's terminal equipment as follows:
  - (1) Dedicated Circuits. The telecommunications carriers toll center serving the cities where service is provided.
  - (2) Switched Network Circuits. The terminal block in or serving the building where service is provided. STS circuits serving PBX or CU Centrex facilities are extended to the trunk and tie line termination switching units.
- "MODEM" is a device that performs both modulation and demodulation.
- "PARALLEL TOLL" refers to all intrastate telephone toll, including WATS, foreign exchange, credit card, and third party billing incurred outside of the STS.

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- "PLAN, ESTABLISH, AND MANAGE" is defined to mean the planning for, implementation of and the operational and fiscal maintenance and management of the STS network, required to support the intercity telecommunication service requirements of the government of the State of Texas.
- "POINT TO POINT RADIO SYSTEMS" are telecommunication systems, owned or leased by a single agency, operating in any frequency spectrum, and providing telecommunication service between designated points. For the purpose of this section, they are not included as a part of the STS.
- A "TELECOMMUNICATION CARRIER" is any company or corporation which leases, rents or contracts to provide telecommunication service, equipment, and/or circuitry to the general public on an intercity and/or intracity basis.
- "TELECOMMUNICATION FACILITIES" is that equipment that is an integral part of the STS and is used for such modes of transmission as telephone, telegraph, teletypewriter, digital including telemetering, facsimile, telephoto, video, audio, and such corollary items as distribution systems. For the purpose of this section, telecommunication facilities refers to equipment and circuitry necessary for the make-up of an intercity switched voice and data telecommunication service network, including dedicated circuitry that interconnects at the main connecting frame in toll centers. It does not include agency owned or leased terminal equipment.
- "TELECOMMUNICATION SERVICES" includes without limitation the

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Telecommunications Services Division

transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature by wire, radio, visual or other electrical, electromagnetic, or acoustically coupled means. For the purpose of this section, telecommunication services refers to the transfer of information as defined above, on an intercity basis through the STS network.

- A "TELECOMMUNICATION UTILITY" is a telecommunication carrier which is required to provide service to all segments of the population on an indiscriminate basis. Utility companies' rates are normally approved and/or regulated by a city, state, or federal governmental body.
- "THE CRIMINAL JUSTICE INFORMATION SYSTEM" refers to the terminal equipment, digital switching centers and other equipment or hardware integral to the operation or use of such system, but excludes the dedicated interconnecting, intercity circuits serving such system.

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121.3 Coverage.

(a) Coverage within STS includes:

- (1) Intercity long distance voice telephone service.
- (2) Intercity digital network service including dedicated data and special use circuits.

(b) STS coverage does not include:

- (1) Point to Point Radio Systems.
- (2) Facilities or services of the Criminal Justice Information System.
- (3) Local and intracity telephone service and equipment.
- (4) Terminal equipment, switchboards, telephone key equipment and other equipments required in distributing STS service on an intradepartmental basis at a particular location.

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Telecommunications Services Division

121.4 Commission Responsibility and Method of Contracting.

- (a) The Commission is specifically charged with:
  - (1) Planning actions to insure that the system meets the telecommunications needs of state government and that all changes and growth are carried out in an orderly manner.
  - (2) Managing the operation of the STS to insure that the quality of the service is adequate and that the service is provided on a cost effective basis.
  - (3) Publishing and disseminating appropriate policies, guidelines, and operating procedures to all users to insure efficient utilization and operation of the STS.
  - (4) Establishing a system or systems of equitable billings and charges for services provided on the STS.
- (b) The Commission, in coordination with the agency concerned, will review all requirements for service on the STS to determine the system's capability to satisfy the requirement and to determine if the service can be provided in a cost effective manner.
- (c) The Commission can provide technical assistance to State agencies on telecommunications matters including methods and procedures for developing the capability for efficient telecommunications operations, cost projections, equipment selection, and other related matters.
- (d) Services within the STS may be contracted for by the Commission with telecommunication utilities and carriers, and such contracts shall be let on a competitive bid basis, if possible. All such contracts shall provide that the Commission or any participating



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Telecommunications Services Division

agency, may obtain data relating to the costs to the State of  
parallel toll.

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Telecommunications Services Division

121.5 Billing Process.

- (a) STS calls should not be regarded as "free" because the charges made to an agency for STS service are dependent upon the total number of minutes of usage.
- (b) Long distance service for on-to-on, on-to-off, and that portion of off-to-on calls that traverse the network will be billed as STS service. The portion of off-to-on calls from point of origin to the nearest STS entry point will be billed directly to the originating agency as regular long distance service by the telecommunication utility. Local service, and long distance service not placed on STS, will continue to be billed to the originating agency by the local telecommunication utility.
- (c) The Telecommunications Services Division of the Commission will accumulate all charges for STS service, and bill the originating agencies on a monthly, or other regular basis, to include the following:
  - (1) A recurring charge based on a proration by each receiving agency of total network costs from a 20% sampling of the total STS network use in minutes. An agency may install at its own expense automatic numbering equipment or similar function equipment to obtain amplified data for internal distribution of STS call usage for select locations. The cost for such special equipment will be billed directly to the agency in the same manner as local telephone equipment. In any case, the actual billing for STS service by the Commission and payment will be on the basis of the expanded

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Telecommunications Services Division

20% sample as provided by the telephone industry.

- (2) The initial installation charge for each new location added, moves, changes of local service equipment, local feature changes and/or modification involving STS circuitry will be billed directly to the agency by the telecommunication carrier, utility, or other supplier.
- (3) A mileage charge per billing period for specialized voice and/or data circuits, as requested by each agency. Such circuits will be provided on an "as available" intercity basis between the common carrier toll center main connecting frames. All charges for local loop circuits, line conditioning, terminal equipment, modems as necessary, interconnect devices as necessary, and other ancillary equipment will be billed directly to the requesting agency by the telecommunication common carrier or other supplier, as applicable.
- (4) An overhead charge for the operation of the system by the Commission at a rate not to exceed 15% of the total of (Section 121.5(c)(1) and (3)) above prorated on an actual cost basis.
- (d) To facilitate the operation of the system and to expedite the payment of the State's telecommunication expenses, the using agency shall validate the purchase voucher and return it to the Telecommunications Services Division of the Commission within fifteen (15) calendar days of the date of the voucher. Should the last day for returning the voucher fall on a Saturday, Sunday, or

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State Holiday, then the last day for returning such voucher shall be the following working day.

- Questions involving the propriety or accuracy of the voucher should be presented to the Commission as soon as possible within the fifteen day period, and every effort should be made to resolve the questions without undue delay.

- (e) Prompt and complete payment to the Telecommunication Utility for all service provided to STS is the joint responsibility of the using agencies and the Commission. Validation of the voucher required by Section 121.5. (d) is the keystone of this joint responsibility. Whenever the Commission experiences a series of payment periods when it is unable to make timely payments to the Telecommunication Utilities or Carriers for service hereunder, the Commission may require any or all of the participating agencies to make advance payments to the telecommunication revolving fund, based upon the average of the previous three month STS service charge, exclusive of items described in Section 121.5. (c)(2) above. If these advance payments are not equal to the actual amount due at the end of the period, the subsequent advance payment shall be adjusted accordingly.

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121.6 Joining the System and Requests for Additional Service.

- (a) All requests for service on the STS network will be evaluated on the basis of the service being cost effective for the customer and for the network. The Commission shall publish appropriate procedures and guidelines covering administrative actions associated with providing service on the STS. The Commission may prescribe forms for that purpose and such forms may be reproduced locally by State agencies and governmental bodies.
- (b) All services provided to appropriate state agencies and governmental bodies defined in Section 10.07 of Article 601b, V.T.C.S., will be covered by contracts between these agencies and the Commission. Contracts for state agencies as defined in Section 1.02(2) of Article 601b, V.T.C.S. will not be required. All requests for service shall be made in writing and forwarded through agency channels unless specific instructions are issued by the appropriate state agency authorizing the direct submission of service request to the Commission.
- (c) Plans, service requests, and other service orders should be submitted to the Commission as far as possible in advance of date service is desired to allow lead time for evaluation and scheduling of work. Requirements for adding service to locations not involving PBX's should be forwarded to the Commission at least 30 days prior to the date service is required. Where service interconnection to PBX's is required, a lead time of 14 to 16 weeks is generally required by the telephone industry to order and install special line termination equipment. Moves of locations

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require at least 20 days prior notice to provide reasonable assurance of noninterrupted service and avoid duplicate service charges for the move.

- (d) Assuring that the network is limited to placing of official calls is the responsibility of each State Agency and governmental body being provided STS service. In addition to establishment of administrative controls, technical controls may also be accomplished by limiting access to the network only to those individual stations requiring long distance telephone service. Where service is provided through a PBX, a thorough review should be made of those stations requiring service and a formal request be made to the serving telephone company that the remaining stations be "blocked" from STS access. This will normally be done on a "no charge" basis if requested at the time the PBX is ordered and being installed. Stations "blocked" from making outgoing calls may still receive incoming calls. The Commission can provide technical assistance on this or other technical matters.
- (e) Any request by a state agency or governmental body which cannot be satisfied by the Commission, shall be returned to the agency with the reasons for being unable to fill the request set out in writing.
- (f) The Commission shall maintain a file on these unfilled requests, and they shall be satisfied in the order received, whenever the necessary service becomes available, if the using agency or department still desires the service at that time.
- (g) The Commission will publish an STS directory for use by the

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agencies. The charges for these directories to state agencies will be based upon the Commission's cost. Upon request from the Commission each state agency will be responsible for providing an up-to-date listing for inclusion in the directory.

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121.7 Termination of Service.

- (a) Whenever a state agency or governmental body participating in the system determines that it no longer needs a particular service, it shall notify the Commission of this fact in writing at least 30 days prior to the date service is to be discontinued and the Commission shall terminate the service in accord with the notification.
- (b) Failure to give adequate notice may result in charges to the using agency beyond the anticipated discontinuance date, if by reason of inadequate notice, termination cannot be effected by that date.



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121.8 Operations.

- (a) Periodic reports will be provided to each location that has STS service showing the busy hour of the day for the trunk group serving a particular location. STS users can help reduce network costs by making calls at non-busy hours.
- (b) Long distance (toll) calls that could have been made via STS, but were not, are parallel toll calls. These calls are considerably more expensive than STS calls, and state agencies should, therefore, attempt to reduce parallel toll calls to a minimum.
- (c) Any state agency planning to utilize the STS network on a "dial up" basis for the transmission of any type of data either by means of an acoustic coupled device, data phone or other means should notify the Telecommunications Services Division at least 30 days prior to the inservice date.
- (d) Grade of service is a term used to describe both an objective and actual level of call completion. Objective grades of service are those for which a trunk group is engineered. Actual service levels are those reflecting the measured performance of a given trunk group. The grade of service is expressed in terms of probability of delay or call blockage. The term "P.01" means that the probability of delay (P) is 1 in 100 (.01) or that, statistically, one call out of 100 call attempts will fail to find an idle circuit. The STS is engineered and administered for a service level of P.10 to P.20 from telephone to telephone. In order to achieve this grade of service, normally intermachine trunks are engineered for P.03 to P.05 services, and access lines

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are engineered for P.05 service. These levels can be exceeded when only one or two circuits are connected to an agency location on a two-way basis. Traffic loading in any part of the system may vary from month to month; the Commission will conduct monthly traffic reviews and will take appropriate action to add or remove circuits based on trends established over several months.

- (e) Each agency should designate one or more individuals who would be responsible for approving that agency's proposed changes to or additions to the STS. The individual so designated will be referred to as "Agency STS Representative". Agencies should advise the Telecommunications Services Division of the name, title, mailing address, STS and regular telephone number, and the geographical area or location for which they are responsible. The notification should be kept current to facilitate processing of STS matters.
- (f) In each agency, responsibility for changes or additions in the STS telephone directory should be assigned to one or more individuals. The individual so designated will be referred to as the "STS Telephone Listing Coordinator(s)". The Agency STS Representative and the STS Telephone Listing Coordinator may be one and the same if the agency so desires. Agencies should advise the Telecommunications Services Division of the names, titles, mailing address, and STS and regular telephone number of their STS Telephone Listing Coordinator(s).
- (g) The purpose of the STS Telephone Directory is to provide STS users with the telephone numbers necessary for the conduct of state

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business. The directory is composed of an alphabetical listing (white section) and an organizational listing (yellow section) of the various agencies, departments and organizational units of state government. The agencies will be requested to provide inputs for each of these sections on an annual basis. The white section should be limited to key employees requiring frequent contact by other state personnel where it is essential for the conduct of official state business.

- (h) In some cases, offices are served as detached stations or as tributary PBX through the switching equipment of another agency's PBX. In these cases the office serviced is usually blocked from the 9th level thus prohibiting local calls or one plus calls from being made through the primary agency's PBX. In any event 9th level calls should not be made by detached stations or tributary PBX's.
- (i) The STS access lines may be connected for centralized answering when it is necessary to have calls "screened" then directed to the proper person(s) or when a telephone must be answered when the person who normally answers is absent.
- (j) When usage requirements indicate more than one line is needed on key systems, consideration should be given to the use of "rotary" or "hunting lines". These lines are capable of handling a substantially greater number of calls at a particular grade of service than the same number of individual lines.
- (k) At locations where the usage of detached stations serving other agencies is measured by meters, the sharing agency should

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designate an individual to record data from the meters on a monthly basis. Agencies should advise the Telecommunications Services Division of the name, mailing address, and STS telephone number of the "Meter Reader". The Telecommunications Services Division will provide each shared location with a monthly report form on which to return the collected meter data.

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Capitol Area Development Program  
123.1-.3

These rules are promulgated pursuant to the authority of Article 5 of Article 601b, V.T.C.S.

123.1 Property Acquisition, General

- (a) Property owners of record within areas where funds have been appropriated by the Legislature for acquisition will be notified as to purchasing authority of the Commission and offers to sell solicited on a willingness basis.
- (b) All written offers to sell from property owners will be submitted to the State Purchasing and General Services Commission hereinafter referred to as the Commission, along with staff recommendation based on estimates of fair market value.
- (c) Property owners making written offers will be advised by mail as to Commission action on the offer to sell.

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123.2 Property Acquisition Procedure, Condemnation

- (a) When there is a compelling need for a building site and an agreement on purchase price between the seller and the buyer cannot be reached through normal negotiations, the Commission will exercise its power of eminent domain.
- (b) One or more appraisals as to value will be obtained from independent sources and a final offer presented to the owner based on these estimates of value.
- (c) The final offer to purchase will contain a designated acceptance period stated in calendar days.
- (d) If this final offer to purchase is not accepted by the owner within the designated time period the Commission will then refer the matter to the Attorney General of Texas for acquisition through condemnation procedures.

### 123.3 Property Acquisition, Closing Procedures

- (a) The Commission, after acceptance of a written offer to sell property, is authorized to culminate the purchase through established closing process.
  - (1) A Purchase and Sale Agreement will be executed by the seller and the Commission, stating any specific conditions of the transfer of property as agreed on.
  - (2) It shall be the seller's responsibility to provide a proposed deed for review and approval by the Attorney General of Texas.
  - (3) The Commission will provide for Owner's Title Policy Binder for review and approval by the Attorney General of Texas.
  - (4) The seller must provide evidence of payment of all taxes prorated through the date of closing.
  - (5) Upon execution of the transfer documents by the seller and payment by the Commission, the deed will be recorded in the office of the County Clerk and Owner's Title Policy issued.
- (b) All expenses for vacating the premises on the purchased property shall be the responsibility of the seller and/or the tenants.

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Building Construction Administration  
123.11-.21

These rules are promulgated pursuant to the authority of Article 5 of Article 601b, V.T.C.S.

123.11 General Project Responsibility

- (a) The Commission is responsible for the administration of project analysis and construction projects for all State agencies except as otherwise provided in Sections 5.13 and 5.14 of Article 601b, V.T.C.S.
- (b) During the life of any project for which it is responsible the Commission will act as the owner for the benefit of the using agency.
- (c) During the life of any project for which it has responsibility the Commission will maintain close liaison with the using agency.
- (d) Upon completion of a construction project the Commission will establish the warranty date in compliance with contract documents and release the project to the using agency for occupancy and use. The agency then assumes responsibility for use and maintenance of the facility.
- (e) During the tenure of all warranties on a construction project the Commission is responsible for assuring that the contractor meets the terms of such warranties.
- (f) Each construction project administered by the Commission shall bear the cost of services rendered thereon including professional staff time, prior project analysis costs, travel expense, the



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estimated cost of minor and incidental materials used in pursuit of project and an amount expressed as a percentage of the cost of professional staff time charged against the project which has been certified by the State Auditor as being necessary to cover employee benefits. At the start of a construction project an estimate of the cost of normal and routine services will be provided to the using agency. This estimate will not be changed except upon the advice of the Commission and with the concurrence of the using agency.

- (g) Each project analysis prepared by the Commission will include an estimate of all administrative costs to be applied against a construction project based upon the analysis. This estimate will also include funds necessary to reimburse the Planning Fund from which the Commission costs to prepare the project analysis are paid.
- (h) All private architectural/engineering (A/E) fees paid on a project analysis are deducted from A/E fees paid on a subsequent construction project, provided:
  - (1) The A/E on the construction project is the same firm which prepared the project analysis.
  - (2) The construction project is in accordance with that proposed in the project analysis. Should a construction project vary substantially from the project analysis the amount of prior project analysis fee deducted from the construction project fee will be prorated in accordance with the amount of change requested by the using agency, as mutually agreed upon by the

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using agency, the A/E and the Commission.

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123.12 Project Analysis.

- (a) Responsibility for initiation of a project analysis lies with the using agency.
- (b) The using agency should initiate project analysis by submitting to the Facilities Planning and Construction Division of the Commission a request that a project analysis of a proposed project be prepared. Standard request forms are provided by the Commission.
- (c) Requests for project analysis shall be made not later than January 1 of even numbered years in order to assure completion in time for submission to budget agencies for study prior to the Regular Session of the Legislature.
- (d) Project Analysis may be prepared by the Commission or by a private A/E selected in accordance with Section 123.15.
- (e) A using agency must provide the Commission with the following information for inclusion in the analysis:
  - (1) Justification for project in a brief and specific form.
  - (2) An estimate of annual cost of maintenance including utilities.
  - (3) An estimate of the annual cost of operating facility including staffing.
  - (4) Feasibility of construction of project in stages if requested by the Commission.
  - (5) If three or more project analysis are requested, each must include its priority in order of need.
  - (6) An estimate of the cost of equipping and furnishing completed

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facility.

- (7) Program outlining the purpose and scope of project including space requirements.
- (f) Upon completion and before submission to budget agencies, the using agency must certify in writing that the analysis fulfills its needs for the project.
- (g) Upon agency certification of its adequacy the Commission will distribute copies of the analysis to the budget agencies.
- (h) Use of the project analysis in preparing budget requests to the Legislature is the responsibility of the using agency.

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123.13 Construction Project.

- (a) Responsibility for initiation of a construction project is with the using agency.
- (b) Projects must be initiated in ample time for a contract award to be made within the fiscal year for which appropriated project funds are available. Based upon the size and complexity of a given project the Commission has the prerogative of determining whether sufficient time is available to properly prepare bidding documents, secure bids and award a contract.
- (c) Initial action by the using agency on a construction project shall be the submission of a request to initiate work on the project. Request forms are provided by the Commission.
- (d) A using agency request must identify the source and amount of funds to be applied to the project.
- (e) Selection of a firm to provide professional services on a project will be in accordance with Section 123.15.
- (f) If requested by the using agency and acceptable to the Commission, professional services on new construction will be performed by the Commission staff when project cost is estimated to be less than \$100,000.00. On renovation projects the Commission may furnish professional services with its own staff regardless of project size.
- (g) If a construction project is supported by a prior prepared project analysis, the analysis shall be the project program unless the agency advises that unavoidable change in project conditions has forced a modification in the analyzed concept.

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- (h) If a construction project is not supported by a project analysis, the using agency must cooperate with the Commission and the A/E to provide necessary data on which to prepare a project program.
- (i) During project development the using agency shall review and approve each phase before next phase is started, including schematic design, design development and finished working drawings and specifications.
- (j) Agency approval of working drawings and specifications is Commission authority to proceed with solicitation of bids.
- (k) When bids are received the Commission will formally advise using agency of the results thereof and make recommendation for award of contract if acceptable bid(s) is within the project budget.
- (l) Should budget not provide a basis for recommending a contract award, the Commission will advise the agency thereof and request consultation to determine whether scope of project can be reduced enough to bring it within the budget.
- (m) Upon receipt of formal concurrence of the agency with Commission recommendation and/or acceptable alternate recommendation, the Commission will award a contract and proceed with administering the construction project.
- (n) During tenure of the contract the Commission will recommend all payments to the agency for final approval.
- (o) During tenure of the contract any changes in the scope of the work shall be approved by the agency before being made a part of the contract by the Commission.
- (p) Upon completion of construction a representative of the using

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agency shall attend an owner's final inspection called and conducted by the Commission.

(q) Pursuant to Section 5.13(c) of Article 601b, V.T.C.S., the Commission may exclude certain using agency construction projects involving contract labor from the provisions of the Article, provided:

- (1) project is for repair and rehabilitation only,
- (2) the advance preparation of working drawings is not required in order to describe the work,
- (3) agency requests the exclusion in writing giving a brief description of the work and advising that it complies with Paragraphs (1) and (2) above,
- (4) granting of an exclusion shall not relieve the agency from compliance with any other state laws governing construction contracts,
- (5) granting of an exclusion shall not exempt the agency from including the State of Texas Uniform General Conditions in the contract for excluded work,
- (6) the Commission shall assume no responsibility for an excluded project either prior or subsequent to granting the exclusion,
- (7) the Commission grants the exclusion in writing.

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123.14 Qualification of Architect/Engineer for Professional Services.

- (a) For the purpose of this procedure an A/E is as defined in Section 5.12(9) of Article 601b, V.T.C.S.
- (b) Any A/E is eligible for consideration to provide professional services on Commission projects.
- (c) The A/E shall submit informative answers to a standard questionnaire regarding size of his staff, field of interest and capability and may supplement this with brochures and other material as he chooses.
- (d) The Commission will maintain all data received from A/E in file available for examination by its staff and other state agencies.



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123.15 Selection of Architect/Engineer for Professional Services

- (a) Selection of an A/E for professional services shall be in accordance with Section 5.22 of Article 601b, V.T.C.S.
- (b) Using agency recommendation on A/E for a project should accompany its request for project initiation.
- (c) When funds are appropriated for a construction project directly to the State Purchasing and General Services Commission or when the using agency for which project funds are appropriated declines to make recommendations for the A/E selection, the following procedures shall be followed:
  - (1) A selection committee will be formed consisting of at least three (3) Commission staff architects or engineers who are knowledgeable about the nature, scope and location of the project.
  - (2) The selection committee will determine from the project description a list of the minimum qualifications that a prospective A/E should possess in order to provide professional services on the project.
  - (3) The selection committee, where possible, will compile a list of at least ten (10) firms that meet or exceed the minimum qualifications for further consideration. (The Commission feels that ten (10) is an optimum number of firms that could effectively be considered without causing undue administrative delay in the project. More than ten (10) firms may actually meet the minimum requirements set out, but those not selected for the list will not be considered

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further unless the selection committee decides it can do so without undue administrative delay in the project.)

- (4) The list will be drawn from a file of A/E firms which have expressed an interest in work supervised by the Commission by having responded to a standard questionnaire or by submitting adequate data on experience and capability in other formats.
- (5) Firms selected for consideration will be notified and given a brief description of the project and those interested in further consideration will be scheduled for an interview with the selection committee.
- (6) Each firm interviewed will be rated individually by each committee member on a scale of one to ten. The firm receiving the highest total rating from the combined members of the committee will be considered the preferred firm for the project.
- (7) In case of identical scores for the top two or three firms, additional qualifications of the firms will be considered and rated individually until ties are resolved.
- (8) The firm rated highest by the committee will then be offered the project and an agreement negotiated for the work included. Should this firm and the Commission fail to arrive at a mutually acceptable agreement, the project will then be offered to the firm rated second highest. In the unlikely event that an agreement cannot be reached with the second choice, a similar procedure will be followed with the third highest rated firm.

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- (9) After selection is completed, unsuccessful firms will be advised of the determination.
- (10) Items of consideration in making the initial selection will include, but not necessarily be limited to, the following:
  - (A.) A/E's experience with projects similar in nature to that for which the firm is being considered.
  - (B.) Location of A/E's home office relative to the project site.
  - (C.) Compatibility between size of firm and size of project.
  - (D.) Quality and amount of previous work done for the Commission. (Satisfactory experience is obviously conducive to favorable consideration but in the interest of giving as many eligible and qualified firms as possible a fair chance to obtain Commission work a substantial amount of prior State work may be the basis for rejection.)
  - (E.) Current work load and capability of proceeding with project at reasonable speed.
  - (F.) Experience with control of budget and cooperation with owner.

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123.16 Contracts with Architects/Engineers

- (a) The contract form for A/E services is a standard document adopted by the Commission and approved by the Attorney General of Texas for use.
- (b) The contract will name the project, state the budgeted project cost, describe the respective responsibilities of the A/E and the Commission and establish the compensation the A/E will receive for his services.
- (c) Compensation for A/E services is not bound by a fixed schedule except as may be otherwise established by law.
- (d) The contract may be amended to reflect desirable changes in project scope, responsibility or compensation at any time upon written consent of both contracting parties.

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123.17 Qualification of Contractor to Bid Construction Projects.

- (a) Any contractor interested in participating in bidding on Commission construction projects should advise the Commission thereof by writing to: State Purchasing and General Services Commission, Facilities Planning and Construction Division, P.O. Box 13047, Austin, Texas 78711.
- (b) An interested contractor will be sent a Contractor's Qualification form to complete and return to the Commission. Form provides information concerning contractor's type of organization, names of partners or officers, type work performed, experience history, financial condition, bonding capacity and financial and construction related references. File information may be updated by contractor as significant changes in his status occur.
- (c) Out of State contractors may bid State work but must, if awarded a contract, notify the State Comptroller of Public Accounts, Texas Employment Commission, State Industrial Accident Board, and local County Tax Assessor/Collector and must execute a nonresident Contractor's Surety Bond for ten percent (10%) of the contract unless he is eligible for a reciprocity exemption under Article 5160a, V.T.C.S.
- (d) Contractor qualification requirements will be prepared for each project to be bid. Information on the contractor's qualifications form and reference checks will be used to determine if contractor meets the requirements and if qualified to obtain bidding documents and submit a bid. The Commission reserves the right to request updated file information as needed. Commission approval

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or disapproval of the contractor to bid will be in writing to the contractor.

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123.18 Bidding Procedures

- (a) All Commission construction projects are bid competitively with bids being opened publicly in the office of the Commission or other location designated in the bid advertisement and in the bid documents.
- (b) Advertisement for bids is placed by the Commission in not less than two newspapers of general circulation far enough in advance of bid opening date to allow bidders time to secure and examine bid documents and to prepare a bid therefrom.
- (c) Advertisement for bids shall contain pertinent information on the project including name and location of project; date, time and place of bid opening; where and how bid documents may be obtained; and a listing of requirements of contractor for submitting bid.
- (d) To eliminate the expense of bid preparation by a contractor not qualified to perform the work a contractor must have permission of the Commission to obtain bidding documents.
- (e) All bids submitted must be accompanied by either a Bid Bond, Cashier's Check or Certified Check in the amount of five percent (5%) of the bid submitted.
- (f) Bid proposal must be submitted on the form, or clear reproduction thereof, provided with the bid documents.
- (g) Bids should be submitted in a sealed envelope externally identified as to content including project name and number, bid opening date and name and address of bidder. Special bid envelopes are provided by the Commission for this purpose. Failure to use these will not disqualify a bid but may increase

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the possibility of bids being inadvertently misdirected and not officially received in proper time. It is the sole responsibility of bidders to deliver proposals to the designated bid opening site prior to the time they are scheduled to be read. Any bid received after this time will be returned unopened to the bidder.

- (h) Bidding documents shall include the plans and specifications, including all addenda issued thereto. Bidders are assumed to have given full consideration to the entire content thereof when they submit a proposal.



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123.19 Contract Award

- (a) Formal award of construction contracts will be made by the Commission. Award will be based upon the lowest and best bid received from a qualified bidder.
- (b) All advertised conditions which bear upon the quality of a bid proposal will be considered when making an award. The Commission reserves the right to reject any or all bids when in the best interest of the State it is necessary to do so.
- (c) Award shall become effective upon the date that a bidder's proposal or any part thereof is formally accepted by the Commission and notice thereof communicated to the successful bidder. A contract binding on both parties will exist from that date forward.
- (d) Formal notice of award to successful bidder shall be in writing and shall state the basis of award.
- (e) The furnishing of any required bonds and insurance by the contractor is not prerequisite to a contract. They are a part of the contractor's performance of the work which must be provided before any work on the project site is initiated and before the Commission can issue a work order.
- (f) Contract documents shall consist of the following:
  - (1) the contractor's proposal,
  - (2) the notice and description of the award,
  - (3) the bidding documents,
  - (4) all addenda to the plans and specifications issued prior to bid opening,

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(5) all changes in the work made after award of contract.

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123.20 Construction Contract Administration

- (a) Upon completion of contract award procedures and the furnishing of all required insurance and bonds by the contractor, the Commission will issue a written work order to the contractor which establishes the starting and completion date of the contract.
- (b) Prior to commencement of work on the contract the Commission will schedule and hold a preconstruction conference to explain routine administrative procedures and answer any questions about the contract documents. This conference is for the benefit of the prime contractor, his subcontractors and the A/E.
- (c) All activities of a contractor on a project for which he has a contract shall be in accordance with the contract documents.
- (d) Unless expressly modified because of job conditions peculiar to a specific project, procedures followed by the Commission in the administration of construction projects shall include the following:
  - (1) At start of work a contractor shall submit to the Commission for review a listing of his major subcontractors and material suppliers and the name of his job superintendent.
  - (2) At start of work contractor shall submit to the Commission for approval a breakdown of the material and labor costs of the various work items in the contract.
  - (3) The Commission will review all submittals, shop drawings and schedules required by the specifications before final approval is given thereon.
  - (4) The Commission will conduct periodic on-site inspections of

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work in progress as it deems necessary and may assign a full time inspector to a project if justified by its size and nature. An official owner's final inspection is conducted at the completion of each project.

- (5) Partial payments for work performed are made monthly.

Request for payment must be submitted on State Construction Voucher forms supplied by the Commission and must include the project cost breakdown as approved at the start of project.

- (6) Changes in the work on a construction project are not official until they have been formally approved by the using agency and the Commission. The Commission will provide necessary forms for documenting all changes in the work.

- (7) Changes in the contract time of a construction project are not official until approved by the Commission. Necessary forms for documenting reasons for time extension requests are provided by the Commission.

- (8) After a final inspection has been held and the Commission is satisfied that all conditions of the contract have been met, the contractor may submit his request for final payment.

- (9) The contractor must warrant all materials and labor incorporated into a project against failure for a period of one (1) year from date of acceptance of the project by the Commission. Extended warranties may be required on specific items of work.

- (10) At the end of the warranty period a warranty inspection will be held and failures found which are not attributable to

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owner misuse or to acts of God beyond the contractor's control shall become his responsibility to correct. It is his further responsibility to make corrections of failures as they occur during the warranty period when brought to his attention.

- (11) An A/E retained for professional services on a construction project is a representative of the Commission and is the contractor's first contact when initiating any of these procedures or for any other project conditions which may require owner approval or action.

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123.21 State of Texas Uniform General Conditions (UGC)

- (a) Section 5.26 of Article 601b, V.T.C.S. holds the Commission responsible for periodic review of the State of Texas Uniform General Conditions and holds all State agencies responsible for use of any changes to the UGC resulting from such review.
- (b) All review procedures shall be in accordance with the provisions of Section 5.26(b), of Article 601b, V.T.C.S.
- (c) Emergency changes in the UGC may be made by the Commission when any circumstance arises which makes applicability of any provision of the document either illegal or clearly impractical.
- (d) Any changes in the UGC either as a result of formal review or emergency will be distributed by the Commission to all contracting authorities of the State of Texas.
- (e) The UGC are applicable to all building construction contracts entered into by the agencies of the State, which are solely responsible for any consequences resulting from their use of the document. Except for those construction contracts administered by the Commission under the provisions of Section 5 of Article 601b, V.T.C.S., the Commission has no authority to control the manner in which the document is applied to construction contracts administered by any contracting authority.
- (f) Sample copies of all routine revisions or emergency modifications to the UGC will be furnished to any A/E, contractor, contracting authority or other party upon request.

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Prevailing Wage Rate Determination  
123.31-.34

These rules are promulgated under the authority of Article 5159a, V.T.C.S.

123.31 Prevailing Wage Rate.

- (a) The specifications and the contract for each project administered by the Commission shall include a schedule of wages to be paid on the project.
- (b) The wage scale will reflect the rates ascertained by the Commission as prevailing in the locality of the project for each craft or type of workman required thereon and not less than this rate shall be paid by any contractor on the project.
- (c) The determination made by the Commission shall be final and will not be changed except as hereinafter provided.

123.32 Data Gathering Procedures

- (a) The Commission will employ any or all of the procedures described below to determine the wage schedule that prevails in an area.
- (b) Primary method of determining prevailing wages will be by means of a survey of contractors in a given locality to determine the wages they are paying the various classifications of workers and the number of workers receiving that wage.
- (c) Secondary methods used either to support primary survey data or as a data source when contractor surveys are impractical include:
  - (1) interview other public contracting authorities in the locality to determine their experience,
  - (2) obtain U.S. Department of Labor Wage Determinations,
  - (3) obtain copies of wage rates published by labor and construction related organizations,
  - (4) determine nature and volume of building permits issued in the locality when such data is beneficial in confirming prevailing rates.
- (d) Contractor Survey Procedure
  - (1) Prepare master lists of contractors doing business in the locality.
  - (2) Lists shall be taken from the yellow pages of the telephone book in the area where survey is being made or such other source that will provide the most complete list of all contractors in the locality.
  - (3) Lists shall be as complete as possible but may exclude those contractors whose contribution to the local work force is



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negligible.

- (4) Master lists will be broken down into the following categories:
  - (A) General and Building Contractors
  - (B) Sitework (paving, grading, excavation) Contractors
  - (C) Utility (water, gas, sewer collection and distribution) Contractors
  - (D) Plumbing (building systems) Contractors
  - (E) Mechanical (HVAC) Contractors
  - (F) Electrical Contractors
  - (G) Roofing Contractors
  - (H) Painting Contractors
  - (I) Others as may be applicable to a specific project or locality
- (5) Contractors within the listed categories will not be classified as to size of their operation. Whether a contractor confines his operation to projects of a particular type (residential, commercial, industrial, etc.) may be considered when it is apparent that such specialization is common in the locality and is reflected in the wages prevailing therein.
- (6) Each contractor on each master list will be assigned an individual number to be used for the random selection of a sample from each list to be surveyed.
- (7) Sampling shall be in accordance with the following numerical formula:

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- (A) If list contains 25 or less names, sample 100%
  - (B) If list contains 26 to 50 names, sample 80% but not less than 25
  - (C) If list contains 51 to 100 names, sample 70% but not less than 40
  - (D) If list contains 101 to 150 names, sample 60% but not less than 70
  - (E) If list contains 151 to 200 names, sample 50% but not less than 90
  - (F) If list contains 201 to 300 names, sample 40% but not less than 100
  - (G) If list contains 301 or more names, sample 30% but not less than 120
- (8) Attempt to contact each contractor selected for sampling to obtain data on the wages he is paying and an estimate of his work force. Contact will be by mail or personal interview using a standard questionnaire devised by the Commission for reporting information.
- (9) Surveys will be conducted not less than once each twelve (12) months in the locality where construction projects are administered on a continuing frequency. In areas where projects are infrequent a survey will be made for each project unless there was a survey conducted within the previous 12 month period.
- (10) After questionnaires are mailed the Commission will allow thirty (30) days for contractors to respond. All data

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received up to that time will be compiled and a prevailing  
wage rate ascertained.

123.33 Ascertaining Prevailing Wage Rates

- (a) Data from the wage rate questionnaires shall be compiled and analyzed to determine the prevailing wage rate being paid for the various classifications of labor. Criteria used to determine the prevailing rate shall include:
- (1) When 50% or more of workers within a given classification are all reported to have received the exact same base rate of pay, that rate will be considered as prevailing.
  - (2) When a majority of workers within a given classification are reported to have received hourly pay rates within \$1.00 of each other the weighted average of these rates will be considered as prevailing. Weighted average, as used herein, is defined as the wage rate for a given classification produced by multiplying each rate reported by the number of employees receiving that rate, and dividing the cumulative products by the total number of employees reported for the classification.
  - (3) When a rate cannot be determined by either of the above, the weighted average of all reported wages within a given classification will be considered as prevailing.
  - (4) Both the rate of pay reported and the number of workers receiving that rate will be used in establishing the prevailing rates.
  - (5) In case of conflict between any of the above, or in case of inability to obtain adequate survey data on which to act, determination of the prevailing rate will be based upon the

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best judgment of the analyst after giving consideration to any and all additional data at his disposal.

(b) The project schedule of prevailing wage rates will be determined in accordance with the above procedures, provided:

- (1) that in those instances where Federal funds are contingent upon use of a wage rate determined by the U.S. Department of Labor, all other data, no matter how conclusive, will be ignored; and
- (2) that, except when U.S. Department of Labor rates are imposed, the wage rates established will reflect only the basic hourly rates and will not include such fringe benefits as retirement, insurance, vacations, etc.

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123.34 Use of Determination

- (a) Prevailing wage rate determination shall be utilized by the Commission as follows:
  - (1) for establishing wage rate schedules for all projects administered by the Commission in the locality where determination is made for a period of twelve (12) months,
  - (2) maintained in a record file for use by the Commission.
- (b) Option to make changes in the schedule rests solely with the Commission. Once a prevailing rate has been determined and published it will not be changed except under the following conditions:
  - (1) inadvertent omission of a needed rate from the published schedule,
  - (2) overwhelming evidence that the survey data on which determination was based does not reflect the true conditions in the labor market.
- (c) The Commission will respond to any party who protests a wage rate determination, provided:
  - (1) Protest is made in writing listing the rate(s) which is believed to be in error, reasons why the rate(s) is believed incorrect, and the party's name. If the protester is representing an aggrieved party, then that interest must be disclosed and the aggrieved party named.
  - (2) Upon receipt of a protest, staff personnel of the Commission will review its determination, ascertain whether an error has been made, and report to the protesting party what action, if

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any, is to be taken.

- (3) In the event the staff report is not found satisfactory the protesting party may request that the matter be subjected to a full administrative review procedure established by the Commission, the findings of which shall be final.