

By: Nelson

S.B. No. 533

A BILL TO BE ENTITLED

AN ACT

relating to state agency contracting and procurement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2054.1181(a), Government Code, is amended to read as follows:

(a) At the direction of the governor, lieutenant governor, or speaker of the house of representatives ~~[The quality assurance team, in coordination with the governor, may recommend major information resources projects to the department for oversight. As part of this oversight]~~, the department shall provide additional oversight services for major information resources projects, including risk management, quality assurance services, independent project monitoring, and project management. A state agency with a project selected for oversight shall pay for oversight by the department and quality assurance team based on a funding model developed by the department. The department may contract with a vendor to provide the necessary oversight at the department's direction.

SECTION 2. Section 2054.158, Government Code, is amended to read as follows:

Sec. 2054.158. QUALITY ASSURANCE TEAM; DUTIES. (a) The comptroller, state auditor, Legislative Budget Board, and department shall:

(1) create a quality assurance team to perform the

1 duties specified in this chapter and other law; ~~and~~

2 (2) specify in writing the responsibilities of the
3 comptroller, state auditor, Legislative Budget Board, and
4 department in performing the duties; and

5 (3) create an automated project review system.

6 (b) The quality assurance team shall:

7 (1) develop and recommend policies and procedures to
8 improve state agency information resources technology projects;
9 ~~and~~

10 (2) develop and recommend procedures to improve the
11 implementation of state agency information resources technology
12 projects by including considerations for best value and return on
13 investment; and

14 (3) provide annual training for state agency
15 procurement and contract management staff on best practices and
16 methodologies for information technology contracts.

17 (c) The state auditor serves on the quality assurance team
18 as an advisor.

19 SECTION 3. Section 2054.303(a), Government Code, is amended
20 to read as follows:

21 (a) For each proposed major information resources project
22 or major contract, a state agency must prepare:

23 (1) a business case providing the initial
24 justification for the project or contract, including the
25 anticipated return on investment in terms of cost savings and
26 efficiency for the project or contract; ~~and~~

27 (2) a statewide impact analysis of the project's or

1 contract's effect on the state's common information resources
2 infrastructure, including the possibility of reusing code or other
3 resources; and

4 (3) in consultation with the department, a technical
5 architectural assessment of the project or contract.

6 SECTION 4. Section [2054.304](#), Government Code, is amended by
7 adding Subsections (d) and (e) to read as follows:

8 (d) In each project plan for a major information resources
9 project, the state agency shall consider incorporating into the
10 project the applicable best practices recommended in the quality
11 assurance team's annual report.

12 (e) A state agency contract for a major information
13 resources project must comply with the requirements in the
14 comptroller's contract management guide developed under Section
15 [2262.051](#).

16 SECTION 5. Subchapter B, Chapter [2155](#), Government Code, is
17 amended by adding Sections 2155.090 and 2155.091 to read as
18 follows:

19 Sec. 2155.090. VENDOR AND EMPLOYEE INTERACTION AND
20 COMMUNICATION POLICY. The comptroller shall update a contract
21 management guide to include policies on the interactions and
22 communication between employees of the state agency and a vendor
23 that contracts with the state agency or seeks to conduct business
24 with the state agency.

25 (b) This subtitle does not prohibit the exchange of
26 information between a state agency and a vendor related to future
27 solicitations or as necessary to monitor an existing contract.

1 Sec. 2155.091. CHIEF PROCUREMENT OFFICER: POWERS AND
2 DUTIES. (a) The comptroller shall employ a chief procurement
3 officer to serve as the chief procurement officer for this state.

4 (b) The chief procurement officer has authority over state
5 agency procurement, including the authority to:

6 (1) analyze state purchasing data to leverage state
7 purchasing power;

8 (2) provide functional support to state agencies;

9 (3) provide training on state purchasing and contract
10 management;

11 (4) review major contract solicitations for
12 information technology projects monitored by the quality assurance
13 team under Section [2054.158](#);

14 (5) review solicitations for major contracts reviewed
15 by the Contract Advisory Team under Section [2262.101](#);

16 (6) delegate to a state agency authority to contract
17 for the purchase of a good or service valued in an amount specified
18 by comptroller rule; and

19 (7) provide leadership on procurement issues.

20 (c) A state agency shall comply with any request for
21 information from the chief procurement officer necessary to conduct
22 the analysis authorized by Subsection (b)(1).

23 (d) The chief procurement officer shall coordinate with the
24 Department of Information Resources and the quality assurance team
25 to conduct a contract solicitation review required by Subsection
26 (a)(4) and make appropriate recommendations to the comptroller and
27 legislature based on the review. This section grants the chief

1 procurement officer authority only to review a contract
2 solicitation. The Department of Information Resources or the
3 appropriate state agency retains the authority to award a statewide
4 information resources contract as authorized by law.

5 (e) The chief procurement officer shall coordinate with the
6 Contract Advisory Team to conduct the review required by Section
7 2262.101. A state agency shall comply with any request for
8 information by the chief procurement officer that is necessary to
9 conduct the review.

10 SECTION 6. Subchapter D, Chapter 2155, Government Code, is
11 amended by adding Section 2155.205 to read as follows:

12 Sec. 2155.205. INTERSTATE PURCHASING.

13 (a) Notwithstanding Section 2156.181 or other law, the
14 comptroller may enter into agreements to authorize state agencies
15 and political subdivisions of other states to purchase goods or
16 services through comptroller contracts.

17 (b) The comptroller may charge a reasonable administrative
18 fee to state agencies and political subdivisions of other states
19 that purchase a good or service under this section.

20 SECTION 7. Sections 2157.068(e-1) and (e-2), Government
21 Code, are amended to read as follows:

22 (e-1) A state agency contracting to purchase a commodity
23 item shall use the list maintained as required by Subsection (e) as
24 follows:

25 (1) for a contract with a value of \$50,000 or less, the
26 agency may directly award the contract to a vendor included on the
27 list without submission of a request for pricing to other vendors on

1 the list;

2 (2) for a contract with a value of more than \$50,000
3 but not more than \$1 million [~~\$150,000~~], the agency must submit a
4 request for pricing to at least three vendors included on the list
5 in the category to which the contract relates; and

6 (3) for a contract with a value of more than \$1 million
7 [~~\$150,000~~] but not more than \$5 [~~\$1~~] million, the agency must submit
8 a request for pricing to at least six vendors included on the list
9 in the category to which the contract relates or all vendors on the
10 schedule if the category has fewer than six vendors.

11 (e-2) A state agency may not enter into a contract to
12 purchase a commodity item if the value of the contract exceeds \$5
13 [~~\$1~~] million.

14 SECTION 8. Section [2261.252](#), Government Code, is amended by
15 adding Subsections (a-1) and (e) to read as follows:

16 (a-1) A state agency employee or official is required to
17 disclose under Subsection (a) any potential conflict of interest
18 specified by state law or agency policy that is known by the
19 employee or official at any time during:

20 (1) the procurement process, from the initial request
21 for bids for the purchase of goods or services from a private vendor
22 until the completed final delivery of the goods or services; or

23 (2) the term of a contract with a private vendor.

24 (e) This section applies only to a contract for the purchase
25 of goods or services solicited through a purchase order if the
26 amount of the purchase order exceeds \$25,000.

27 SECTION 9. Section [2261.253](#), Government Code, is amended by

1 amending Subsection (b) and adding Subsection (e) to read as
2 follows:

3 (b) [~~A state agency monthly may post contracts described by]~~
4 Subsection (a) does not apply to a contract posted on the major
5 contracts database established under Section 322.020 [~~that are~~
6 ~~valued at less than \$15,000~~].

7 (e) A state agency that posts a contract on its Internet
8 website as required under this section shall redact from the posted
9 contract:

- 10 (1) information that is confidential under law;
11 (2) information the attorney general determines is
12 excepted from public disclosure under Chapter 552; and
13 (3) the social security number of any individual.

14 SECTION 10. Section 2262.101(a), Government Code, is
15 amended to read as follows:

16 (a) The Contract Advisory Team is created to assist state
17 agencies in improving contract management practices by:

18 (1) reviewing and making recommendations on the
19 solicitation documents and contract documents for contracts of
20 state agencies that have a value of at least \$5 [~~\$10~~] million;

21 (2) reviewing any findings or recommendations made by
22 the state auditor, including those made under Section 2262.052(b),
23 regarding a state agency's compliance with the contract management
24 guide;

25 (3) providing recommendations to the comptroller
26 regarding:

27 (A) the development of the contract management

1 guide; and

2 (B) the training under Section 2262.053;

3 (4) providing recommendations and assistance to state
4 agency personnel throughout the contract management process;

5 (5) coordinating and consulting with the quality
6 assurance team established under Section 2054.158 on all contracts
7 relating to a major information resources project;

8 (6) developing and recommending policies and
9 procedures to improve state agency contract management practices;

10 (7) developing and recommending procedures to improve
11 state agency contracting practices by including consideration for
12 best value; and

13 (8) creating and periodically performing a risk
14 assessment to determine the appropriate level of management and
15 oversight of contracts by state agencies.

16 SECTION 11. Section 2262.102, Government Code, is amended
17 by adding Subsection (a-1) to read as follows:

18 (a-1) The chief procurement officer described by Section
19 2155.091 may add members to the team by designating members from
20 state agencies that agree to participate on the team. A state
21 agency may decline a request to participate on the team under this
22 subsection by submitting a written statement declining the request
23 to the chief procurement officer.

24 SECTION 12. Subchapter A, Chapter 8, Education Code, is
25 amended by adding Section 8.012 to read as follows:

26 Sec. 8.012. CONTRACT MANAGEMENT GUIDE. The agency shall
27 comply with the comptroller's contract management guide developed

1 under Section 2262.051, Government Code, in each contract between
2 the agency and a regional education service center established
3 under this chapter.

4 SECTION 13. (a) Not later than January 1, 2018, the
5 comptroller shall:

6 (1) employ a chief procurement officer as required by
7 Section 2155.091, Government Code, as added by this Act;

8 (2) modify the contract management guide as required
9 by Section 2262.051(i), Government Code, as added by this Act; and

10 (3) adopt any rules necessary to implement the changes
11 in law made by this Act.

12 (b) Not later than January 1, 2018, each state agency shall
13 adopt a vendor and employee interaction and communication policy as
14 required by Section 2155.090, Government Code, as added by this
15 Act.

16 (c) The changes in law made by this Act apply only in
17 relation to a contract for which a state agency first advertises or
18 otherwise solicits bids, proposals, offers, or qualifications on or
19 after the effective date of this Act.

20 SECTION 14. This Act takes effect September 1, 2017.