

By: Nelson  
(Geren)

S.B. No. 533

A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to state agency contracting and procurement.

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

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

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

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

24 (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

S.B. No. 533

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

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.