

1-1 By: Nelson S.B. No. 799
 1-2 (In the Senate - Filed February 24, 2021; March 11, 2021,
 1-3 read first time and referred to Committee on Finance;
 1-4 April 6, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 15, Nays 0; April 6, 2021,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Nelson	X			
1-9 Lucio	X			
1-10 Bettencourt	X			
1-11 Buckingham	X			
1-12 Campbell	X			
1-13 Creighton	X			
1-14 Hancock	X			
1-15 Huffman	X			
1-16 Kolthorst	X			
1-17 Nichols	X			
1-18 Perry	X			
1-19 Schwertner	X			
1-20 Taylor	X			
1-21 West	X			
1-22 Whitmire	X			

1-24 COMMITTEE SUBSTITUTE FOR S.B. No. 799 By: Nelson

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to contracting procedures and requirements for
 1-28 governmental entities.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 2054.003(10), Government Code, is
 1-31 amended to read as follows:

1-32 (10) "Major information resources project" means:

1-33 (A) any information resources technology project
 1-34 identified in a state agency's biennial operating plan whose
 1-35 development costs exceed \$5 million and that:

1-36 (i) requires one year or longer to reach
 1-37 operations status;

1-38 (ii) involves more than one state agency;

1-39 or

1-40 (iii) substantially alters work methods of
 1-41 state agency personnel or the delivery of services to clients;

1-42 [~~and~~]

1-43 (B) any information resources technology project
 1-44 designated by the legislature in the General Appropriations Act as
 1-45 a major information resources project; and

1-46 (C) any information resources technology project
 1-47 of a state agency designated for additional monitoring under
 1-48 Section 2261.258(a)(1) if the development costs for the project
 1-49 exceed \$5 million.

1-50 SECTION 2. Section 2054.008(b), Government Code, is amended
 1-51 to read as follows:

1-52 (b) A state agency shall provide written notice to the
 1-53 Legislative Budget Board of a contract for a major information
 1-54 system. The notice must be on a form prescribed by the Legislative
 1-55 Budget Board and filed not later than the 30th [~~10th~~] day after the
 1-56 date the agency enters into the contract.

1-57 SECTION 3. Section 2054.1181(a), Government Code, is
 1-58 amended to read as follows:

1-59 (a) The [~~At the direction of the governor, lieutenant~~
 1-60 ~~governor, or speaker of the house of representatives, the~~]

2-1 department shall provide additional oversight services [~~for major~~
 2-2 ~~information resources projects~~], including risk management,
 2-3 quality assurance services, independent project monitoring, and
 2-4 project management, for major information resources projects
 2-5 described by Section 2054.003(10)(C) and for other major
 2-6 information resources projects selected for oversight by the
 2-7 governor, lieutenant governor, or speaker of the house of
 2-8 representatives. A state agency with a project subject to
 2-9 [selected for] oversight shall pay for oversight by the department
 2-10 and quality assurance team based on a funding model developed by the
 2-11 department. The department may contract with a vendor to provide
 2-12 the necessary oversight at the department's direction.

2-13 SECTION 4. Sections 2155.132(a), (b), and (e), Government
 2-14 Code, are amended to read as follows:

2-15 (a) A state agency is delegated the authority to purchase
 2-16 goods and services if the purchase does not exceed \$50,000
 2-17 [\$15,000]. If the comptroller determines that a state agency has
 2-18 not followed the comptroller's rules or the laws related to the
 2-19 delegated purchases, the comptroller shall report its
 2-20 determination to the members of the state agency's governing body
 2-21 and to the governor, lieutenant governor, speaker of the house of
 2-22 representatives, and Legislative Budget Board.

2-23 (b) The comptroller by rule may delegate to a state agency
 2-24 the authority to purchase goods and services if the purchase
 2-25 exceeds \$50,000 [\$15,000]. In delegating purchasing authority
 2-26 under this subsection or Section 2155.131, the comptroller shall
 2-27 consider factors relevant to a state agency's ability to perform
 2-28 purchasing functions, including:

2-29 (1) the capabilities of the agency's purchasing staff
 2-30 and the existence of automated purchasing tools at the agency;

2-31 (2) the certification levels held by the agency's
 2-32 purchasing personnel;

2-33 (3) the results of the comptroller's procurement
 2-34 review audits of an agency's purchasing practices; and

2-35 (4) whether the agency has adopted and published
 2-36 protest procedures consistent with those of the comptroller as part
 2-37 of its purchasing rules.

2-38 (e) Competitive bidding, whether formal or informal, is
 2-39 required for a purchase by a state agency if the purchase:

2-40 (1) exceeds \$10,000 [\$5,000]; and

2-41 (2) is made under a written contract.

2-42 SECTION 5. Section 2155.144, Government Code, is amended by
 2-43 adding Subsection (o) to read as follows:

2-44 (o) If the Health and Human Services Commission does not
 2-45 receive any responsive bids on a competitive solicitation for goods
 2-46 or services for a state hospital operated by a health and human
 2-47 services agency or a state supported living center as defined by
 2-48 Section 531.002, Health and Safety Code, the commission after
 2-49 making a written determination that competition is not available
 2-50 may negotiate with and award the contract to any qualified vendor
 2-51 who meets the requirements of the original solicitation:

2-52 (1) at a price consistent with the current market
 2-53 value of the goods or services; and

2-54 (2) for a term not to exceed five years.

2-55 SECTION 6. Section 2155.264, Government Code, is amended to
 2-56 read as follows:

2-57 Sec. 2155.264. AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR
 2-58 ACQUISITION OVER \$25,000 [\$15,000]. A state agency that proposes
 2-59 to make a purchase or other acquisition that will cost more than
 2-60 \$25,000 [\$15,000] shall solicit bids or proposals from each
 2-61 eligible vendor on the master bidders list that serves the agency's
 2-62 geographic region. A state agency may also solicit bids or
 2-63 proposals through the use of on-line electronic transmission.

2-64 SECTION 7. Section 2157.068, Government Code, is amended by
 2-65 amending Subsections (e-1) and (e-2) and adding Subsection (e-4) to
 2-66 read as follows:

2-67 (e-1) Except as provided by Subsection (e-4), a [A] state
 2-68 agency contracting to purchase a commodity item shall use the list
 2-69 maintained as required by Subsection (e) as follows:

3-1 (1) for a contract with a value of \$50,000 or less, the
 3-2 agency may directly award the contract to a vendor included on the
 3-3 list without submission of a request for pricing to other vendors on
 3-4 the list;

3-5 (2) for a contract with a value of more than \$50,000
 3-6 but not more than \$1 million, the agency must submit a request for
 3-7 pricing to at least three vendors included on the list in the
 3-8 category to which the contract relates; and

3-9 (3) for a contract with a value of more than \$1 million
 3-10 but not more than \$10 [~~\$5~~] million, the agency must submit a request
 3-11 for pricing to at least six vendors included on the list in the
 3-12 category to which the contract relates or all vendors on the
 3-13 schedule if the category has fewer than six vendors.

3-14 (e-2) A state agency may not enter into a contract to
 3-15 purchase a commodity item if the value of the contract exceeds \$10
 3-16 [~~\$5~~] million.

3-17 (e-4) For a contract with a value of more than \$5 million but
 3-18 not more than \$10 million, a state agency may purchase a commodity
 3-19 item using a purchasing method designated by the comptroller under
 3-20 Section 2157.006(a)(2).

3-21 SECTION 8. Section 2166.2551, Government Code, is amended
 3-22 to read as follows:

3-23 Sec. 2166.2551. CONTRACT NOTIFICATION. The commission or
 3-24 an agency whose project is exempted from all or part of this chapter
 3-25 under Section 2166.003 shall provide written notice to the
 3-26 Legislative Budget Board of a contract for a construction project
 3-27 if the amount of the contract, including an amendment,
 3-28 modification, renewal, or extension of the contract, exceeds
 3-29 \$50,000 [~~\$14,000~~]. The notice must be on a form prescribed by the
 3-30 Legislative Budget Board and filed not later than the 30th [~~10th~~]
 3-31 day after the date the agency enters into the contract.

3-32 SECTION 9. Section 2254.006, Government Code, is amended to
 3-33 read as follows:

3-34 Sec. 2254.006. CONTRACT NOTIFICATION. A state agency,
 3-35 including an institution of higher education as defined by Section
 3-36 61.003, Education Code, shall provide written notice to the
 3-37 Legislative Budget Board of a contract for professional services,
 3-38 other than a contract for physician or optometric services, if the
 3-39 amount of the contract, including an amendment, modification,
 3-40 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
 3-41 The notice must be on a form prescribed by the Legislative Budget
 3-42 Board and filed not later than the 30th [~~10th~~] day after the date
 3-43 the agency enters into the contract.

3-44 SECTION 10. Subchapter A, Chapter 2254, Government Code, is
 3-45 amended by adding Section 2254.008 to read as follows:

3-46 Sec. 2254.008. CONTRACT FOR PROFESSIONAL SERVICES OF
 3-47 PHYSICIANS, OPTOMETRISTS, AND REGISTERED NURSES. (a)
 3-48 Notwithstanding Section 2254.003, if a governmental entity is
 3-49 procuring services provided in connection with the professional
 3-50 employment or practice of a professional described by Section
 3-51 2254.002(2)(B)(v), (vi), or (ix) and the number of contracts to be
 3-52 awarded under this section is not otherwise limited, the
 3-53 governmental entity may make the selection and award on the basis
 3-54 of:

3-55 (1) the provider's agreement to payment of a set fee,
 3-56 as a range or lump-sum amount; and

3-57 (2) the provider's affirmation and the governmental
 3-58 entity's verification that the provider has the necessary
 3-59 occupational licenses and experience.

3-60 (b) Notwithstanding Sections 2155.083 and 2261.051, a
 3-61 contract awarded under this section is not subject to competitive
 3-62 advertising and proposal evaluation requirements.

3-63 SECTION 11. Section 2254.0301(a), Government Code, is
 3-64 amended to read as follows:

3-65 (a) A state agency shall provide written notice to the
 3-66 Legislative Budget Board of a contract for consulting services if
 3-67 the amount of the contract, including an amendment, modification,
 3-68 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
 3-69 The notice must be on a form prescribed by the Legislative Budget

4-1 Board and filed not later than the 30th [~~10th~~] day after the date
4-2 the entity enters into the contract.

4-3 SECTION 12. Section 2262.051, Government Code, is amended
4-4 by adding Subsections (i) and (j) to read as follows:

4-5 (i) The guide must include:

4-6 (1) instructions to assist a state agency in
4-7 identifying the agency procurements that require an additional or
4-8 secondary agency employee to serve as a contact for the procurement
4-9 and establishing procedures for notifying vendors when to contact
4-10 the additional or secondary agency employee;

4-11 (2) a general outline for the training a state agency
4-12 must provide to the agency's procurement evaluators related to the
4-13 goods and services the evaluator reviews for purchase by the
4-14 agency; and

4-15 (3) the information a state agency must include in a
4-16 contract file on the evaluator for that procurement, including the
4-17 reasons the person was selected and the person's relevant
4-18 qualifications.

4-19 (j) For a procurement in an amount that exceeds \$20 million,
4-20 the guide must require a state agency to notify interested parties
4-21 at least two months before the date the agency issues the
4-22 solicitation for the procurement.

4-23 SECTION 13. Section 264.603(a), Family Code, is amended to
4-24 read as follows:

4-25 (a) The commission shall contract with one statewide
4-26 organization that is exempt from federal income taxation under
4-27 Section 501(a), Internal Revenue Code of 1986, as an organization
4-28 described by Section 501(c)(3) of that code [~~and designated as a~~
4-29 ~~supporting organization under Section 509(a)(3) of that code,~~] and
4-30 that is composed of individuals or groups of individuals who have
4-31 expertise in the dynamics of child abuse and neglect and experience
4-32 in operating volunteer advocate programs to provide training,
4-33 technical assistance, and evaluation services for the benefit of
4-34 local volunteer advocate programs. The contract shall:

4-35 (1) include measurable goals and objectives relating
4-36 to the number of:

- 4-37 (A) volunteer advocates in the program; and
- 4-38 (B) children receiving services from the
- 4-39 program; and

4-40 (2) follow practices designed to ensure compliance
4-41 with standards referenced in the contract.

4-42 SECTION 14. The changes in law made by this Act apply only
4-43 to a contract for which a state agency first advertises or otherwise
4-44 solicits offers, bids, proposals, qualifications, or other
4-45 applicable expressions of interest on or after the effective date
4-46 of this Act. A contract for which a state agency first advertises
4-47 or otherwise solicits offers, bids, proposals, qualifications, or
4-48 other applicable expressions of interest before the effective date
4-49 of this Act is governed by the law as it existed immediately before
4-50 the effective date of this Act, and that law is continued in effect
4-51 for that purpose.

4-52 SECTION 15. As soon as practicable after the effective date
4-53 of this Act, the Department of Information Resources shall adopt
4-54 rules necessary to implement the changes in law made by this Act.

4-55 SECTION 16. If before implementing any provision of this
4-56 Act a state agency determines that a waiver or authorization from a
4-57 federal agency is necessary for implementation of that provision,
4-58 the agency affected by the provision shall request the waiver or
4-59 authorization and may delay implementing that provision until the
4-60 waiver or authorization is granted.

4-61 SECTION 17. This Act takes effect September 1, 2021.

4-62 * * * * *