

By: Nelson

S.B. No. 799

A BILL TO BE ENTITLED

AN ACT

relating to contracting procedures and requirements for governmental entities.

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

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

(10) "Major information resources project" means:

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

(i) requires one year or longer to reach operations status;

(ii) involves more than one state agency;

or

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

~~and~~

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

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

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

3 (b) A state agency shall provide written notice to the
4 Legislative Budget Board of a contract for a major information
5 system. The notice must be on a form prescribed by the Legislative
6 Budget Board and filed not later than the 30th [~~10th~~] day after the
7 date the agency enters into the contract.

8 SECTION 3. Section 2054.1181(a), Government Code, is
9 amended to read as follows:

10 (a) The [~~At the direction of the governor, lieutenant~~
11 ~~governor, or speaker of the house of representatives, the~~]
12 department shall provide additional oversight services [~~for major~~
13 ~~information resources projects~~], including risk management,
14 quality assurance services, independent project monitoring, and
15 project management, for major information resources projects
16 described by Section 2054.003(10)(C) and for other major
17 information resources projects selected for oversight by the
18 governor, lieutenant governor, or speaker of the house of
19 representatives. A state agency with a project subject to
20 [~~selected for~~] oversight shall pay for oversight by the department
21 and quality assurance team based on a funding model developed by the
22 department. The department may contract with a vendor to provide
23 the necessary oversight at the department's direction.

24 SECTION 4. Sections 2155.132(a), (b), and (e), Government
25 Code, are amended to read as follows:

26 (a) A state agency is delegated the authority to purchase
27 goods and services if the purchase does not exceed \$50,000

1 [~~\$15,000~~]. If the comptroller determines that a state agency has
2 not followed the comptroller's rules or the laws related to the
3 delegated purchases, the comptroller shall report its
4 determination to the members of the state agency's governing body
5 and to the governor, lieutenant governor, speaker of the house of
6 representatives, and Legislative Budget Board.

7 (b) The comptroller by rule may delegate to a state agency
8 the authority to purchase goods and services if the purchase
9 exceeds \$50,000 [~~\$15,000~~]. In delegating purchasing authority
10 under this subsection or Section [2155.131](#), the comptroller shall
11 consider factors relevant to a state agency's ability to perform
12 purchasing functions, including:

13 (1) the capabilities of the agency's purchasing staff
14 and the existence of automated purchasing tools at the agency;

15 (2) the certification levels held by the agency's
16 purchasing personnel;

17 (3) the results of the comptroller's procurement
18 review audits of an agency's purchasing practices; and

19 (4) whether the agency has adopted and published
20 protest procedures consistent with those of the comptroller as part
21 of its purchasing rules.

22 (e) Competitive bidding, whether formal or informal, is
23 required for a purchase by a state agency if the purchase:

24 (1) exceeds \$10,000 [~~\$5,000~~]; and

25 (2) is made under a written contract.

26 SECTION 5. Section [2155.144](#), Government Code, is amended by
27 adding Subsection (o) to read as follows:

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

9 (1) at a price consistent with the current market
10 value of the goods or services; and

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

12 SECTION 6. Section 2155.264, Government Code, is amended to
13 read as follows:

14 Sec. 2155.264. AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR
15 ACQUISITION OVER \$25,000 [~~\$15,000~~]. A state agency that proposes
16 to make a purchase or other acquisition that will cost more than
17 \$25,000 [~~\$15,000~~] shall solicit bids or proposals from each
18 eligible vendor on the master bidders list that serves the agency's
19 geographic region. A state agency may also solicit bids or
20 proposals through the use of on-line electronic transmission.

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

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

27 (1) for a contract with a value of \$50,000 or less, the

1 agency may directly award the contract to a vendor included on the
2 list without submission of a request for pricing to other vendors on
3 the list;

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

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

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

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

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

22 Sec. 2166.2551. CONTRACT NOTIFICATION. The commission or
23 an agency whose project is exempted from all or part of this chapter
24 under Section 2166.003 shall provide written notice to the
25 Legislative Budget Board of a contract for a construction project
26 if the amount of the contract, including an amendment,
27 modification, renewal, or extension of the contract, exceeds

1 \$50,000 [~~\$14,000~~]. The notice must be on a form prescribed by the
2 Legislative Budget Board and filed not later than the 30th [~~10th~~]
3 day after the date the agency enters into the contract.

4 SECTION 9. Section 2254.006, Government Code, is amended to
5 read as follows:

6 Sec. 2254.006. CONTRACT NOTIFICATION. A state agency,
7 including an institution of higher education as defined by Section
8 61.003, Education Code, shall provide written notice to the
9 Legislative Budget Board of a contract for professional services,
10 other than a contract for physician or optometric services, if the
11 amount of the contract, including an amendment, modification,
12 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
13 The notice must be on a form prescribed by the Legislative Budget
14 Board and filed not later than the 30th [~~10th~~] day after the date
15 the agency enters into the contract.

16 SECTION 10. Subchapter A, Chapter 2254, Government Code, is
17 amended by adding Section 2254.008 to read as follows:

18 Sec. 2254.008. CONTRACT FOR PROFESSIONAL SERVICES OF
19 PHYSICIANS, OPTOMETRISTS, AND REGISTERED NURSES. (a)
20 Notwithstanding Section 2254.003, if a governmental entity is
21 procuring services provided in connection with the professional
22 employment or practice of a professional described by Section
23 2254.002(2)(B)(v), (vi), or (ix) and the number of contracts to be
24 awarded under this section is not otherwise limited, the
25 governmental entity may make the selection and award on the basis
26 of:

27 (1) the provider's agreement to payment of a set fee,

1 as a range or lump-sum amount; and

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

5 (b) Notwithstanding Sections 2155.083 and 2261.051, a
6 contract awarded under this section is not subject to competitive
7 advertising and proposal evaluation requirements.

8 SECTION 11. Section 2254.0301(a), Government Code, is
9 amended to read as follows:

10 (a) A state agency shall provide written notice to the
11 Legislative Budget Board of a contract for consulting services if
12 the amount of the contract, including an amendment, modification,
13 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
14 The notice must be on a form prescribed by the Legislative Budget
15 Board and filed not later than the 30th [~~10th~~] day after the date
16 the entity enters into the contract.

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

19 (i) The guide must include:

20 (1) instructions to assist a state agency in
21 identifying the agency procurements that require an additional or
22 secondary agency employee to serve as a contact for the procurement
23 and establishing procedures for notifying vendors when to contact
24 the additional or secondary agency employee;

25 (2) a general outline for the training a state agency
26 must provide to the agency's procurement evaluators related to the
27 goods and services the evaluator reviews for purchase by the

1 agency; and

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

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

10 SECTION 13. Section 264.603(a), Family Code, is amended to
11 read as follows:

12 (a) The commission shall contract with one statewide
13 organization that is exempt from federal income taxation under
14 Section 501(a), Internal Revenue Code of 1986, as an organization
15 described by Section 501(c)(3) of that code [~~and designated as a~~
16 ~~supporting organization under Section 509(a)(3) of that code,~~] and
17 that is composed of individuals or groups of individuals who have
18 expertise in the dynamics of child abuse and neglect and experience
19 in operating volunteer advocate programs to provide training,
20 technical assistance, and evaluation services for the benefit of
21 local volunteer advocate programs. The contract shall:

22 (1) include measurable goals and objectives relating
23 to the number of:

24 (A) volunteer advocates in the program; and

25 (B) children receiving services from the
26 program; and

27 (2) follow practices designed to ensure compliance

1 with standards referenced in the contract.

2 SECTION 14. The changes in law made by this Act apply only
3 to a contract for which a state agency first advertises or otherwise
4 solicits offers, bids, proposals, qualifications, or other
5 applicable expressions of interest on or after the effective date
6 of this Act. A contract for which a state agency first advertises
7 or otherwise solicits offers, bids, proposals, qualifications, or
8 other applicable expressions of interest before the effective date
9 of this Act is governed by the law as it existed immediately before
10 the effective date of this Act, and that law is continued in effect
11 for that purpose.

12 SECTION 15. As soon as practicable after the effective date
13 of this Act, the Department of Information Resources shall adopt
14 rules necessary to implement the changes in law made by this Act.

15 SECTION 16. If before implementing any provision of this
16 Act a state agency determines that a waiver or authorization from a
17 federal agency is necessary for implementation of that provision,
18 the agency affected by the provision shall request the waiver or
19 authorization and may delay implementing that provision until the
20 waiver or authorization is granted.

21 SECTION 17. This Act takes effect September 1, 2021.