

By: Nelson
(Paddie)

S.B. No. 799

Substitute the following for S.B. No. 799:

By: Paddie

C.S.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 531.102, Government Code, is amended by adding Subsections (m-1) and (m-2) to read as follows:

(m-1) If the commission does not receive any responsive bids under Chapter 2155 on a competitive solicitation for the services of a qualified expert to review investigative findings under Subsection (l) or (m) and the number of contracts to be awarded under this subsection is not otherwise limited, the commission may negotiate with and award a contract for the services to a qualified expert on the basis of:

(1) the contractor's agreement to a set fee, either as a range or lump-sum amount; and

(2) the contractor's affirmation and the office's verification that the contractor possesses the necessary occupational licenses and experience.

(m-2) Notwithstanding Sections 2155.083 and 2261.051, a contract awarded under Subsection (m-1) is not subject to competitive advertising and proposal evaluation requirements.

SECTION 2. Section 2054.003(10), Government Code, is amended to read as follows:

(10) "Major information resources project" means:

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

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

6 (ii) involves more than one state agency;
7 or

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

10 [~~and~~]

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

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

18 SECTION 3. Section 2054.008(b), Government Code, is amended
19 to read as follows:

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

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

27 (a) The [~~At the direction of the governor, lieutenant~~

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

14 SECTION 5. Sections 2155.132(a), (b), and (e), Government
15 Code, are amended to read as follows:

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

24 (b) The comptroller by rule may delegate to a state agency
25 the authority to purchase goods and services if the purchase
26 exceeds \$50,000 [~~\$15,000~~]. In delegating purchasing authority
27 under this subsection or Section 2155.131, the comptroller shall

1 consider factors relevant to a state agency's ability to perform
2 purchasing functions, including:

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

5 (2) the certification levels held by the agency's
6 purchasing personnel;

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

9 (4) whether the agency has adopted and published
10 protest procedures consistent with those of the comptroller as part
11 of its purchasing rules.

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

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

15 (2) is made under a written contract.

16 SECTION 6. Section [2155.144](#), Government Code, is amended by
17 adding Subsection (o) to read as follows:

18 (o) If the Health and Human Services Commission does not
19 receive any responsive bids on a competitive solicitation for goods
20 or services for a state hospital operated by a health and human
21 services agency or a state supported living center as defined by
22 Section [531.002](#), Health and Safety Code, the commission after
23 making a written determination that competition is not available
24 may negotiate with and award the contract to any qualified vendor
25 who meets the requirements of the original solicitation:

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

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

2 SECTION 7. Section 2155.264, Government Code, is amended to
3 read as follows:

4 Sec. 2155.264. AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR
5 ACQUISITION OVER \$25,000 [~~\$15,000~~]. A state agency that proposes
6 to make a purchase or other acquisition that will cost more than
7 \$25,000 [~~\$15,000~~] shall solicit bids or proposals from each
8 eligible vendor on the master bidders list that serves the agency's
9 geographic region. A state agency may also solicit bids or
10 proposals through the use of on-line electronic transmission.

11 SECTION 8. Section 2157.068, Government Code, is amended by
12 amending Subsections (e-1) and (e-2) and adding Subsection (e-4) to
13 read as follows:

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

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

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

25 (3) for a contract with a value of more than \$1 million
26 but not more than \$10 [~~\$5~~] million, the agency must submit a request
27 for pricing to at least six vendors included on the list in the

1 category to which the contract relates or all vendors on the
2 schedule if the category has fewer than six vendors.

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

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

10 SECTION 9. Section 2166.2551, Government Code, is amended
11 to read as follows:

12 Sec. 2166.2551. CONTRACT NOTIFICATION. The commission or
13 an agency whose project is exempted from all or part of this chapter
14 under Section 2166.003 shall provide written notice to the
15 Legislative Budget Board of a contract for a construction project
16 if the amount of the contract, including an amendment,
17 modification, renewal, or extension of the contract, exceeds
18 \$50,000 [~~\$14,000~~]. The notice must be on a form prescribed by the
19 Legislative Budget Board and filed not later than the 30th [~~10th~~]
20 day after the date the agency enters into the contract.

21 SECTION 10. Section 2254.006, Government Code, is amended
22 to read as follows:

23 Sec. 2254.006. CONTRACT NOTIFICATION. A state agency,
24 including an institution of higher education as defined by Section
25 61.003, Education Code, shall provide written notice to the
26 Legislative Budget Board of a contract for professional services,
27 other than a contract for physician or optometric services, if the

1 amount of the contract, including an amendment, modification,
2 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
3 The notice must be on a form prescribed by the Legislative Budget
4 Board and filed not later than the 30th [~~10th~~] day after the date
5 the agency enters into the contract.

6 SECTION 11. Subchapter A, Chapter 2254, Government Code, is
7 amended by adding Section 2254.008 to read as follows:

8 Sec. 2254.008. CONTRACT FOR PROFESSIONAL SERVICES OF
9 PHYSICIANS, OPTOMETRISTS, AND REGISTERED NURSES. (a)
10 Notwithstanding Section 2254.003, if a governmental entity is
11 procuring services provided in connection with the professional
12 employment or practice of a professional described by Section
13 2254.002(2)(B)(v), (vi), or (ix) and the number of contracts to be
14 awarded under this section is not otherwise limited, the
15 governmental entity may make the selection and award on the basis
16 of:

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

19 (2) the provider's affirmation and the governmental
20 entity's verification that the provider has the necessary
21 occupational licenses and experience.

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

25 SECTION 12. Section 2254.0301(a), Government Code, is
26 amended to read as follows:

27 (a) A state agency shall provide written notice to the

1 Legislative Budget Board of a contract for consulting services if
2 the amount of the contract, including an amendment, modification,
3 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
4 The notice must be on a form prescribed by the Legislative Budget
5 Board and filed not later than the 30th [~~10th~~] day after the date
6 the entity enters into the contract.

7 SECTION 13. Section 2262.051, Government Code, is amended
8 by adding Subsections (i) and (j) to read as follows:

9 (i) The guide must include:

10 (1) instructions to assist a state agency in
11 identifying the agency procurements that require an additional or
12 secondary agency employee to serve as a contact for the procurement
13 and establishing procedures for notifying vendors when to contact
14 the additional or secondary agency employee;

15 (2) a general outline for the training a state agency
16 must provide to the agency's procurement evaluators related to the
17 goods and services the evaluator reviews for purchase by the
18 agency; and

19 (3) for a procurement in an amount that exceeds \$20
20 million, the information a state agency must include in a contract
21 file on the evaluator for that procurement, including the reasons
22 the person was selected and the person's relevant qualifications.

23 (j) For a procurement in an amount that exceeds \$20 million
24 other than a contract entered into by the comptroller under Section
25 2155.061, the guide must require a state agency to notify
26 interested parties at least two months before the date the agency
27 issues the solicitation for the procurement.

1 SECTION 14. Section 264.603(a), Family Code, is amended to
2 read as follows:

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

13 (1) include measurable goals and objectives relating
14 to the number of:

15 (A) volunteer advocates in the program; and

16 (B) children receiving services from the
17 program; and

18 (2) follow practices designed to ensure compliance
19 with standards referenced in the contract.

20 SECTION 15. The changes in law made by this Act apply only
21 to a contract for which a state agency first advertises or otherwise
22 solicits offers, bids, proposals, qualifications, or other
23 applicable expressions of interest on or after the effective date
24 of this Act. A contract for which a state agency first advertises
25 or otherwise solicits offers, bids, proposals, qualifications, or
26 other applicable expressions of interest before the effective date
27 of this Act is governed by the law as it existed immediately before

1 the effective date of this Act, and that law is continued in effect
2 for that purpose.

3 SECTION 16. As soon as practicable after the effective date
4 of this Act, the Department of Information Resources shall adopt
5 rules necessary to implement the changes in law made by this Act.

6 SECTION 17. If before implementing any provision of this
7 Act a state agency determines that a waiver or authorization from a
8 federal agency is necessary for implementation of that provision,
9 the agency affected by the provision shall request the waiver or
10 authorization and may delay implementing that provision until the
11 waiver or authorization is granted.

12 SECTION 18. This Act takes effect September 1, 2021.