

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).

SECTION 2. Section 2054.008(b), Government Code, is amended

1 to read as follows:

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

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

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

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

25 (a) A state agency is delegated the authority to purchase
26 goods and services if the purchase does not exceed \$50,000
27 [~~\$15,000~~]. If the comptroller determines that a state agency has

1 not followed the comptroller's rules or the laws related to the
2 delegated purchases, the comptroller shall report its
3 determination to the members of the state agency's governing body
4 and to the governor, lieutenant governor, speaker of the house of
5 representatives, and Legislative Budget Board.

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

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

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

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

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

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

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

24 (2) is made under a written contract.

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

27 (o) If the Health and Human Services Commission does not

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

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

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

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

13 Sec. 2155.264. AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR
14 ACQUISITION OVER \$10,000 [~~\$15,000~~]. A state agency that proposes
15 to make a purchase or other acquisition that will cost more than
16 \$10,000 [~~\$15,000~~] shall solicit bids or proposals from each
17 eligible vendor on the master bidders list that serves the agency's
18 geographic region. A state agency may also solicit bids or
19 proposals through the use of on-line electronic transmission.

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

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

26 (1) for a contract with a value of \$50,000 or less, the
27 agency may directly award the contract to a vendor included on the

1 list without submission of a request for pricing to other vendors on
2 the list;

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

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

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

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

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

21 Sec. 2166.2551. CONTRACT NOTIFICATION. The commission or
22 an agency whose project is exempted from all or part of this chapter
23 under Section 2166.003 shall provide written notice to the
24 Legislative Budget Board of a contract for a construction project
25 if the amount of the contract, including an amendment,
26 modification, renewal, or extension of the contract, exceeds
27 \$50,000 [~~\$14,000~~]. The notice must be on a form prescribed by the

1 Legislative Budget Board and filed not later than the 30th [~~10th~~]
2 day after the date the agency enters into the contract.

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

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

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

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

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

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

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

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

9 (a) A state agency shall provide written notice to the
10 Legislative Budget Board of a contract for consulting services if
11 the 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 entity enters into the contract.

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

19 SECTION 13. The changes in law made by this Act apply only
20 to a contract for which a governmental entity first advertises or
21 otherwise requests offers, bids, proposals, qualifications, or
22 other applicable expressions of interest on or after the effective
23 date of this Act. A contract for which a governmental entity first
24 advertises or otherwise requests offers, bids, proposals,
25 qualifications, or other applicable expressions of interest before
26 the effective date of this Act is governed by the law as it existed
27 immediately before the effective date of this Act, and that law is

1 continued in effect for that purpose.

2 SECTION 14. If before implementing any provision of this
3 Act a state agency determines that a waiver or authorization from a
4 federal agency is necessary for implementation of that provision,
5 the agency affected by the provision shall request the waiver or
6 authorization and may delay implementing that provision until the
7 waiver or authorization is granted.

8 SECTION 15. This Act takes effect September 1, 2021.