

By: Cook of Colorado

H.B. No. 3046

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the state purchasing powers and duties of the Texas  
3 Building and Procurement Commission, including transferring  
4 certain functions from the attorney general and state auditor to  
5 the commission.

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

7 SECTION 1. Section 2155.078(k), Government Code, is amended  
8 to read as follows:

9 (k) The commission shall require a reasonable number of [24]  
10 hours of continuing education [~~each year~~] to maintain a  
11 certification level. The commission may allow attendance at  
12 equivalent certification training recognized by the commission to  
13 count toward the required number of [up to 16] hours [of the  
14 ~~continuing education requirement]~~. Maintenance of the  
15 certification level may be by yearly renewal or another reasonable  
16 renewal period comparable to nationally recognized certification  
17 requirements.

18 SECTION 2. Section 2155.141, Government Code, is amended to  
19 read as follows:

20 Sec. 2155.141. [~~CERTAIN OTHER~~] PURCHASES FOR AUXILIARY  
21 ENTERPRISE NOT WITHIN COMMISSION'S PURCHASING AUTHORITY. The  
22 commission's authority does not extend to a purchase of goods and  
23 services[+]

24 [~~(1) for resale,~~

1           ~~[(2)]~~ for an auxiliary enterprise~~[, or~~  
2           ~~[(3) for an organized activity relating to an~~  
3 ~~instructional department of an institution of higher learning or a~~  
4 ~~similar activity of another state agency]~~.

5           SECTION 3. Subchapter I, Chapter 2155, Government Code, is  
6 amended by adding Section 2155.510 to read as follows:

7           Sec. 2155.510. REBATES. The commission may collect a  
8 rebate from a vendor under a contract listed on a schedule developed  
9 under this subchapter.

10          SECTION 4. Section 2157.0611, Government Code, is amended  
11 to read as follows:

12          Sec. 2157.0611. REQUIREMENT TO EVALUATE THREE PROPOSALS  
13 WHEN POSSIBLE. A catalogue purchase or lease that exceeds \$2,000 or  
14 a greater amount prescribed by commission rule shall, when  
15 possible, be based on an evaluation of at least three catalogue  
16 proposals made to the commission or other state agency by catalogue  
17 ~~[qualified]~~ information systems vendors. If at least three  
18 catalogue proposals are not evaluated by the commission or other  
19 state agency before a purchase or lease that exceeds the threshold  
20 amount is made, the commission or other agency shall document the  
21 reasons for that fact before making the purchase or lease under  
22 Section 2157.063.

23          SECTION 5. Section 2157.062, Government Code, is amended to  
24 read as follows:

25          Sec. 2157.062. BASIC REQUIREMENTS FOR CATALOGUE  
26 [APPLICATION PROCESS FOR QUALIFICATION AS] VENDOR. ~~[(a) To sell or~~  
27 ~~lease an automated information system under this subchapter to a~~

1 ~~state agency, a vendor must apply to the commission for designation~~  
2 ~~as a qualified information systems vendor. The commission shall~~  
3 ~~prescribe the application process. The commission may allow or~~  
4 ~~require a vendor to apply on-line.~~

5 ~~[(b)]~~ At a minimum, a catalogue information systems vendor  
6 must ~~[the commission shall require an applicant to submit]:~~

7 (1) maintain a catalogue containing each product and  
8 service eligible for purchase by a state agency, including for each  
9 product or service:

10 (A) a description;

11 (B) the list price; and

12 (C) the price to a state agency;

13 (2) maintain a maintenance, repair, and support plan  
14 for each eligible product or service;

15 (3) provide on request proof of the applicant's  
16 financial resources and ability to perform; and

17 (4) provide a guarantee that the vendor will make  
18 available equivalent replacement parts for a product sold to the  
19 state until at least the third anniversary of the date the product  
20 is discontinued.

21 SECTION 6. Section 2157.063(a), Government Code, is amended  
22 to read as follows:

23 (a) If a purchase or lease is the best value available and is  
24 in the state's best interest, a state agency may under this  
25 subchapter purchase or lease an automated information system  
26 directly from a catalogue ~~[qualified]~~ information systems vendor  
27 and may negotiate price and additional terms and conditions to be

1 included in a contract relating to the purchase or lease.

2 SECTION 7. Sections 2157.066(a), (c), (d), and (f),  
3 Government Code, are amended to read as follows:

4 (a) A catalogue [~~vendor designated by the commission as a~~  
5 ~~qualified~~] information systems vendor shall publish and maintain a  
6 catalogue described by Section 2157.062(1) [~~Section~~  
7 ~~2157.062(b)(1)~~] in the manner required by the commission.

8 (c) The commission shall make the catalogue information  
9 available on the world wide web, or on a suitable successor to the  
10 world wide web if the technological developments involving the  
11 Internet make it advisable to do so. The commission shall require  
12 each catalogue [~~qualified~~] information systems vendor to maintain  
13 its approved catalogue on the web, or an analogous feature on a  
14 suitable successor, through which the vendor makes the vendor's  
15 current catalogue information publicly available. The commission  
16 shall maintain the necessary databases and indexing functions  
17 through which a state agency or the public may efficiently search  
18 for and find each catalogue [~~qualified~~] information systems  
19 vendor's catalogue information on the web or on a suitable  
20 successor.

21 (d) The commission shall phase in the requirement that all  
22 catalogue information must be available on the world wide web and  
23 shall allow or require catalogue [~~qualified~~] information systems  
24 vendors to publish catalogues on paper until the commission  
25 determines that the automated information capabilities of the  
26 state, of political subdivisions, and of vendors are sufficient for  
27 the commission to require that all catalogues be made available

1 electronically. The commission shall prescribe its requirements  
2 and the timing of its requirements under this section by rule.

3 (f) The commission may audit a catalogue [~~qualified~~]  
4 information systems vendor's approved catalogue for compliance  
5 with Subsection (c).

6 SECTION 8. Section 2157.068(b), Government Code, is amended  
7 to read as follows:

8 (b) The department shall negotiate with catalogue  
9 [~~qualified~~] information systems vendors to attempt to obtain a  
10 favorable price for all of state government on licenses for  
11 commodity software items, based on the aggregate volume of  
12 purchases expected to be made by the state. The terms and  
13 conditions of a license agreement between a vendor and the  
14 department under this section may not be less favorable to the state  
15 than the terms of similar license agreements between the vendor and  
16 retail distributors.

17 SECTION 9. Section 2262.001, Government Code, is amended by  
18 adding Subdivision (1-a) to read as follows:

19 (1-a) "Commission" means the Texas Building and  
20 Procurement Commission.

21 SECTION 10. Sections 2262.051(a) and (b), Government Code,  
22 are amended to read as follows:

23 (a) In consultation with the attorney general [~~Texas~~  
24 ~~Building and Procurement Commission~~], the Department of  
25 Information Resources, the comptroller, and the state auditor, the  
26 commission [~~attorney general~~] shall develop or [~~and~~] periodically  
27 update a contract management guide for use by state agencies.

1 (b) The commission [~~attorney general~~] may adopt rules  
2 necessary to develop or update the guide.

3 SECTION 11. Section 2262.052(b), Government Code, is  
4 amended to read as follows:

5 (b) The state auditor shall:

6 (1) periodically monitor compliance with this  
7 section;

8 (2) report any noncompliance to:

9 (A) the governor;

10 (B) the lieutenant governor;

11 (C) the speaker of the house of representatives;

12 and

13 (D) the team; and

14 (3) assist, in coordination with the commission  
15 [~~attorney general~~] and the comptroller, a noncomplying state agency  
16 to comply with this section.

17 SECTION 12. Section 2262.053(a), Government Code, is  
18 amended to read as follows:

19 (a) In coordination with the [~~Texas Building and~~  
20 ~~Procurement Commission, the~~] comptroller[~~7~~] and the Department of  
21 Information Resources, the commission [~~state auditor~~] shall  
22 develop or administer a training program for contract managers.

23 SECTION 13. Section 2262.054, Government Code, is amended  
24 to read as follows:

25 Sec. 2262.054. PUBLIC COMMENT. The commission [~~attorney~~  
26 ~~general~~] by rule may establish procedures by which each state  
27 agency is required to invite public comment by publishing the

1 proposed technical specifications for major contracts on the  
2 Internet through the information service known as the Texas  
3 Marketplace or through a suitable successor information service.  
4 The guide must define "technical specifications."

5 SECTION 14. Section 2262.101, Government Code, is amended  
6 to read as follows:

7 Sec. 2262.101. CREATION; DUTIES. The Contract Advisory  
8 Team is created to assist state agencies in improving contract  
9 management practices by:

10 (1) reviewing the solicitation of major contracts by  
11 state agencies;

12 (2) reviewing any findings or recommendations made by  
13 the state auditor, including those made under Section 2262.052(b),  
14 regarding a state agency's compliance with the contract management  
15 guide; and

16 (3) providing recommendations to the commission  
17 regarding:

18 (A) [~~the attorney general regarding~~] the  
19 development of the contract management guide; and

20 (B) [~~the state auditor regarding~~] the training  
21 under Section 2262.053.

22 SECTION 15. (a) Sections 2155.078(n), 2155.142, 2155.144,  
23 2155.1441, 2157.001(2), 2157.064, 2157.065, and 2157.068,  
24 Government Code, are repealed.

25 (b) Section 51.9335, Education Code, is repealed.

26 SECTION 16. The changes in law made by this Act to Section  
27 2155.141, Government Code, apply only to a purchase made on or after

1 the effective date of this Act. A purchase made before the  
2 effective date of this Act is covered by the law in effect when the  
3 purchase was made, and the former law is continued in effect for  
4 that purpose.

5 SECTION 17. (a) In this section, "commission" means the  
6 Texas Building and Procurement Commission.

7 (b) Not later than February 1, 2004:

8 (1) the attorney general and state auditor shall  
9 complete the transfer of powers and duties to the commission under  
10 Chapter 2262, Government Code, as amended by this Act;

11 (2) a rule or form adopted by the attorney general or  
12 state auditor under Chapter 2262, Government Code, is a rule or form  
13 of the commission and remains in effect until changed by the  
14 commission;

15 (3) the commission assumes, without a change in  
16 status, the position of the attorney general or state auditor with  
17 respect to any matter regarding which the duties of the attorney  
18 general or state auditor under Chapter 2262, Government Code, have  
19 been transferred to the commission;

20 (4) all property, including records, and rights and  
21 obligations of the attorney general and state auditor related to  
22 those entities' express duties under Chapter 2262, Government Code,  
23 are transferred to the commission; and

24 (5) all funds appropriated by the legislature to the  
25 attorney general and state auditor related to those entities'  
26 express powers and duties under Chapter 2262, Government Code, are  
27 transferred to the commission.



1           SECTION 18. This Act takes effect immediately if it  
2 receives a vote of two-thirds of all the members elected to each  
3 house, as provided by Section 39, Article III, Texas Constitution.  
4 If this Act does not receive the vote necessary for immediate  
5 effect, this Act takes effect September 1, 2003.