

## **BILL ANALYSIS**

C.S.H.B. 2918  
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Government Reform  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Two state agencies manage procurement in Texas. Department of Information Resources (department) is responsible for procurement of commodities and services for information technology (IT), while the Texas Building and Procurement Commission (commission) has authority for procurement of other commodities.

Aspects of the commission's procurement authority overlap and impact the department's ability to obtain the best value for the state in purchases of IT commodities and services. Specifically, IT vendors must register with the Catalog Information System Vendor (CISV) of the commission. Also, under the Texas Multiple Award Contract (TxMAS) Program, the commission may authorize a technology vendor to sell to state agencies if the vendor has an existing contract through the U.S. General Services Administration.

Likewise, state law includes a number of provisions that address procurement requirements and processes. While many contracting responsibilities appropriately reside at the agency level, tools established by the 79th Legislature, including the Texas Project Delivery Framework, provide processes that could further support agencies in developing more effective procurement practices and contracts.

The bill resolves all these issues by consolidating the requirements for purchasing information technology commodities at the department, allows "assistance organizations" to use department cooperative contracts, and enhances training requirements for contract managers.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Building and Procurement Commission in SECTION 9 of this bill.

### **ANALYSIS**

The bill amends the Government Code to allow an "assistance organization" to purchase from Department of Information Resources' (department) contracts. The bill also requires major contracts for business process outsourcing to use the Project Delivery Framework process.

The bill amends the Government Code and Education Code to eliminate the catalog purchase method, and transfers the authority for using multiple award contract schedules from the Texas Building and Procurement Commission (commission) to the department.

The bill reiterates current law that specific agency purchases that exempted from using department contracts must use the purchasing methods of the commission to make the purchase, and that local governments may purchase information technology commodities through department or commission.

The bill requires the commission to include in the contract management guide standards and guidelines for the Project Delivery Framework, and requires that contract manager training include information on advanced procurement strategies. The bill also deletes certain requirements related to the catalog information system vendor process.

The bill stipulates that Subchapter J, Chapter 2054, Government Code, as amended by this Act, applies only to a major contract entered into on or after the effective date of this Act. A major

contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose. Additionally, the commission must comply with Sections 2157.006(c) and 2262.051(h), Government Code, as added by this Act, and Section 2262.053(b), Government Code, as amended by this Act, not later than October 1, 2007.

Lastly, the bill makes conforming changes.

### **EFFECTIVE DATE**

September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute amends the Education Code, Section 44.031(a), by deleting a reference to the Catalog Purchase Method in the Education Code; whereas the original bill does not.

The substitute amends the Section 2054.0565, Government Code, by adding Subsection (c) that states, notwithstanding any other law, a state governmental entity that is not a state agency as defined by Section 2054.003 may use a contract as provided by Subsection (a) without being subject to a rule, statute, or contract provision, including a provision in a contract entered into under Section 2157.068, that would otherwise require the state governmental entity to: sign an interagency agreement; or disclose the items purchased or the value of the purchase. The original bill does not add Subsection (c) to Section 2054.0565 of the Government Code.

The substitute also amends the Section 2054.0565, Government Code, by adding Subsection (d), which state that a state governmental entity that is not a state agency as defined by Section 2054.003 that uses a contract as provided by Subsection (a) may prohibit a vendor from disclosing the items purchased, the use of the items purchased, and the value of the purchase. The original bill does not add Subsection (d) to Section 2054.0565 of the Government Code.

The substitute narrows the applicability of the Project Delivery Framework by defining major contracts as defined by Government Code, Section 2262.001(4), under which a vendor will perform or manage an outsourced function or process; whereas the original bill does not.

The substitute eliminates the Catalog Purchase Method instead of transferring it from TBPC to DIR and takes that reference to the catalog purchase method out of different areas of statutes; whereas the original bill does not.

Lastly, the substitute reiterates current law regarding purchases that are exempt from using DIR contracts to purchase information technology commodities; adds language to outline when a state agency shall use a purchasing method provided by this legislation; reflects the deletion of the Catalog Purchase Method and additional definition to commodity purchases; and makes other conforming changes to the Education Code, Government Code, and Water Code.