

By: Pitts

H.B. No. 2022

A BILL TO BE ENTITLED

AN ACT

relating to state fiscal matters; creating an offense.

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

ARTICLE 1. VOTER REGISTRATION

SECTION 1.01. Sections 18.065(b), (c), and (d), Election Code, are amended to read as follows:

(b) On determining that a registrar is not in substantial compliance, the secretary shall deliver written notice of the noncompliance to[+

~~(1)~~ the registrar and include~~[, including]~~ in the notice a description of the violation and an explanation of the action necessary for substantial compliance and of the consequences of noncompliance~~[, and~~

~~(2) the comptroller of public accounts, including in the notice the identity of the noncomplying registrar].~~

(c) On determining that a noncomplying registrar has corrected the violation and is in substantial compliance, the secretary shall deliver written notice to the registrar ~~[and to the comptroller]~~ that the registrar is in substantial compliance.

(d) ~~[The comptroller shall retain a notice received under this section on file until July 1 following the voting year in which it is received.]~~ The secretary shall retain a copy of each notice the secretary delivers under this section for two years after the date the notice is delivered.

1 SECTION 1.02. Section 19.001(a), Election Code, is amended
2 to read as follows:

3 (a) Before May 15 of each year, the registrar shall prepare
4 and submit to the secretary of state [~~comptroller of public~~
5 ~~accounts~~] a statement containing:

6 (1) the total number of initial registrations for the
7 previous voting year;

8 (2) the total number of registrations canceled under
9 Sections 16.031(a)(1), 16.033, and 16.0332 for the previous voting
10 year; and

11 (3) the total number of registrations for which
12 information was updated for the previous voting year.

13 SECTION 1.03. The heading to Section 19.002, Election Code,
14 is amended to read as follows:

15 Sec. 19.002. PAYMENTS [~~ISSUANCE OF WARRANTS BY~~
16 ~~COMPTROLLER~~].

17 SECTION 1.04. Sections 19.002(b) and (d), Election Code,
18 are amended to read as follows:

19 (b) After June 1 of each year, the secretary of state
20 [~~comptroller of public accounts~~] shall make payments [~~issue~~
21 ~~warrants~~] pursuant to vouchers submitted by the registrar and
22 approved by the secretary of state in amounts that in the aggregate
23 do not exceed the registrar's entitlement. The secretary of state
24 shall prescribe the procedures necessary to implement this
25 subsection.

26 (d) The secretary of state [~~comptroller~~] may not make a
27 payment under Subsection (b) [~~issue a warrant~~] if on June 1 of the

1 year in which the payment [~~warrant~~] is to be made [~~issued the most~~
2 ~~recent notice received by the comptroller from the secretary of~~
3 ~~state under Section 18.065 indicates that~~] the registrar is not in
4 substantial compliance with Section 15.083, 16.032, 18.042, or
5 18.065 or with rules implementing the registration service program.

6 SECTION 1.05. The heading to Section 19.0025, Election
7 Code, is amended to read as follows:

8 Sec. 19.0025. ELECTRONIC ADMINISTRATION OF VOUCHERS AND
9 PAYMENTS [~~WARRANTS~~].

10 SECTION 1.06. Section 19.0025(a), Election Code, is amended
11 to read as follows:

12 (a) The secretary of state shall establish and maintain an
13 online electronic system for administering vouchers submitted and
14 payments made [~~warrants issued~~] under Section 19.002.

15 SECTION 1.07. Section 19.002(c), Election Code, is
16 repealed.

17 SECTION 1.08. This article takes effect September 1, 2011.

18 ARTICLE 2. CERTAIN POWERS AND DUTIES OF THE COMPTROLLER OF PUBLIC
19 ACCOUNTS

20 SECTION 2.01. Section 403.0551(d), Government Code, is
21 amended to read as follows:

22 (d) This section does not authorize the comptroller to
23 deduct the amount of a state employee's indebtedness to a state
24 agency from any amount of compensation owed by the agency to the
25 employee, the employee's successor, or the assignee of the employee
26 or successor. In this subsection, "compensation" has the meaning
27 assigned by Section 403.055 and [~~"compensation,"~~] "indebtedness,"

1 "state agency," "state employee," and "successor" have the meanings
2 assigned by Section 666.001.

3 SECTION 2.02. Section 403.304, Government Code, is amended
4 by amending Subsection (b) and adding Subsection (c) to read as
5 follows:

6 (b) Information made confidential by this section, Chapter
7 552 of this code, or Section 22.27, Tax Code, may be disclosed:

8 (1) in a judicial or administrative proceeding
9 pursuant to a lawful subpoena;

10 (2) to the person who gave the information to the
11 comptroller; ~~[or]~~

12 (3) for statistical purposes if in a form that does not
13 identify specific property or a specific property owner; or

14 (4) in connection with a protest filed pursuant to
15 Section 403.303.

16 (c) A person to whom confidential information is disclosed
17 as authorized by Subsection (b) commits an offense if the person
18 discloses the information in a manner not authorized by that
19 subsection or to a person not authorized by that subsection to
20 receive the information. An offense under this subsection is a
21 Class B misdemeanor.

22 SECTION 2.03. Section 404.022(h), Government Code, is
23 amended to read as follows:

24 (h) The comptroller may execute a simplified version of a
25 depository agreement with an eligible institution desiring to hold
26 ~~[\$98,000 or less in]~~ state deposits that are fully insured by the
27 Federal Deposit Insurance Corporation or the National Credit Union

1 Share Insurance Fund.

2 SECTION 2.04. Section 411.109(a), Government Code, is
3 amended to read as follows:

4 (a) The comptroller is entitled to obtain from the
5 department criminal history record information maintained by the
6 department that the comptroller believes is necessary for the
7 enforcement or administration of Chapter 151, 152, [~~153~~] 154, [~~or~~]
8 155, or 162, Tax Code, including criminal history record
9 information that relates to a person who is:

10 (1) an applicant for a permit under any of those
11 chapters;

12 (2) a permit holder under any of those chapters;

13 (3) an officer, director, stockholder owning 10
14 percent or more of the outstanding stock, partner, owner, or
15 managing employee of an applicant or permit holder under any of
16 those chapters that is a corporation, association, joint venture,
17 syndicate, partnership, or proprietorship;

18 (4) believed to have violated any of those chapters;

19 or

20 (5) being considered by the comptroller for employment
21 as a peace officer.

22 SECTION 2.05. Chapter 2115, Government Code, is repealed.

23 SECTION 2.06. Section 403.0551(d), Government Code, as
24 amended by this article, applies to a deduction made on or after the
25 effective date of this Act for an indebtedness to a state agency
26 regardless of:

27 (1) the date the indebtedness accrued; or

1 (2) the dates of the pay period for which the
2 compensation from which the indebtedness is deducted is earned.

3 ARTICLE 3. STATE PURCHASING

4 SECTION 3.01. Section 2155.001, Government Code, is amended
5 by amending Subdivision (2) and adding Subdivision (3) to read as
6 follows:

7 (2) "Service" means the furnishing of skilled or
8 unskilled labor or professional work, but does not include a:

9 (A) professional service subject to Subchapter
10 A, Chapter 2254;

11 (B) service of a state agency employee;

12 (C) service procured by the Department of
13 Information Resources;

14 (D) consulting service or service of a consultant
15 as defined by Subchapter B, Chapter 2254; or

16 (E) [~~(D)~~] service of a public utility.

17 (3) "State agency" has the meaning assigned by Section
18 2151.002 unless otherwise provided by this chapter.

19 SECTION 3.02. Section 2155.002, Government Code, is amended
20 to read as follows:

21 Sec. 2155.002. COMPTROLLER [~~COMMISSION~~] FOCUS ON LARGE
22 EXPENDITURES. To the extent possible, the comptroller [~~commission~~]
23 shall focus [~~its efforts under this chapter and Chapters 2156,~~
24 ~~2157, and 2158~~] on purchases and contracts that involve relatively
25 large amounts of money or that leverage state spending in the most
26 efficient manner.

27 SECTION 3.03. Section 2155.064, Government Code, is amended

1 to read as follows:

2 Sec. 2155.064. LEVERAGED [~~SCHEDULE AND BULK~~] PURCHASING.
3 To the greatest extent possible, the comptroller shall pursue
4 statewide contracts and attempt to leverage state spending to
5 achieve cost savings for this state. [~~The commission may combine~~
6 ~~orders in a system of schedule purchasing and shall attempt to~~
7 ~~benefit from bulk purchasing.~~]

8 SECTION 3.04. Section 2155.068, Government Code, is amended
9 to read as follows:

10 Sec. 2155.068. UNIFORM STANDARDS AND SPECIFICATIONS.

11 (a) The comptroller [~~commission~~] may coordinate uniform standards
12 and specifications for goods purchased by this state [~~the~~
13 ~~commission~~]. The comptroller [~~commission~~] by rule may adopt
14 appropriate standards developed by a nationally recognized
15 standards-making association as part of its specifications and
16 standards program.

17 (b) On request of the comptroller, a state agency shall
18 cooperate with the comptroller [~~The commission shall enlist the~~
19 ~~cooperation of other state agencies~~] in the establishment,
20 maintenance, and revision of uniform standards and specifications.

21 (c) The comptroller [~~commission~~] shall review contracts
22 administered by the comptroller [~~commission~~] to ensure that all
23 goods and services meet contract specifications.

24 (d) As part of the standards and specifications program, the
25 comptroller [~~commission~~] shall:

26 (1) review contracts for opportunities to recycle
27 waste produced at state buildings;

1 (2) develop and update a list of equipment and
2 appliances that meet the energy efficiency standards provided by
3 Section 2158.301; and

4 (3) assist state agencies in selecting products under
5 Section 2158.301, as appropriate.

6 SECTION 3.05. Section 2155.070, Government Code, is amended
7 to read as follows:

8 Sec. 2155.070. FAILURE TO MEET SPECIFICATIONS. (a) A
9 state agency that determines that goods or services received under
10 a contract administered by the comptroller [~~commission~~] do not meet
11 specifications shall promptly notify the comptroller [~~commission~~]
12 in writing of the reasons for the determination. As soon as
13 possible, the comptroller [~~The commission~~] shall determine
14 [~~immediately make its own determination of~~] whether the goods and
15 services meet specifications.

16 (b) For purchases exempt from the comptroller's purchasing
17 authority, the comptroller may [~~The commission or a state agency,~~
18 ~~including an institution of higher education, has the authority to~~]
19 determine whether the purchased [~~that~~] goods and services [~~exempted~~
20 ~~from the commission's purchasing authority~~] meet or fail to meet
21 specifications. A state agency may also determine whether the
22 goods and services meet or fail to meet specifications.

23 (c) On determining that contract specifications or
24 conditions have not been met, the comptroller [~~commission~~] shall
25 act against the defaulting contractor, with the assistance of the
26 attorney general as necessary.

27 (d) If the comptroller [~~commission~~] receives repeated

1 complaints against a vendor, the comptroller [~~commission~~] shall
2 remove the vendor's name and the vendor's goods and services from
3 the comptroller's [~~commission's~~] bidders list for not longer than
4 one year. If complaints resume after the vendor is reinstated on
5 the bidders list, the comptroller [~~commission~~] may bar the vendor
6 from participating in state contracts for a period under Section
7 2155.077.

8 SECTION 3.06. Section 2155.072, Government Code, is amended
9 to read as follows:

10 Sec. 2155.072. STATEWIDE OR REGIONAL SERVICES CONTRACTS;
11 COMPTROLLER [~~COMMISSION~~] STUDIES. Each state fiscal year, the
12 comptroller [~~(a) The commission annually~~] shall consider one or
13 more services purchased by one or more state agencies for
14 development into statewide contracts. The comptroller shall
15 determine if a particular service may be leveraged for multiple
16 state agencies at a cost savings to this state compared to the cost
17 to this state of purchasing the service under individual state
18 agency contracts [~~select for study at least one service that is~~
19 ~~purchased by one or more state agencies~~]. The comptroller
20 [~~commission~~] shall consider awarding statewide contracts by region
21 [~~study a selected service to determine whether the state would~~
22 ~~benefit if the service were provided to appropriate state agencies~~
23 ~~under a regional or statewide contract. The commission shall give~~
24 ~~priority to studying services for which the commission has~~
25 ~~delegated the purchasing function to many state agencies~~].

26 [~~(b) The commission is not required to enter into a~~
27 ~~statewide or regional contract for the provision of a service to~~

1 ~~state agencies if more than five bidders are willing to provide the~~
2 ~~service to the state under a statewide or regional contract.]~~

3 SECTION 3.07. Section 2155.074, Government Code, is amended
4 to read as follows:

5 Sec. 2155.074. PROCUREMENT MANUAL; BEST VALUE AND SOURCING
6 STANDARDS [~~STANDARD~~] FOR PURCHASE OF GOODS OR SERVICES. (a) The
7 comptroller shall publish and maintain a procurement manual for
8 state agencies to follow that incorporates the sourcing standards
9 of this section and the best practices for procurement. Before
10 publication, the procurement manual must be reviewed by the
11 contract advisory team established under Chapter 2262. Each state
12 agency shall comply with the procurement manual in its procurement
13 activities.

14 (b) For a purchase of goods and services under this chapter,
15 each state agency, including the comptroller [~~commission~~], shall
16 purchase goods and services that provide the best value for the
17 state.

18 (c) [~~(b)~~] In determining the best value for the state, the
19 purchase price and whether the goods or services meet
20 specifications are the most important considerations. However, the
21 comptroller [~~commission~~] or other state agency may, subject to
22 Subsection (d) [~~(c)~~] and Section 2155.075, consider other relevant
23 factors, including:

- 24 (1) installation costs;
25 (2) life cycle costs;
26 (3) the quality and reliability of the goods and
27 services;

1 (4) the delivery terms;

2 (5) indicators of probable vendor performance under
3 the contract such as past vendor performance, the vendor's
4 financial resources and ability to perform, the vendor's experience
5 or demonstrated capability and responsibility, and the vendor's
6 ability to provide reliable maintenance agreements and support;

7 (6) the cost of any employee training associated with
8 a purchase;

9 (7) the effect of a purchase on agency productivity;

10 (8) the vendor's anticipated economic impact to the
11 state or a subdivision of the state, including potential tax
12 revenue and employment; and

13 (9) other factors relevant to determining the best
14 value for the state in the context of a particular purchase.

15 (d) [~~(c)~~] A state agency shall consult with and receive
16 approval from the comptroller [~~commission~~] before considering
17 factors other than price and meeting specifications when the agency
18 procures through competitive bidding goods or services with a value
19 that exceeds \$100,000.

20 (e) The comptroller shall:

21 (1) identify commercially available goods and
22 services needed or used by state agencies; and

23 (2) analyze and determine whether the goods and
24 services are better provided through a statewide contract.

25 (f) If the comptroller determines that a good or service
26 identified under Subsection (e) is better provided through a
27 statewide contract, the comptroller shall require state agencies to

1 engage in any process, including competitive bidding, developed by
2 the comptroller to develop and award one or more statewide
3 contracts for the good or service.

4 (g) In performing the comptroller's duties under this
5 chapter, the comptroller may:

6 (1) require a state agency to conduct a hearing,
7 study, review, or cost estimate, including an agency in-house cost
8 estimate or a management study, concerning any aspect of a good or
9 service identified under Subsection (e);

10 (2) develop and require state agencies to use methods
11 that accurately and fairly estimate and account for the cost of
12 obtaining the identified good or service;

13 (3) require that the identified good or service be
14 submitted to competitive bidding or another process that creates
15 competition;

16 (4) prescribe, after consulting affected state
17 agencies, the specifications and conditions of the purchase and the
18 procedures that must be followed for the procurement of the
19 identified good or service; and

20 (5) determine the terms of a contract for the
21 identified good or service.

22 SECTION 3.08. Section 2155.078(a), Government Code, is
23 amended to read as follows:

24 (a) The comptroller [~~commission~~] shall establish and
25 administer a system of training, continuing education, and
26 certification for state agency purchasing personnel. The
27 comptroller [~~commission~~] may establish and offer appropriate

1 training to vendors on a cost recovery basis. The comptroller
2 [~~commission~~] may adopt rules to administer this section, including
3 rules relating to:

4 (1) monitoring a certified purchaser's compliance with
5 the continuing education requirements of this section; and

6 (2) suspending or revoking a purchaser's certification
7 for failure to comply with this chapter or comptroller rules.

8 SECTION 3.09. Section 2155.082, Government Code, is amended
9 to read as follows:

10 Sec. 2155.082. PROVIDING CERTAIN PURCHASING SERVICES ON
11 FEE-FOR-SERVICE BASIS OR THROUGH BENEFIT FUNDING. (a) The
12 comptroller [~~commission~~] may provide open market purchasing
13 services on a fee-for-service basis for state agency purchases that
14 are delegated to an agency under Section 2155.131, 2155.132,
15 [~~2155.133,~~] or 2157.121 or that are exempted from the purchasing
16 authority of the comptroller [~~commission~~]. The comptroller
17 [~~commission~~] shall set the fees in an amount that recovers the
18 comptroller's [~~commission's~~] costs in providing the services.

19 (b) The comptroller [~~commission~~] shall publish a schedule
20 of [~~its~~] fees for services that are subject to this section. The
21 schedule must include the comptroller's [~~commission's~~] fees for:

22 (1) reviewing bid and contract documents for clarity,
23 completeness, and compliance with laws and rules;

24 (2) developing and transmitting invitations to bid;

25 (3) receiving and tabulating bids;

26 (4) evaluating and determining which bidder offers the
27 best value to the state;

- 1 (5) creating and transmitting purchase orders; and
2 (6) participating in agencies' request for proposal
3 processes.

4 (c) The comptroller may engage a consultant to assist with a
5 particular procurement on behalf of a state agency and pay the
6 consultant from the cost savings realized by the state agency.

7 SECTION 3.10. Section 2155.083(n), Government Code, is
8 amended to read as follows:

9 (n) Notwithstanding any other provision of this section, a
10 state agency that conducts covert law enforcement operations is not
11 required to post the specifications for covert equipment in the
12 state business daily. [~~This section does not apply to a state agency~~
13 ~~to which Section 51.9335 or 73.115, Education Code, applies.~~]

14 SECTION 3.11. Section 2155.085, Government Code, is amended
15 to read as follows:

16 Sec. 2155.085. REVERSE AUCTION PROCEDURE. [~~(a)~~] The
17 comptroller may [~~commission shall~~]:

18 (1) purchase goods or services using the reverse
19 auction procedure whenever:

20 (A) the procedure provides the best value to the
21 state; or

22 (B) all purchasing methods provide equal value to
23 the state;

24 (2) offer historically underutilized businesses
25 assistance and training relating to the reverse auction procedure;
26 and

27 (3) advise historically underutilized businesses on

1 contracts available using the reverse auction procedure.

2 ~~[(b) The commission shall set a goal of purchasing at least~~
3 ~~20 percent of the dollar value of goods or services purchased by the~~
4 ~~commission using the reverse auction procedure.]~~

5 SECTION 3.12. Subchapter B, Chapter 2155, Government Code,
6 is amended by adding Section 2155.088 to read as follows:

7 Sec. 2155.088. PROCUREMENT PLANS FOR GOODS AND SERVICES.

8 (a) Not later than June 1 of each odd-numbered year, each state
9 agency shall provide a procurement plan to the comptroller that
10 identifies the major goods and services the agency plans to
11 purchase during the next fiscal biennium.

12 (b) The comptroller shall use the procurement plans to
13 schedule solicitations for proposals for goods and services used by
14 multiple state agencies.

15 (c) A state agency that makes a substantive change to its
16 procurement plan shall submit a revised copy of the plan to the
17 comptroller not later than the 30th day after the date of the
18 change.

19 (d) The comptroller may adopt rules to administer this
20 section.

21 SECTION 3.13. Section 2155.131, Government Code, is amended
22 to read as follows:

23 Sec. 2155.131. DELEGATION OF AUTHORITY TO STATE AGENCIES.

24 (a) The comptroller ~~[commission]~~ may delegate purchasing functions
25 to a state agency.

26 (b) In delegating purchasing authority under this section
27 or Section 2155.132, the comptroller shall consider factors

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

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

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

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

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

13 (c) The comptroller shall monitor the purchasing practices
14 of each state agency that the comptroller delegates purchasing
15 authority to under Subsection (b) or Section 2155.132 to ensure
16 that the certification levels of the agency's purchasing personnel
17 and the quality of the agency's purchasing practices continue to
18 warrant the delegated purchasing authority. The comptroller may
19 revoke for any cause, including the agency's failure to comply with
20 Section 2155.074, all or part of the delegated purchasing
21 authority. The comptroller shall adopt rules to administer this
22 subsection.

23 (d) The comptroller by rule shall prescribe:

24 (1) the procedures a state agency must follow in
25 making a delegated purchase; and

26 (2) the procedures by which a state agency may use the
27 comptroller's services for delegated purchases under Section

1 2155.082.

2 SECTION 3.14. Section 2155.132, Government Code, is amended
3 to read as follows:

4 Sec. 2155.132. PURCHASES LESS THAN SPECIFIED MONETARY
5 AMOUNT. (a) A state agency is delegated the authority to purchase
6 goods and services if the purchase does not exceed \$15,000. If the
7 comptroller [~~commission~~] determines that a state agency has not
8 followed the comptroller's [~~commission's~~] rules or the laws related
9 to the delegated purchases, the comptroller [~~commission~~] shall
10 report the comptroller's [~~its~~] determination to the members of the
11 state agency's governing body and to the governor, lieutenant
12 governor, speaker of the house of representatives, and Legislative
13 Budget Board.

14 (b) The comptroller [~~commission~~] by rule may delegate to a
15 state agency the authority to purchase goods and services if the
16 purchase exceeds \$15,000. [~~In delegating purchasing authority~~
17 ~~under this subsection or Section 2155.131, the commission shall~~
18 ~~consider factors relevant to a state agency's ability to perform~~
19 ~~purchasing functions, including:~~

20 [~~(1) the capabilities of the agency's purchasing staff~~
21 ~~and the existence of automated purchasing tools at the agency,~~

22 [~~(2) the certification levels held by the agency's~~
23 ~~purchasing personnel,~~

24 [~~(3) the results of the commission's procurement~~
25 ~~review audits of an agency's purchasing practices, and~~

26 [~~(4) whether the agency has adopted and published~~
27 ~~protest procedures consistent with those of the commission as part~~

1 ~~of its purchasing rules.]~~

2 (c) ~~[The commission shall monitor the purchasing practices~~
3 ~~of state agencies that are making delegated purchases under~~
4 ~~Subsection (b) or Section 2155.131 to ensure that the certification~~
5 ~~levels of the agency's purchasing personnel and the quality of the~~
6 ~~agency's purchasing practices continue to warrant the amount of~~
7 ~~delegated authority provided by the commission to the agency. The~~
8 ~~commission may revoke for cause all or part of the purchasing~~
9 ~~authority that the commission delegated to a state agency. The~~
10 ~~commission shall adopt rules to administer this subsection.~~

11 ~~[(d) The commission by rule:~~

12 ~~[(1) shall prescribe procedures for a delegated~~
13 ~~purchase; and~~

14 ~~[(2) shall prescribe procedures by which agencies may~~
15 ~~use the commission's services for delegated purchases, in~~
16 ~~accordance with Section 2155.082.~~

17 ~~[(e)]~~ Competitive bidding, whether formal or informal, is
18 required for a purchase by a state agency if the purchase:

19 (1) exceeds \$5,000; and

20 (2) is made under a written contract.

21 (d) ~~[(f)]~~ Goods purchased under this section may not
22 include:

23 (1) an item for which a statewide contract has been
24 awarded by the comptroller ~~[under the contract purchase procedure]~~,
25 unless the quantity purchased is less than any ~~[the]~~ minimum
26 quantity specified in the contract;

27 (2) an item required by statute to be purchased from a

1 particular source, including through the program administered
2 under Chapter 122, Human Resources Code, or from the Texas
3 Correctional Industries under Chapter 497; or

4 (3) a scheduled item that has been designated for
5 purchase by the comptroller [~~commission~~].

6 (e) [~~(g)~~] A large purchase may not be divided into small lot
7 purchases to circumvent [~~meet~~] the dollar limits prescribed by this
8 section. The comptroller [~~commission~~] may not require that
9 unrelated purchases be combined into one purchase order to exceed
10 the dollar limits prescribed by this section.

11 (f) [~~(h)~~] A state agency making a purchase under this
12 section for which competitive bidding is required shall [~~must~~]:

13 (1) [~~attempt to~~] obtain at least three competitive
14 bids from:

15 (A) sources listed on the master bidders list
16 that normally offer for sale the goods being purchased; or

17 (B) if three vendors are not available on the
18 master bidders list, vendors in the applicable industry; and

19 (2) comply with Subchapter E.

20 SECTION 3.15. Subchapter C, Chapter 2155, Government Code,
21 is amended by adding Section 2155.1325 to read as follows:

22 Sec. 2155.1325. STANDARDS FOR DELEGATED PURCHASES. (a) A
23 state agency that is preparing a solicitation for proposals for a
24 purchase of goods or services with a purchase price that exceeds
25 \$100,000 that is delegated under this chapter or other law shall
26 submit to the comptroller a copy of the draft solicitation with a
27 statement of the procurement strategy for the purchase.

1 (b) The comptroller may review the draft solicitation and
2 procurement strategy to determine whether the state agency is
3 following the best value and sourcing standards of Section 2155.074
4 to the greatest extent possible. The comptroller may:

5 (1) recommend changes to the draft solicitation or
6 procurement strategy, provided the written recommended changes are
7 submitted to the state agency not later than the 30th day after the
8 date the comptroller receives the draft solicitation and
9 procurement strategy from the state agency;

10 (2) partner with the state agency to ensure the
11 standards of this chapter are followed;

12 (3) partner with the state agency to award a statewide
13 contract that results from the solicitation; or

14 (4) require the state agency to engage a consultant to
15 assist with the solicitation to be paid from the cost savings
16 realized under the contract, as authorized by Section 2155.082.

17 (c) A state agency that receives the comptroller's
18 recommended changes under Subsection (b)(1) shall:

19 (1) accept the recommended changes; or

20 (2) submit alternative suggestions to the comptroller
21 for review in accordance with this section.

22 (d) The comptroller may adopt rules to administer this
23 section.

24 SECTION 3.16. Subchapter D, Chapter 2155, Government Code,
25 is amended by adding Section 2155.205 to read as follows:

26 Sec. 2155.205. ACCESS BY OTHER GOVERNMENTAL ENTITIES. The
27 comptroller may allow a governmental entity of another state to

1 access the comptroller's statewide contracts.

2 SECTION 3.17. Section 2155.385(a), Government Code, is
3 amended to read as follows:

4 (a) The comptroller [~~If authorized by rule adopted by the~~
5 ~~comptroller under Section 403.023, the commission~~] may contract
6 with one or more credit card issuers for state agencies to use
7 credit cards to pay for purchases. [~~The commission may not enter~~
8 ~~into a contract that conflicts with the comptroller's rules.~~]

9 SECTION 3.18. Section 2054.158, Government Code, is amended
10 to read as follows:

11 Sec. 2054.158. QUALITY ASSURANCE TEAM. The state auditor,
12 comptroller, attorney general, Legislative Budget Board, and
13 department shall:

14 (1) create a quality assurance team to perform the
15 duties specified in this chapter and other law; and

16 (2) specify in writing the responsibilities of the
17 state auditor, comptroller, attorney general, Legislative Budget
18 Board, and department in performing the duties.

19 SECTION 3.19. Section 2151.0041(c), Government Code, is
20 amended to read as follows:

21 (c) Unless otherwise provided by the legislature by law, on
22 September 1, 2013:

23 (1) the powers and duties transferred to the
24 comptroller under Section 2151.004(d) and under House Bill 3560,
25 Acts of the 80th Legislature, Regular Session, 2007, are
26 transferred to the Texas Facilities Commission;

27 (2) a reference in law to the comptroller relating to a

1 power or duty transferred under this subsection means the Texas
2 Facilities Commission;

3 (3) a rule or form adopted by the comptroller relating
4 to a power or duty transferred under this subsection is a rule or
5 form of the Texas Facilities Commission and remains in effect until
6 altered by the commission;

7 (4) all obligations, contracts, proceedings, cases,
8 negotiations, funds, and employees of the comptroller relating to a
9 power or duty transferred under this subsection are transferred to
10 the Texas Facilities Commission;

11 (5) all property and records in the custody of the
12 comptroller relating to a power or duty transferred under this
13 subsection and all funds appropriated by the legislature for
14 purposes related to a power or duty transferred under this
15 subsection are transferred to the Texas Facilities Commission; and

16 (6) Section 122.0011, Human Resources Code, and the
17 following provisions of the Government Code expire:

18 (A) Sections 2151.004(c) and (d);

19 (B) Section 2155.0011;

20 (C) [~~Section 2155.086,~~

21 [~~(D) Section 2155.087,~~

22 [~~(E)~~] Section 2156.0011;

23 (D) [~~(F)~~] Section 2157.0011;

24 (E) [~~(G)~~] Section 2158.0011;

25 (F) [~~(H)~~] Section 2161.0011;

26 (G) [~~(I)~~] Section 2163.0011;

27 (H) [~~(J)~~] Section 2170.0011;

- 1 (I) [~~(K)~~] Section 2171.0011;
- 2 (J) [~~(L)~~] Section 2172.0011;
- 3 (K) [~~(M)~~] Section 2176.0011; and
- 4 (L) [~~(N)~~] Section 2262.0011.

5 SECTION 3.20. Section 2166.406(i), Government Code, is
6 amended to read as follows:

7 (i) An energy savings performance contract shall be let
8 according to the procedures established for procuring certain
9 professional services by Section 2254.004. [~~Notice of the request~~
10 ~~for qualifications shall be given in the manner provided by Section~~
11 ~~2156.002.~~] The State Energy Conservation Office shall establish
12 guidelines and an approval process for awarding energy savings
13 performance contracts. The guidelines adopted under this
14 subsection must require that the cost savings projected by an
15 offeror be reviewed by a licensed professional engineer who has a
16 minimum of three years of experience in energy calculation and
17 review, is not an officer or employee of an offeror for the contract
18 under review, and is not otherwise associated with the
19 contract. In conducting the review, the engineer shall focus
20 primarily on the proposed improvements from an engineering
21 perspective, the methodology and calculations related to cost
22 savings, increases in revenue, and, if applicable, efficiency or
23 accuracy of metering equipment. An engineer who reviews a contract
24 shall maintain the confidentiality of any proprietary information
25 the engineer acquires while reviewing the contract. An energy
26 savings performance contract may not be entered into unless the
27 contract has been approved by the State Energy Conservation

1 Office. Sections 1001.053 and 1001.407, Occupations Code, apply
2 to work performed under the contract.

3 SECTION 3.21. Section 51.927(i), Education Code, is amended
4 to read as follows:

5 (i) An energy savings performance contract shall be let
6 according to the procedures established for procuring certain
7 professional services by Section 2254.004, Government Code.
8 ~~[Notice of the request for qualifications shall be given in the~~
9 ~~manner provided by Section 2156.002, Government Code.]~~ The Texas
10 Higher Education Coordinating Board, in consultation with the State
11 Energy Conservation Office with regard to energy and water
12 conservation measures, shall establish guidelines and an approval
13 process for awarding energy savings performance contracts. The
14 guidelines must require that the cost savings projected by an
15 offeror be reviewed by a licensed professional engineer who has a
16 minimum of three years of experience in energy calculation and
17 review, is not an officer or employee of an offeror for the contract
18 under review, and is not otherwise associated with the
19 contract. In conducting the review, the engineer shall focus
20 primarily on the proposed improvements from an engineering
21 perspective, the methodology and calculations related to cost
22 savings, increases in revenue, and, if applicable, efficiency or
23 accuracy of metering equipment. An engineer who reviews a contract
24 shall maintain the confidentiality of any proprietary information
25 the engineer acquires while reviewing the contract. A contract is
26 not required to be reviewed or approved by the State Energy
27 Conservation Office. Sections 1001.053 and 1001.407, Occupations

1 Code, apply to work performed under the contract.

2 SECTION 3.22. The following sections of the Government Code
3 are repealed:

- 4 (1) Section 2155.086;
- 5 (2) Section 2155.087;
- 6 (3) Section 2155.138;
- 7 (4) Section 2155.141; and
- 8 (5) Section 2156.002.

9 ARTICLE 4. EFFECTIVE DATE

10 SECTION 4.01. Except as otherwise provided by this Act,
11 this Act takes effect:

- 12 (1) immediately if this Act receives a vote of
13 two-thirds of all the members elected to each house, as provided by
14 Section 39, Article III, Texas Constitution; or
- 15 (2) September 1, 2011, if this Act does not receive the
16 vote necessary for immediate effect.