

By: Zaffirini

S.B. No. 1681

A BILL TO BE ENTITLED

AN ACT

relating to oversight and management of state contracts.

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

SECTION 1. Subchapter A, Chapter 2262, Government Code, is amended by adding Section 2262.0015 to read as follows:

Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS. (a) The comptroller by rule shall establish threshold requirements that exclude small or routine contracts, including purchase orders, from the application of this chapter.

(b) This chapter does not apply to an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on November 1, 2013.

SECTION 2. The heading to Section 2262.053, Government Code, is amended to read as follows:

Sec. 2262.053. TRAINING FOR CONTRACT MANAGERS.

SECTION 3. Section 2262.053, Government Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows:

(a) In coordination with the ~~[comptroller,~~ Department of Information Resources, ~~[and]~~ state auditor, and Health and Human Services Commission, the comptroller ~~[commission]~~ shall develop ~~[or administer]~~ a training program for contract managers.

(d) The comptroller ~~[Texas Building and Procurement Commission]~~ shall administer the training program under this

1 section.

2 (e) The comptroller shall certify contract managers who
3 have completed the contract management training required under this
4 section.

5 (f) A state agency may develop qualified contract manager
6 training to supplement the training required under this section.
7 The comptroller may incorporate the training developed by the
8 agency into the training program under this section.

9 SECTION 4. Subchapter B, Chapter 2262, Government Code, is
10 amended by adding Sections 2262.0535 and 2262.055 to read as
11 follows:

12 Sec. 2262.0535. TRAINING FOR GOVERNING BODIES. (a) The
13 comptroller shall adapt the program developed under Section
14 2262.053 to provide an abbreviated program for training the members
15 of the governing bodies of state agencies. The training may be
16 provided together with other required training for members of state
17 agency governing bodies.

18 (b) All members of the governing body of a state agency
19 shall complete at least one course of the training provided under
20 this section. This subsection does not apply to a state agency that
21 does not enter into any contracts.

22 Sec. 2262.055. VENDOR PERFORMANCE TRACKING SYSTEM. (a)
23 The comptroller shall evaluate the vendor's performance based on
24 information reported by state agencies and criteria established by
25 the comptroller.

26 (b) The comptroller shall establish an evaluation process
27 that allows vendors who receive an unfavorable performance review

1 to protest any classification given by the comptroller.

2 (c) The comptroller shall include the performance reviews
3 in a vendor performance tracking system.

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

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

9 (1) reviewing and making recommendations on the
10 solicitation of ~~[major]~~ contracts by state agencies that have a
11 value of at least \$10 million but not more than \$100 million;

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 comptroller
17 ~~[commission]~~ regarding:

18 (A) the development of the contract management
19 guide; and

20 (B) the training under Section 2262.053;

21 (4) providing recommendations and assistance to state
22 agency personnel throughout the contract management process;

23 (5) coordinating and consulting with the quality
24 assurance team established under Section 2054.158 on all contracts
25 relating to a major information resources project; and

26 (6) reviewing, making recommendations, and approving
27 contracts under Section 2262.106.

1 (b) The team shall consult with state agencies in developing
2 forms, contract terms, and criteria required under this chapter.

3 (c) The comptroller shall oversee the activities of the
4 team, including ensuring that the team carries out its duties under
5 Subsection (a)(5).

6 (d) A state agency shall comply with a recommendation made
7 under Subsection (a)(1).

8 SECTION 6. Section 2262.102(a), Government Code, is amended
9 to read as follows:

10 (a) The team consists of the following five members:

11 (1) one member from the attorney general's office;

12 (2) one member from the comptroller's office;

13 (3) one member from the Department of Information
14 Resources;

15 (4) ~~[one member from the Texas Building and~~
16 ~~Procurement Commission, and~~

17 ~~(5)]~~ one member from the governor's office; and

18 (5) one member from the State Council on Competitive
19 Government.

20 SECTION 7. Subchapter C, Chapter 2262, Government Code, is
21 amended by adding Sections 2262.104, 2262.105, and 2262.106 to read
22 as follows:

23 Sec. 2262.104. UNIFORM FORMS. The team shall develop and
24 publish a uniform and automated set of forms that a state agency may
25 use in the different stages of the contracting process.

26 Sec. 2262.105. FORMS FOR REPORTING CONTRACTOR PERFORMANCE.
27 As part of the uniform forms published under Section 2262.104, the

1 team shall develop forms for use by state agencies in reporting a
2 contractor's performance for use in the vendor performance tracking
3 system under Section 2262.055.

4 Sec. 2262.106. REVIEW AND APPROVAL. Each state agency
5 shall receive recommendations and approval from the team before
6 taking the following actions in relation to a contract that has a
7 value of more than \$100 million:

- 8 (1) publicly releasing solicitation documents; and
9 (2) executing a final contract.

10 SECTION 8. Chapter 2262, Government Code, is amended by
11 adding Subchapter D to read as follows:

12 SUBCHAPTER D. CONTRACT PROVISIONS

13 Sec. 2262.151. CONTRACT TERMS RELATING TO NONCOMPLIANCE.

14 (a) The Contract Advisory Team shall develop recommendations for
15 contract terms regarding remedies for noncompliance by
16 contractors, including remedies for noncompliance with any
17 required disclosure of conflicts of interest by contractors. The
18 team may develop recommended contract terms that are generally
19 applicable to state contracts and terms that are applicable to
20 important types of state contracts.

21 (b) A state agency may include applicable recommended terms
22 in a contract entered into by the agency.

23 SECTION 9. Section 2262.003, Government Code, is
24 transferred to Subchapter D, Chapter 2262, Government Code, as
25 added by this Act, redesignated as Section 2262.152, Government
26 Code, and amended to read as follows:

27 Sec. 2262.152 [~~2262.003~~]. REQUIRED [~~CONTRACT~~] PROVISION

1 RELATING TO AUDITING. (a) Each state agency shall include in each
2 of its contracts a term that provides that:

3 (1) the state auditor may conduct an audit or
4 investigation of any entity receiving funds from the state directly
5 under the contract or indirectly through a subcontract under the
6 contract;

7 (2) acceptance of funds directly under the contract or
8 indirectly through a subcontract under the contract acts as
9 acceptance of the authority of the state auditor, under the
10 direction of the legislative audit committee, to conduct an audit
11 or investigation in connection with those funds; and

12 (3) under the direction of the legislative audit
13 committee, an entity that is the subject of an audit or
14 investigation by the state auditor must provide the state auditor
15 with access to any information the state auditor considers relevant
16 to the investigation or audit.

17 (b) The state auditor shall provide assistance to a state
18 agency in developing the contract provisions.

19 SECTION 10. Section 2262.051(f), Government Code, is
20 repealed.

21 SECTION 11. Not later than May 1, 2014, the comptroller of
22 public accounts shall develop the training program required by
23 Section 2262.053, Government Code, as amended by this Act, and
24 Section 2262.0535, Government Code, as added by this Act.

25 SECTION 12. A member of a governing body of a state agency
26 is not required to complete the training provided under Section
27 2262.0535, Government Code, as added by this Act, until September

1 1, 2015.

2 SECTION 13. The comptroller of public accounts shall use
3 the vendor performance tracking system established by the
4 comptroller before the effective date of this Act in carrying out
5 the comptroller's duties under Section 2262.055, Government Code,
6 as added by this Act.

7 SECTION 14. A contract manager is not required to be
8 certified under Chapter 2262, Government Code, as amended by this
9 Act, until September 1, 2015.

10 SECTION 15. As soon as practicable, and not later than May
11 1, 2014, the Contract Advisory Team shall develop the forms,
12 criteria, and provisions required by this Act, including Sections
13 2262.104, 2262.105, 2262.106, and 2262.151, Government Code, as
14 added by this Act.

15 SECTION 16. This Act takes effect November 1, 2013.