

By: Otto

H.B. No. 15

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the management and oversight of state contracts,  
3 including contracts for information technology commodity items.

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

5 SECTION 1. Section 825.103(g), Government Code, is amended  
6 to read as follows:

7 (g) Notwithstanding any other law, Chapters 2261 and 2262 do  
8 not apply to the retirement system. The Contract Management and  
9 Oversight [~~Advisory~~] Team shall assist the retirement system at the  
10 request of the retirement system. The retirement system may use  
11 the training program for contract management provided under Chapter  
12 2262.

13 SECTION 2. Section 2054.065(a)(2), Government Code, is  
14 amended to read as follows:

15 (2) "Team" means the Contract Management and Oversight  
16 [~~Advisory~~] Team established under Subchapter E [~~C~~], Chapter 2262.

17 SECTION 3. Section 2157.068(a), Government Code, is amended  
18 to read as follows:

19 (a) In this section, "commodity items" means commercial  
20 software or [~~]~~ hardware [~~, or technology services, other than~~  
21 ~~telecommunications services,~~] that is [~~are~~] generally available to  
22 businesses or the public and for which the department determines  
23 that a reasonable demand exists in two or more state agencies. The  
24 term includes seat management, through which a state agency

1 transfers its personal computer equipment and service  
2 responsibilities to a private vendor to manage the personal  
3 computing needs for each desktop in the state agency, including all  
4 necessary hardware, software, and support services.

5 SECTION 4. Sections 2165.356(a) and (b), Government Code,  
6 are amended to read as follows:

7 (a) Not later than the 60th day before the date the  
8 commission is scheduled to vote on approval of a qualifying project  
9 contract, the commission must submit to the Contract Management and  
10 Oversight [~~Advisory~~] Team established under Subchapter E [~~C~~],  
11 Chapter 2262, documentation of the modifications to a proposed  
12 qualifying project made during the commission's evaluation and  
13 negotiation process for the project, including a copy of:

- 14 (1) the final draft of the contract;
- 15 (2) the detailed qualifying project proposal; and
- 16 (3) any executed interim or other agreement.

17 (b) The Contract Management and Oversight [~~Advisory~~] Team  
18 shall review the documentation submitted under Subsection (a) and  
19 provide written comments and recommendations to the  
20 commission. The review must focus on, but not be limited to, best  
21 practices for contract management and administration.

22 SECTION 5. Section 2166.2551, Government Code, is amended  
23 to read as follows:

24 Sec. 2166.2551. CONTRACT NOTIFICATION. The commission or  
25 an agency whose project is exempted from all or part of this chapter  
26 under Section 2166.003 shall provide written notice to the  
27 Legislative Budget Board of a contract for a construction project

1 if the amount of the contract, including an amendment,  
2 modification, renewal, or extension of the contract, exceeds  
3 \$50,000 [~~\$14,000~~]. The notice must be on a form prescribed by the  
4 Legislative Budget Board and filed not later than the 10th day after  
5 the date the agency enters into the contract.

6 SECTION 6. Section 2254.006, Government Code, is amended to  
7 read as follows:

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

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

20 (a) A state agency shall provide written notice to the  
21 Legislative Budget Board of a contract for consulting services if  
22 the amount of the contract, including an amendment, modification,  
23 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].  
24 The notice must be on a form prescribed by the Legislative Budget  
25 Board and filed not later than the 10th day after the date the  
26 entity enters into the contract.

27 SECTION 8. Section 2262.001(1), Government Code, is amended

1 to read as follows:

2 (1) "Team" means the Contract Management and Oversight  
3 ~~[Advisory]~~ Team created under Subchapter E ~~[C]~~.

4 SECTION 9. Section 2262.0015, Government Code, is amended  
5 to read as follows:

6 Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS.

7 (a) The comptroller by rule shall establish threshold  
8 requirements that exclude small or routine contracts, including  
9 purchase orders, from the application of Subchapters A, B, and D  
10 ~~[this chapter]~~.

11 (b) Subchapters A, B, and D do ~~[This chapter does]~~ not apply  
12 to an enrollment contract described by 1 T.A.C. Section 391.183 as  
13 that section existed on November 1, 2013.

14 SECTION 10. Section 2262.002, Government Code, is amended  
15 to read as follows:

16 Sec. 2262.002. EXEMPTIONS. (a) Except as otherwise  
17 provided by this chapter, this ~~[This]~~ chapter does not apply to an  
18 institution of higher education as defined by Section 61.003,  
19 Education Code.

20 (b) Except as otherwise provided by this chapter, this  
21 ~~[This]~~ chapter does not apply to contracts of the Texas Department  
22 of Transportation that:

23 (1) relate to highway construction or highway  
24 engineering; or

25 (2) are subject to Section 201.112, Transportation  
26 Code.

27 SECTION 11. Chapter 2262, Government Code, is amended by

1 adding Subchapter E to read as follows:

2 SUBCHAPTER E. CONTRACT MANAGEMENT AND OVERSIGHT TEAM

3 Sec. 2262.201. DEFINITIONS. In this subchapter:

4 (1) "High-risk contract" means a state agency contract  
5 or purchase order that:

6 (A) has a value of at least \$10 million;

7 (B) has a value of less than \$10 million, but has  
8 high-risk factors as identified by the team;

9 (C) is entered into with an entity that is  
10 incorporated outside of the United States;

11 (D) is entered into with an entity that, during  
12 the five-year period preceding the date of the purchase or award of  
13 the contract, has had a contract with a state agency or federal  
14 governmental entity terminated or canceled for:

15 (i) a violation of, or noncompliance with,  
16 the terms of the contract;

17 (ii) delivery of an ineffective product,  
18 service, or system;

19 (iii) significant delays or cost overruns;

20 (iv) fraud;

21 (v) misconduct; or

22 (vi) any other event that resulted in the  
23 termination or cancellation of the contract for cause; or

24 (E) meets other criteria that may be established  
25 by the team, including that the contract or purchase order:

26 (i) is awarded by an agency with  
27 significant audit findings related to contracting in the previous

1 two fiscal years;

2 (ii) is expected to cost more than 20  
3 percent of the awarding agency's budget available from all sources;

4 (iii) outsources a program or key function  
5 of a program of the awarding agency; or

6 (iv) has change orders that change the cost  
7 or duration of a contract by more than 20 percent of the original  
8 contract cost or duration, as applicable.

9 (2) "Major information resources project" has the  
10 meaning assigned by Section 2054.003(10).

11 (3) "Quality assurance team" means the quality  
12 assurance team established under Section 2054.158.

13 (4) "Solicitation" means a solicitation for bids,  
14 offers, qualifications, proposals, or similar expressions of  
15 interest for a high-risk contract.

16 Sec. 2262.202. APPLICATION OF SUBCHAPTER TO TEXAS  
17 DEPARTMENT OF TRANSPORTATION AND INSTITUTIONS OF HIGHER EDUCATION.

18 This subchapter applies to contracts of:

19 (1) the Texas Department of Transportation that:

20 (A) do not relate to highway construction or  
21 highway engineering; or

22 (B) are not subject to Section 201.112,  
23 Transportation Code; and

24 (2) institutions of higher education as defined by  
25 Section 61.003, Education Code.

26 Sec. 2262.203. ESTABLISHMENT; GENERAL DUTIES. The  
27 Legislative Budget Board shall establish a Contract Management and

1 Oversight Team to:

2 (1) develop criteria for identifying high-risk  
3 factors in contracts;

4 (2) consult with state agencies on and approve an  
5 action related to a high-risk contract as provided by Section  
6 2262.204;

7 (3) provide recommendations and assistance to state  
8 agency personnel throughout the contract management process; and

9 (4) coordinate and consult with the quality assurance  
10 team on all high-risk contracts relating to a major information  
11 resources project.

12 Sec. 2262.204. NOTICE AND APPROVAL; WAIVER. (a) Each state  
13 agency must provide written notice to the team not later than the  
14 30th day before the date the agency publicly releases solicitation  
15 documents for a high-risk contract.

16 (b) Each state agency must receive a separate prior approval  
17 from the team before spending money:

18 (1) under an executed high-risk contract; and

19 (2) to make a payment or a series of payments that  
20 exceeds half of the high-risk contract value.

21 (c) In determining whether to approve an action described by  
22 Subsection (b), the team may review related documentation to ensure  
23 that potential risks related to the high-risk contract have been  
24 identified and mitigated. If the potential risks cannot be  
25 sufficiently mitigated, the team shall disapprove the action.

26 (d) The team may adopt criteria for waiving the consultation  
27 and approval requirements of this section.

1        Sec. 2262.205. SOLICITATION AND CONTRACT CANCELLATION. (a)

2 After review of and comment on the matter by the Legislative Budget  
3 Board, the team may recommend that a state agency cancel a  
4 solicitation or a contract during the review process under Section  
5 2262.204 if:

6            (1) a proposed contract would place the state at an  
7 unacceptable risk if executed; or

8            (2) an executed contract is experiencing performance  
9 failure or payment irregularities.

10          (b) If a state agency does not implement a recommendation  
11 made under Subsection (a), the team shall provide notice of that  
12 failure to the comptroller and the comptroller may not authorize  
13 the expenditure of funds for the contract.

14          SECTION 12. Subchapter C, Chapter 2262, Government Code, is  
15 repealed.

16          SECTION 13. (a) The Contract Advisory Team is abolished.

17          (b) The validity of an action taken by the Contract Advisory  
18 Team before the team was abolished by this Act is not affected by  
19 the abolition.

20          (c) All powers and duties of the Contract Advisory Team are  
21 transferred to the Contract Management and Oversight Team  
22 established by this Act.

23          (d) A rule, form, policy, procedure, or decision of the  
24 Contract Advisory Team continues in effect as a rule, form, policy,  
25 procedure, or decision of the Contract Management and Oversight  
26 Team until superseded by an act of the Contract Management and  
27 Oversight Team.



1 (e) A reference in law to the Contract Advisory Team means  
2 the Contract Management and Oversight Team.

3 (f) Any action or proceeding involving the Contract  
4 Advisory Team is transferred without change in status to the  
5 Contract Management and Oversight Team, and the Contract Management  
6 and Oversight Team assumes, without a change in status, the  
7 position of the Contract Advisory Team in a negotiation or  
8 proceeding to which the Contract Advisory Team is a party.

9 SECTION 14. Section [2157.068](#)(a), Government Code, as  
10 amended by this Act, and Subchapter E, Chapter 2262, Government  
11 Code, as added by this Act, apply only in relation to a contract:

12 (1) for which a state agency first advertises or  
13 otherwise solicits bids, proposals, offers, or qualifications on or  
14 after the effective date of this Act;

15 (2) that is extended or modified on or after the  
16 effective date of this Act; or

17 (3) for which a change order is submitted on or after  
18 the effective date of this Act.

19 SECTION 15. Sections [2166.2551](#), [2254.006](#), and  
20 [2254.0301](#)(a), Government Code, as amended by this Act, apply only  
21 to a state agency contract for which the agency is required to  
22 provide notice to the Legislative Budget Board that is entered into  
23 on or after the effective date of this Act.

24 SECTION 16. This Act takes effect September 1, 2015.