

1-1 By: Otto, et al. (Senate Sponsor - Eltife) H.B. No. 15
 1-2 (In the Senate - Received from the House May 6, 2015;
 1-3 May 7, 2015, read first time and referred to Committee on Finance;
 1-4 May 20, 2015, reported favorably by the following vote: Yeas 11,
 1-5 Nays 0; May 20, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15			X	
1-16	X			
1-17			X	
1-18			X	
1-19	X			
1-20	X			
1-21	X			
1-22	X			

1-23 A BILL TO BE ENTITLED
 1-24 AN ACT

1-25 relating to the management and oversight of state contracts,
 1-26 including contracts for information technology commodity items.

1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-28 SECTION 1. Section 821.009(b), Government Code, is amended
 1-29 to read as follows:

1-30 (b) Notwithstanding any other law and in addition to the
 1-31 requirements of Subchapter E, Chapter 2262, before a contract
 1-32 described by Subsection (a) may be entered into by the retirement
 1-33 system, a representative of the office of the attorney general
 1-34 shall review the form and terms of the contract and may make
 1-35 recommendations to the retirement system for changes to the
 1-36 contract if the attorney general determines that the office of the
 1-37 attorney general has sufficient subject matter expertise and
 1-38 resources available to provide this service.

1-39 SECTION 2. Section 825.103(g), Government Code, is amended
 1-40 to read as follows:

1-41 (g) Notwithstanding any other law and except as provided by
 1-42 Section 2262.202, Chapters 2261 and 2262 do not apply to the
 1-43 retirement system. The Contract Management and Oversight
 1-44 [Advisory] Team shall assist the retirement system at the request
 1-45 of the retirement system. The retirement system may use the
 1-46 training program for contract management provided under Chapter
 1-47 2262.

1-48 SECTION 3. Section 2054.065(a)(2), Government Code, is
 1-49 amended to read as follows:

1-50 (2) "Team" means the Contract Management and Oversight
 1-51 [Advisory] Team established under Subchapter E [C], Chapter 2262.

1-52 SECTION 4. Sections 2165.356(a) and (b), Government Code,
 1-53 are amended to read as follows:

1-54 (a) Not later than the 60th day before the date the
 1-55 commission is scheduled to vote on approval of a qualifying project
 1-56 contract, the commission must submit to the Contract Management and
 1-57 Oversight [Advisory] Team established under Subchapter E [C],
 1-58 Chapter 2262, documentation of the modifications to a proposed
 1-59 qualifying project made during the commission's evaluation and
 1-60 negotiation process for the project, including a copy of:

- 1-61 (1) the final draft of the contract;
- 1-62 (2) the detailed qualifying project proposal; and
- 1-63 (3) any executed interim or other agreement.

1-64 (b) The Contract Management and Oversight [Advisory] Team

2-1 shall review the documentation submitted under Subsection (a) and
2-2 provide written comments and recommendations to the
2-3 commission. The review must focus on, but not be limited to, best
2-4 practices for contract management and administration.

2-5 SECTION 5. Section 2166.2551, Government Code, is amended
2-6 to read as follows:

2-7 Sec. 2166.2551. CONTRACT NOTIFICATION. The commission or
2-8 an agency whose project is exempted from all or part of this chapter
2-9 under Section 2166.003 shall provide written notice to the
2-10 Legislative Budget Board of a contract for a construction project
2-11 if the amount of the contract, including an amendment,
2-12 modification, renewal, or extension of the contract, exceeds
2-13 \$50,000 [~~\$14,000~~]. The notice must be on a form prescribed by the
2-14 Legislative Budget Board and filed not later than the 10th day after
2-15 the date the agency enters into the contract.

2-16 SECTION 6. Section 2254.006, Government Code, is amended to
2-17 read as follows:

2-18 Sec. 2254.006. CONTRACT NOTIFICATION. A state agency,
2-19 including an institution of higher education as defined by Section
2-20 61.003, Education Code, shall provide written notice to the
2-21 Legislative Budget Board of a contract for professional services,
2-22 other than a contract for physician or optometric services, if the
2-23 amount of the contract, including an amendment, modification,
2-24 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
2-25 The notice must be on a form prescribed by the Legislative Budget
2-26 Board and filed not later than the 10th day after the date the
2-27 agency enters into the contract.

2-28 SECTION 7. Section 2254.0301(a), Government Code, is
2-29 amended to read as follows:

2-30 (a) A state agency shall provide written notice to the
2-31 Legislative Budget Board of a contract for consulting services if
2-32 the amount of the contract, including an amendment, modification,
2-33 renewal, or extension of the contract, exceeds \$50,000 [~~\$14,000~~].
2-34 The notice must be on a form prescribed by the Legislative Budget
2-35 Board and filed not later than the 10th day after the date the
2-36 entity enters into the contract.

2-37 SECTION 8. Section 2262.001(1), Government Code, is amended
2-38 to read as follows:

2-39 (1) "Team" means the Contract Management and Oversight
2-40 [~~Advisory~~] Team created under Subchapter E [~~C~~].

2-41 SECTION 9. Section 2262.0015, Government Code, is amended
2-42 to read as follows:

2-43 Sec. 2262.0015. APPLICABILITY TO CERTAIN CONTRACTS.

2-44 (a) The comptroller by rule shall establish threshold
2-45 requirements that exclude small or routine contracts, including
2-46 purchase orders, from the application of Subchapters A, B, and D
2-47 [~~this chapter~~].

2-48 (b) Subchapters A, B, and D do [~~This chapter does~~] not apply
2-49 to an enrollment contract described by 1 T.A.C. Section 391.183 as
2-50 that section existed on November 1, 2013.

2-51 SECTION 10. Section 2262.002(b), Government Code, is
2-52 amended to read as follows:

2-53 (b) Except as otherwise provided by this chapter, this
2-54 [~~This~~] chapter does not apply to contracts of the Texas Department
2-55 of Transportation that:

2-56 (1) relate to highway construction or highway
2-57 engineering; or

2-58 (2) are subject to Section 201.112, Transportation
2-59 Code.

2-60 SECTION 11. Chapter 2262, Government Code, is amended by
2-61 adding Subchapter E to read as follows:

2-62 SUBCHAPTER E. CONTRACT MANAGEMENT AND OVERSIGHT TEAM

2-63 Sec. 2262.201. DEFINITIONS. In this subchapter:

2-64 (1) "High-risk contract" means a state agency contract
2-65 or purchase order that:

2-66 (A) has a value of at least \$10 million;

2-67 (B) has a value of less than \$10 million, but has
2-68 high-risk factors as identified by the team;

2-69 (C) is entered into with an entity that is
2-70 incorporated outside of the United States;

2-71 (D) is entered into with an entity that, during

3-1 the five-year period preceding the date of the purchase or award of
 3-2 the contract, has had a contract with a state agency or federal
 3-3 governmental entity terminated or canceled for:
 3-4 (i) a violation of, or noncompliance with,
 3-5 the terms of the contract;
 3-6 (ii) delivery of an ineffective product,
 3-7 service, or system;
 3-8 (iii) significant delays or cost overruns;
 3-9 (iv) fraud;
 3-10 (v) misconduct; or
 3-11 (vi) any other event that resulted in the
 3-12 termination or cancellation of the contract for cause; or
 3-13 (E) meets other criteria that may be established
 3-14 by the team, including that the contract or purchase order:
 3-15 (i) is awarded by an agency with
 3-16 significant audit findings related to contracting in the previous
 3-17 two fiscal years;
 3-18 (ii) is expected to cost more than 20
 3-19 percent of the awarding agency's budget available from all sources;
 3-20 (iii) outsources a program or key function
 3-21 of a program of the awarding agency;
 3-22 (iv) has a value of more than \$1 million and
 3-23 is awarded on an emergency basis or is a sole source contract; or
 3-24 (v) has a value of more than \$1 million and
 3-25 has change orders that increase the cost of the contract by more
 3-26 than 20 percent of the original contract cost, excluding routine
 3-27 contract renewals.
 3-28 (2) "Major information resources project" has the
 3-29 meaning assigned by Section 2054.003(10).
 3-30 (3) "Quality assurance team" means the quality
 3-31 assurance team established under Section 2054.158.
 3-32 (4) "Solicitation" means a solicitation for bids,
 3-33 offers, qualifications, proposals, or similar expressions of
 3-34 interest for a high-risk contract.
 3-35 Sec. 2262.202. APPLICABILITY OF SUBCHAPTER. (a) This
 3-36 subchapter applies to contracts of the Texas Department of
 3-37 Transportation that:
 3-38 (1) do not relate to highway construction or highway
 3-39 engineering; or
 3-40 (2) are not subject to Section 201.112, Transportation
 3-41 Code.
 3-42 (b) This subchapter does not apply to a contract of the
 3-43 Employees Retirement System of Texas or the Teacher Retirement
 3-44 System of Texas except for a contract with a nongovernmental entity
 3-45 for claims administration of a group health benefit plan under
 3-46 Subtitle H, Title 8, Insurance Code.
 3-47 Sec. 2262.203. ESTABLISHMENT; GENERAL DUTIES. The
 3-48 Legislative Budget Board shall establish a Contract Management and
 3-49 Oversight Team to:
 3-50 (1) develop criteria for identifying high-risk
 3-51 factors in contracts;
 3-52 (2) consult with state agencies on and review
 3-53 high-risk contracts as provided by Section 2262.204;
 3-54 (3) provide recommendations and assistance to state
 3-55 agency personnel throughout the contract management process;
 3-56 (4) coordinate and consult with the quality assurance
 3-57 team on all high-risk contracts relating to a major information
 3-58 resources project; and
 3-59 (5) coordinate and consult with the comptroller to:
 3-60 (A) develop criteria for high-risk contracts
 3-61 under Section 2262.201(1)(E);
 3-62 (B) identify strategies to mitigate contract
 3-63 risks; and
 3-64 (C) monitor contract activity using information
 3-65 from the centralized accounting and payroll system or any successor
 3-66 system used to implement the enterprise resource planning component
 3-67 of the uniform statewide accounting project developed under
 3-68 Sections 2101.035 and 2101.036.
 3-69 Sec. 2262.204. NOTICE AND REVIEW; WAIVER. (a) Each state
 3-70 agency must provide written notice to the team not later than the
 3-71 30th day before the date the agency publicly releases solicitation

4-1 documents for a high-risk contract.

4-2 (b) A state agency must submit to the team information and
4-3 documentation requested by the team that relate to a high-risk
4-4 contract, including information on contract development, vendor
4-5 selection, and ongoing contract oversight.

4-6 (c) The team shall review information and documentation
4-7 submitted under Subsection (b) and make recommendations to ensure
4-8 that potential risks related to the high-risk contract have been
4-9 identified and mitigated.

4-10 (d) A state agency shall implement the team's
4-11 recommendations and provide any additional documentation required
4-12 by the team to demonstrate that risks related to the high-risk
4-13 contract have been mitigated. If a recommendation made by the team
4-14 is not implemented, the agency must provide written notice to the
4-15 team before the 31st day after the date the agency received the
4-16 recommendation.

4-17 (e) If, after receiving notice provided under Subsection
4-18 (d), the team determines that significant risks related to the
4-19 high-risk contract remain, the team shall provide written notice of
4-20 that fact to the Legislative Budget Board, the governor, and the
4-21 comptroller with a description of the risk and recommendations to
4-22 mitigate the risk, including cancellation of the high-risk
4-23 contract.

4-24 (f) The team may adopt criteria for waiving the consultation
4-25 and review requirements of this section.

4-26 Sec. 2262.205. SOLICITATION AND CONTRACT CANCELLATION.
4-27 After review of the written notice provided by the team under
4-28 Section 2262.204(e), the Legislative Budget Board, the governor, or
4-29 the comptroller may recommend that a state agency cancel a
4-30 solicitation or a high-risk contract if:

4-31 (1) a proposed contract would place the state at an
4-32 unacceptable risk if executed; or

4-33 (2) an executed contract is experiencing performance
4-34 failure or payment irregularities.

4-35 SECTION 12. Subchapter C, Chapter 2262, Government Code, is
4-36 repealed.

4-37 SECTION 13. (a) The Contract Advisory Team is abolished.

4-38 (b) The validity of an action taken by the Contract Advisory
4-39 Team before the team was abolished by this Act is not affected by
4-40 the abolition.

4-41 (c) All powers and duties of the Contract Advisory Team are
4-42 transferred to the Contract Management and Oversight Team
4-43 established by this Act.

4-44 (d) A rule, form, policy, procedure, or decision of the
4-45 Contract Advisory Team continues in effect as a rule, form, policy,
4-46 procedure, or decision of the Contract Management and Oversight
4-47 Team until superseded by an act of the Contract Management and
4-48 Oversight Team.

4-49 (e) A reference in law to the Contract Advisory Team means
4-50 the Contract Management and Oversight Team.

4-51 (f) Any action or proceeding involving the Contract
4-52 Advisory Team is transferred without change in status to the
4-53 Contract Management and Oversight Team, and the Contract Management
4-54 and Oversight Team assumes, without a change in status, the
4-55 position of the Contract Advisory Team in a negotiation or
4-56 proceeding to which the Contract Advisory Team is a party.

4-57 SECTION 14. Sections 2166.2551, 2254.006, and
4-58 2254.0301(a), Government Code, as amended by this Act, apply only
4-59 to a state agency contract for which the agency is required to
4-60 provide notice to the Legislative Budget Board that is entered into
4-61 on or after the effective date of this Act.

4-62 SECTION 15. This Act takes effect September 1, 2015.

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