

By: Walle

H.B. No. 3549

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the review, approval, and monitoring of and reporting  
3 on state agency contracts.

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

5 SECTION 1. Section 2101.035, Government Code, is amended by  
6 adding Subsection (b) to read as follows:

7 (b) The comptroller shall provide within the uniform  
8 statewide accounting system for state agencies to be able to enter  
9 the following information with respect to a contract:

10 (1) the state agency solicitation number, contract  
11 number, contract amount, and purchase order number;

12 (2) any noncompetitive method used to procure the  
13 contract;

14 (3) payments made under the contract, including any  
15 payment made under the contract for an information resource  
16 technology project;

17 (4) any required review and approval of the contract  
18 by the contract advisory team; and

19 (5) any required quality assurance team approval of  
20 the contract.

21 SECTION 2. Section 2101.037, Government Code, is amended by  
22 adding Subsection (d) to read as follows:

23 (d) Each state agency shall report the information required  
24 by this subchapter and comptroller rules, including the information

1 required in the uniform statewide accounting system under Section  
2 2101.035(b).

3 SECTION 3. Subchapter C, Chapter 2101, Government Code, is  
4 amended by adding Section 2101.0373 to read as follows:

5 Sec. 2101.0373. CONTRACT MONITORING AND PAYMENTS. The  
6 comptroller shall monitor the total contract expenditures for each  
7 contract reported in the uniform statewide accounting system. The  
8 comptroller may not authorize a payment:

9 (1) that exceeds the amount of payments authorized  
10 under the contract; or

11 (2) for a major information resources project that has  
12 not been approved by the quality assurance team as required under  
13 Section 2054.158.

14 SECTION 4. Sections 2155.501(3) and (4), Government Code,  
15 are amended to read as follows:

16 (3) "Multiple award contract" means an award of a  
17 contract for an indefinite amount of one or more similar [~~goods or~~]  
18 services from a vendor.

19 (4) "Schedule" means a list of multiple award  
20 contracts from which agencies may purchase [~~goods and~~] services.

21 SECTION 5. Section 2155.502(c), Government Code, is amended  
22 to read as follows:

23 (c) The commission may not list a multiple award contract on  
24 a schedule developed under Subsection (a) if the [~~goods or~~]  
25 services provided by that contract:

26 (1) are available from only one vendor;

27 (2) are telecommunications services[~~, facilities, or~~

1 ~~equipment~~]; or

2 (3) are [~~commodity items as defined by Section~~  
3 ~~2157.068(a)~~]; or

4 [~~(4) are engineering services as described by Section~~  
5 ~~1001.003, Occupations Code, or~~] architectural services as  
6 described by Section 1051.001, Occupations Code.

7 SECTION 6. Section 2155.504, Government Code, is amended to  
8 read as follows:

9 Sec. 2155.504. USE OF SCHEDULE BY GOVERNMENTAL ENTITIES.

10 (a) A state agency or local government may purchase [~~goods or~~]  
11 services directly from a vendor under a contract listed on a  
12 schedule developed under this subchapter. A purchase authorized by  
13 this section satisfies any requirement of state law relating to  
14 competitive bids or proposals and satisfies any applicable  
15 requirements of Chapter 2157.

16 (b) The price listed for a [~~good or~~] service under a  
17 multiple award contract is a maximum price. An agency or local  
18 government may negotiate a lower price for [~~goods or~~] services  
19 under a contract listed on a schedule developed under this  
20 subchapter.

21 SECTION 7. Section 2155.505(a)(3), Government Code, is  
22 amended to read as follows:

23 (3) "Veterans service agency" means a community-based  
24 organization that:

25 (A) is exempt from taxation under Section 501(a),  
26 Internal Revenue Code of 1986, as an organization described in  
27 Section 501(c)(3) of that code;

1 (B) has as its principal purpose to provide  
2 housing, substance abuse treatment, case management services, and  
3 employment training to low-income veterans, disabled veterans, and  
4 homeless veterans and their families; and

5 (C) employs veterans to provide at least 75  
6 percent of the hours of direct labor by individuals required to  
7 ~~[produce goods or]~~ provide services required under a contract  
8 entered into under this section.

9 SECTION 8. Section [2262.101](#), Government Code, as amended by  
10 Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd  
11 Legislature, Regular Session, 2013, is reenacted and amended to  
12 read as follows:

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

16 (1) reviewing and approving ~~[making recommendations~~  
17 ~~on the]~~ solicitation documents and contract documents for contracts  
18 of state agencies that have a value of at least \$10 million;

19 (2) reviewing any findings or recommendations made by  
20 the state auditor, including those made under Section [2262.052](#)(b),  
21 regarding a state agency's compliance with the contract management  
22 guide;

23 (3) providing recommendations to the comptroller  
24 regarding:

25 (A) the development of the contract management  
26 guide; and

27 (B) the training under Section [2262.053](#);

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

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

6 (6) ~~[(4)]~~ developing and recommending policies and  
7 procedures to improve state agency contract management practices;

8 (7) ~~[(5)]~~ developing and recommending procedures to  
9 improve state agency contracting practices by including  
10 consideration for best value; and

11 (8) ~~[(6)]~~ creating and periodically performing a risk  
12 assessment to determine the appropriate level of management and  
13 oversight of contracts by state agencies.

14 (b) The risk assessment created and performed ~~[reviewed]~~  
15 under Subsection (a)(8) ~~[(a)(6)]~~ must include ~~[, but is not limited~~  
16 ~~to]~~ the following criteria:

17 (1) the amount of appropriations to the agency;

18 (2) total contract value as a percentage of  
19 appropriations to the agency; or

20 (3) the impact of the functions and duties of the state  
21 agency on the health, safety, and well-being of residents  
22 ~~[citizens]~~.

23 (c) The comptroller shall oversee the activities of the  
24 team, including ensuring that the team carries out its duties under  
25 Subsections (a)(1), ~~[Subsection]~~ (a)(5), and (a)(7).

26 (d) The comptroller shall monitor a contract described by  
27 Subsection (a)(1) to determine whether:

1           (1) the solicitation and contract documents were  
2 reviewed and approved by the contract advisory team; and

3           (2) a payment under the contract exceeds the amount  
4 included in the solicitation documents for that contract.

5           (d-1) For a contract described by Subsection (a)(1), the  
6 comptroller may not authorize payments under the contract unless  
7 the solicitation and contract documents were reviewed and approved  
8 as required by that subdivision and the payment amount does not  
9 exceed the amount specified in the solicitation documents [~~A state~~  
10 ~~agency shall:~~

11           ~~[(1) comply with a recommendation made under~~  
12 ~~Subsection (a)(1); or~~

13           ~~[(2) submit a written explanation regarding why the~~  
14 ~~recommendation is not applicable to the contract under review].~~

15           (e) The team may review and approve documents under  
16 Subsection (a)(1) only for compliance with contract management and  
17 best practices principles and may not make a recommendation  
18 regarding the purpose or subject of the contract.

19           (f) The team may develop an expedited process for reviewing  
20 and approving solicitations under Subsection (a)(1) for contracts:

21           (1) that the team identifies as posing a low risk of  
22 loss to the state; or

23           (2) for which templates will be used more than once by  
24 a state agency.

25           SECTION 9. Section [2155.502](#)(e), Government Code, is  
26 repealed.

27           SECTION 10. (a) As soon as practicable after the effective

1 date of this Act, the comptroller of public accounts shall adopt the  
2 rules and take the actions necessary to implement the changes in law  
3 made by this Act.

4 (b) The changes in law made by this Act apply only to a state  
5 agency contract entered into on or after January 1, 2016.

6 SECTION 11. To the extent of any conflict, this Act prevails  
7 over another Act of the 84th Legislature, Regular Session, 2015,  
8 relating to nonsubstantive additions to and corrections in enacted  
9 codes.

10 SECTION 12. This Act takes effect September 1, 2015.