

By: Zaffirini

S.B. No. 543

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain requirements applicable to contracts entered  
3 into by, and the contract management process of, state agencies.

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

5 SECTION 1. Section 2113.102(a), Government Code, is amended  
6 to read as follows:

7 (a) A state agency may not use appropriated money to  
8 contract with a person to audit [~~the financial records or accounts~~  
9 ~~of~~] the agency except:

- 10 (1) as provided by[+  
11 [~~(1)~~] Subsections (b), (c), and (d); and  
12 (2) in accordance with Section 321.020 [~~Chapter 466,~~  
13 ~~pertaining to the state lottery,~~  
14 [~~(3) Chapter 2306, pertaining to the Texas Department~~  
15 ~~of Housing and Community Affairs, and~~  
16 [~~(4) Chapter 361, Transportation Code, pertaining to~~  
17 ~~the Texas Turnpike Authority division of the Texas Department of~~  
18 ~~Transportation]~~.

19 SECTION 2. Section 2155.086(a), Government Code, is amended  
20 to read as follows:

21 (a) In this section [~~and in Section 2155.087~~], "chief clerk"  
22 means the chief clerk of the comptroller or the chief clerk's  
23 designee.

24 SECTION 3. Section 2162.103(a), Government Code, is amended

1 to read as follows:

2 (a) In comparing the cost of providing a service, the  
3 council shall consider the:

4 (1) cost of supervising the work of a private  
5 contractor; ~~and~~

6 (2) cost of a state agency's performance of the  
7 service, including:

8 (A) the costs of the comptroller, attorney  
9 general, and other support agencies; and

10 (B) other indirect costs related to the agency's  
11 performance of the service;

12 (3) installation costs and any other initial costs  
13 associated with a contract with a private contractor;

14 (4) other costs associated with the transition to  
15 using a private contractor's goods or services; and

16 (5) cost savings to the state if a private contractor  
17 were awarded the contract.

18 SECTION 4. Section [2261.002](#), Government Code, is amended to  
19 read as follows:

20 Sec. 2261.002. DEFINITIONS. In this chapter:

21 (1) "Contract" includes an agreement or other written  
22 expression of terms of agreement, including an amendment, a  
23 modification, a renewal, or an extension, for the purchase or sale  
24 of goods or services that is entered into or paid for, wholly or  
25 partly, by a state agency during a fiscal year and a grant, other  
26 than a grant made to a school district or a grant made for other  
27 academic purposes, under which the recipient of the grant is

1 required to perform a specific act or service, supply a specific  
2 type of product, or both.

3 (2) "Contract deliverable" means a unit or increment  
4 of work required by a contract, including goods, services, reports,  
5 or documents.

6 (3) "Contract manager" means a person who:  
7 (A) is employed by a state agency; and  
8 (B) has significant contract management duties  
9 for the state agency.

10 (4) "Executive director" means the administrative  
11 head of a state agency.

12 (5) "General counsel" means the general counsel of a  
13 state agency.

14 (6) "Major contract" means a contract, including a  
15 renewal of a contract, that has a value of at least \$1 million. The  
16 term includes a service contract.

17 (7) "State agency" has the meaning assigned by Section  
18 2151.002.

19 SECTION 5. Subchapter A, Chapter 2261, Government Code, is  
20 amended by adding Sections 2261.004, 2261.005, 2261.006, and  
21 2261.007 to read as follows:

22 Sec. 2261.004. STATE AGENCY REPOSITORY AND RECORDS.

23 (a) Each state agency shall maintain in a central location all  
24 contracts for that agency.

25 (b) Each state agency shall maintain a comprehensive list of  
26 all contracts for that agency.

27 (c) In this subsection, "contract" includes a sole-source

1 contract. Each state agency shall maintain accurate records of all  
2 essential information relating to agency contracts, including  
3 information on:

4 (1) a contract delay or changes to a contract in which  
5 total expenditures under the contract increase by more than 35  
6 percent from the original contract amount; and

7 (2) cost overruns, including a written explanation of  
8 why expenditures have increased under a contract.

9 Sec. 2261.005. CONTRACT REPORTING. (a) In this section,  
10 "contract" includes a construction contract.

11 (b) The following sections prescribe reporting requirements  
12 for certain contracts:

13 (1) Section [322.020](#);

14 (2) Section [2054.008](#);

15 (3) Section [2166.2551](#);

16 (4) Section [2254.006](#); and

17 (5) Section [2254.0301](#).

18 Sec. 2261.006. PROFESSIONAL SERVICES. A state agency shall  
19 procure professional services in accordance with Subchapter A,  
20 Chapter 2254.

21 Sec. 2261.007. CONTRACT GUIDELINES AND PROCEDURES. Each  
22 state agency shall establish formal guidelines and procedures for  
23 all employees involved in the contracting process:

24 (1) regarding who may approve a contract for the  
25 agency;

26 (2) for contract planning and solicitation;

27 (3) for contract negotiations;

1           (4) for contract management; and

2           (5) for contract oversight.

3           SECTION 6. Subchapter B, Chapter 2261, Government Code, is  
4 amended by adding Section 2261.054 to read as follows:

5           Sec. 2261.054. BEST VALUE STANDARD FOR CONTRACTING FOR  
6 GOODS AND SERVICES. In determining the best value for the state,  
7 the purchase price and whether the goods or services meet  
8 specifications are the most important considerations. A state  
9 agency may consider, subject to Sections 2155.074(c) and 2155.075,  
10 other relevant factors, including:

11           (1) installation costs;

12           (2) life cycle costs;

13           (3) the quality and reliability of the goods and  
14 services;

15           (4) the delivery terms;

16           (5) indicators of probable vendor performance under  
17 the contract such as past vendor performance, the vendor's  
18 financial resources and ability to perform, the vendor's experience  
19 or demonstrated capability and responsibility, and the vendor's  
20 ability to provide reliable maintenance agreements and support;

21           (6) the cost of any employee training associated with  
22 a purchase;

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

24           (8) the vendor's anticipated economic impact on the  
25 state or a subdivision of the state, including potential tax  
26 revenue and employment; and

27           (9) other factors relevant to determining the best

1 value for the state in the context of a particular purchase.

2 SECTION 7. The heading to Subchapter C, Chapter 2261,  
3 Government Code, is amended to read as follows:

4 SUBCHAPTER C. CONTRACT FORMATION AND PROVISIONS

5 SECTION 8. Subchapter C, Chapter 2261, Government Code, is  
6 amended by adding Sections 2261.103, 2261.104, 2261.105, and  
7 2261.106 to read as follows:

8 Sec. 2261.103. USE OF UNIFORM FORMS. A state agency may use  
9 any forms developed by the comptroller as templates, guides, or  
10 samples for contracts entered into by the agency.

11 Sec. 2261.104. ESSENTIAL CONTRACT PROVISIONS. The  
12 following are required provisions in each contract to which the  
13 provisions are applicable, other than a grant:

- 14 (1) legal authority;
- 15 (2) statement of work;
- 16 (3) indemnification or damage claims;
- 17 (4) consideration;
- 18 (5) specifications;
- 19 (6) funding out clause;
- 20 (7) antitrust;
- 21 (8) payment;
- 22 (9) dispute resolution;
- 23 (10) term of contract;
- 24 (11) confidential information;
- 25 (12) abandonment or default;
- 26 (13) right to audit;
- 27 (14) force majeure;

1           (15) independent contractor; and

2           (16) termination.

3           Sec. 2261.105. CONTRACT PROVISIONS REQUIRED BY STATE LAW.

4 In any contract for the acquisition of goods or services to which a  
5 state agency is a party, a provision required by applicable law to  
6 be included in the contract is considered to be a part of the  
7 executed contract without regard to whether:

8           (1) the provision appears on the face of the contract;

9 or

10           (2) the contract includes any provision to the  
11 contrary.

12           Sec. 2261.106. CONTRACT RENEWAL. A state agency shall  
13 establish a standardized process for renewing all contracts of the  
14 agency.

15           SECTION 9. Subchapter D, Chapter 2261, Government Code, is  
16 amended by adding Section 2261.152 to read as follows:

17           Sec. 2261.152. CONTRACT PAYMENT. (a) For each contract for  
18 goods or services that is subject to this chapter, a state agency  
19 shall require that payment under the contract be linked to clear and  
20 measurable achievements, such as length of time of work or contract  
21 deliverables.

22           (b) A state agency may not make a final payment on a contract  
23 for goods or services that is subject to this chapter unless the  
24 agency verifies that all contract deliverables have been received.

25           SECTION 10. The heading to Subchapter E, Chapter 2261,  
26 Government Code, is amended to read as follows:

27           SUBCHAPTER E. CONTRACT MONITORING AND [CONTRACTOR] OVERSIGHT

1 SECTION 11. Section 2261.202, Government Code, is amended  
2 to read as follows:

3 Sec. 2261.202. CONTRACT MONITORING RESPONSIBILITIES. (a)  
4 As one of its contract management policies, each state agency that  
5 makes procurements to which this chapter applies shall establish  
6 and adopt by rule a policy that clearly defines the contract  
7 monitoring roles and responsibilities, if any, of agency staff,  
8 including internal audit staff and other inspection,  
9 investigative, or audit staff.

10 (b) The policy must establish clear lines of  
11 accountability, staff roles and responsibilities, and  
12 decision-making authority for program staff, contract management  
13 staff, and executive management staff.

14 SECTION 12. Subchapter E, Chapter 2261, Government Code, is  
15 amended by adding Sections 2261.204, 2261.205, 2261.206, 2261.207,  
16 2261.208, 2261.209, 2261.210, 2261.211, 2261.212, 2261.213, and  
17 2261.214 to read as follows:

18 Sec. 2261.204. INFORMATION ON CONTRACTOR PERFORMANCE.

19 (a) After a contract is completed or otherwise terminated, each  
20 state agency shall review the contractor's performance under the  
21 contract.

22 (b) Using forms made available to the state agency, a state  
23 agency shall report to the comptroller on the results of the review  
24 regarding a contractor's performance under a major contract.

25 (c) A state agency may use any vendor performance tracking  
26 system available to state agencies to determine whether to award a  
27 contract to a person reviewed in the database.

1       Sec. 2261.205. EXCLUDING CONTRACTOR FROM SOLICITATION  
2 PROCESS. Based on its own contractor performance reviews and on  
3 information in any vendor performance tracking system available to  
4 state agencies, a state agency may exclude a contractor from the  
5 solicitation process for a contract if the agency determines the  
6 contractor has performed poorly on a previous state contract  
7 without regard to whether the contractor has been barred under  
8 Section 2155.077.

9       Sec. 2261.206. CONTRACTING STAFF. (a) Each state agency  
10 that enters into contracts other than interagency contracts shall  
11 establish a career ladder program for contract management in the  
12 agency.

13       (b) An employee hired as a contract manager may participate  
14 in procurement planning, contract solicitation, contract  
15 formation, price establishment, and other contract activities.

16       (c) Each state agency shall determine, in consultation with  
17 the state auditor, the amount and significance of contract  
18 management duties sufficient for an employee to be considered a  
19 contract manager, program staff, or a contract specialist.

20       Sec. 2261.207. APPROVAL OF CONTRACTS. (a) Each state  
21 agency shall adopt a policy to establish a monetary threshold above  
22 which agency contracts and amendments to or extensions of agency  
23 contracts require written authorization by the agency executive  
24 director.

25       (b) For state agency contracts valued in excess of \$1  
26 million, the agency executive director must authorize a contract  
27 amendment in writing.

1       (c) Each state agency shall annually report to the  
2 comptroller a list of persons authorized to approve contracts at  
3 the agency. The list must include each person's name, position, and  
4 supervisory responsibility, if any.

5       Sec. 2261.208. NEGOTIATION OF MAJOR CONTRACT BY SINGLE  
6 EMPLOYEE PROHIBITED. A state agency may not negotiate a major  
7 contract with only one employee engaging in the negotiation.

8       Sec. 2261.209. CONTRACT REVIEW; REPORTING. (a) A  
9 contractor's performance must be periodically reviewed throughout  
10 the term of a contract.

11       (b) A state agency shall ensure ongoing communication  
12 between executive management staff, contract management staff, and  
13 program staff of the results of the reviews performed under  
14 Subsection (a) with specific attention to contracts that are:

15               (1) anticipated to be completed later than originally  
16 estimated; or

17               (2) expected to cost more than the amount that was  
18 originally budgeted.

19       (c) To implement this section, a state agency shall create a  
20 system for agency-wide reporting on the status of, activity on, and  
21 contractor performance for each contract.

22       Sec. 2261.210. CONTRACT ADMINISTRATION TEAM. (a) This  
23 section applies to a state agency:

24               (1) that has a contract with a value of \$5 million or  
25 more; or

26               (2) for which 60 percent or more of the agency's budget  
27 is spent on contracts.

1        (b) A state agency to which this section applies shall  
2 create a contract administration team to:

3            (1) ensure and verify the performance of all agency  
4 contracts; and

5            (2) maintain within the agency contract oversight  
6 expertise to effectively manage contractors.

7        Sec. 2261.211. CONTRACT MONITORING PROCESS. A state agency  
8 shall establish and implement a monitoring process for agency  
9 contracts that includes:

10           (1) identifying the appropriate criteria for use in  
11 measuring contract performance;

12           (2) creating a schedule for monitoring contract  
13 performance;

14           (3) comparing work accomplished to work planned to be  
15 accomplished;

16           (4) analyzing contract performance variances; and

17           (5) addressing contracting performance problems with  
18 corrective action.

19        Sec. 2261.212. RISK MANAGEMENT PROCESS. (a) A state agency  
20 shall establish and implement a:

21           (1) process for evaluating risk to the state, such as  
22 product risk, process risk, financial risk, and schedule risk, if  
23 contract implementation or performance problems occur, including a  
24 process for:

25                    (A) risk identification;

26                    (B) risk analysis;

27                    (C) risk evaluation;

1                    (D) risk treatment and contingency planning; and

2                    (E) risk monitoring; and

3                    (2) mitigation procedure for use when contract  
4 implementation or performance problems occur.

5                    (b) In creating the process required by Subsection (a)(1),  
6 the state agency shall consider:

7                    (1) the complexity and subject matter of agency  
8 contracts;

9                    (2) the dollar value of agency contracts and whether  
10 the procurement will result in a major contract;

11                    (3) the anticipated payment methodology;

12                    (4) the experience of agency staff with the type of  
13 procurement;

14                    (5) whether the results of the procurement will impact  
15 the public or only impact the agency;

16                    (6) time constraints or the expected duration of the  
17 procurement; and

18                    (7) the type, availability, and experience of staff  
19 resources required to implement the objectives of the procurement.

20                    Sec. 2261.213. CONTRACT COMMUNICATION. (a) A state agency  
21 shall maintain effective communication procedures regarding  
22 contract performance.

23                    (b) The chief financial officer of a state agency, or an  
24 individual designated by the executive director with similar duties  
25 and skills as a chief financial officer, shall report at least  
26 monthly to the executive director on the status of agency  
27 contracts. The report must include a clear indication of:

1           (1) any contract cost overruns or contracts that are  
2 performing poorly; and

3           (2) contracts that may cause the state to delay or  
4 default on service delivery.

5           Sec. 2261.214. REPORT ON CERTAIN PURCHASES. (a) Not later  
6 than August 1 of each year, the comptroller shall publish a report  
7 on the number and dollar value of sole source and emergency  
8 purchases made in the previous calendar year. The report must  
9 compare the total dollar value of all sole source and emergency  
10 purchases made with the total dollar value of all competitively  
11 awarded contracts.

12           (b) Each state agency shall timely provide to the  
13 comptroller the information the comptroller requires for the  
14 purpose of creating the report under Subsection (a).

15           (c) The comptroller shall establish requirements for the  
16 provision of information under Subsection (b) in consultation with  
17 the Contract Advisory Team created under Subchapter C, Chapter  
18 2262, the Health and Human Services Commission, and the Texas  
19 Department of Transportation.

20           (d) The comptroller may not require a state agency to  
21 provide information under Subsection (b) on a contract related to  
22 health and human services if:

23           (1) the value of the contract cannot be determined at  
24 the time of execution of the contract; and

25           (2) any qualified vendor is eligible for the contract.

26           SECTION 13. Chapter 2261, Government Code, is amended by  
27 adding Subchapters F, G, H, and I to read as follows:

1                   SUBCHAPTER F. CHANGES TO CONTRACTS

2                   Sec. 2261.251. CONTRACT AMENDMENTS, EXTENSIONS, AND CHANGE  
3 ORDERS. (a) An extension of or amendment to a state agency  
4 contract, including a change order, is subject to the same agency  
5 approval processes as the original contract.

6                   (b) A state agency may not extend or amend a contract unless  
7 the agency complies with the same agency approval processes for the  
8 extension or amendment as required for the original contract and  
9 the agency states in writing why the extension or amendment is  
10 necessary or advantageous to the state.

11                   (c) This section does not affect whether a state agency is  
12 required to undertake a new solicitation process in the manner  
13 required for a new contract in order to extend or amend a contract.

14                   Sec. 2261.252. LARGE CHANGE IN CONTRACT VALUE; COST  
15 OVERRUNS. (a) If a proposed contract amendment or extension  
16 changes the monetary value of a major contract by at least 35  
17 percent or \$1 million, the state agency must submit the amendment or  
18 extension for review to the Contract Advisory Team created under  
19 Subchapter C, Chapter 2262, and the agency's executive director  
20 before the agency amends or extends the contract.

21                   (b) Subsection (a) does not apply to a proposed contract  
22 amendment required by a state or federal statute.

23                   (c) The executive director shall be timely notified of any  
24 unanticipated contract cost overrun.

25                   Sec. 2261.253. CERTAIN CONTRACT EXTENSIONS. This  
26 subchapter does not apply to contract extensions that are  
27 specifically established as a component of the original

1 procurement.

2 SUBCHAPTER G. TRAINING

3 Sec. 2261.301. TRAINING FOR CONTRACT MANAGERS. (a) A  
4 state agency shall require a contract manager to be trained under  
5 Section 2262.053.

6 (b) A state agency shall maintain a list of contract  
7 managers who have completed the contract management training.

8 (c) A state agency may develop qualified contract manager  
9 training to supplement the training required under this section.

10 Sec. 2261.302. TRAINING FOR GOVERNING BODIES. All members  
11 of the governing body of a state agency shall complete at least one  
12 course of abbreviated training provided under Section 2262.053.  
13 This section does not apply to a state agency that does not enter  
14 into any contracts.

15 SUBCHAPTER H. CONTRACT PLANNING AND SOLICITATION

16 Sec. 2261.351. CONTRACT PLANNING. Before a state agency  
17 solicits a contract, the agency must:

18 (1) identify, justify, and document the need for the  
19 good or service;

20 (2) identify general contracting objectives,  
21 assumptions, and constraints;

22 (3) consider alternatives to soliciting the contract;  
23 and

24 (4) determine the preferred method of delivery for the  
25 good or service.

26 Sec. 2261.352. SOLICITATION OF CONTRACT. (a) A  
27 solicitation for a contract must include the following:

- 1           (1) a description of the work;
- 2           (2) a specific and measurable standard of performance;
- 3           (3) a list of the test conditions, method, or  
4 procedure for verifying that the contract deliverable meets the  
5 standard;
- 6           (4) a method or process to monitor and ensure quality  
7 in the contract deliverable;
- 8           (5) an acceptance process for each contract  
9 deliverable that is expected to be delivered;
- 10           (6) a compensation structure that is consistent with  
11 the type and value of work performed; and
- 12           (7) a remedy, if appropriate, for failure to meet  
13 contract deliverables.

14           (b) In preparing a contract solicitation, a state agency  
15 must include in the requirements for the contract deliverables:

- 16           (1) the quality level of the good or service;
- 17           (2) the amount of completion that is required;
- 18           (3) the suitability of the good or service for the work  
19 to be done for the agency; and
- 20           (4) a defined and documented method of evaluation to  
21 be used in making the award and in determining the best value bid  
22 for the procurement.

23                           SUBCHAPTER I. CONTRACT CLOSING

24           Sec. 2261.401. CLOSING PROCEDURE. A state agency shall  
25 create and follow a procedure for contract closing that includes  
26 procedures for:

- 27           (1) verification that all:

1           (A) required goods or services have been  
2 delivered or performed, inspected, and accepted; and

3           (B) existing options have been exercised or have  
4 expired;

5           (2) issuance of a contract completion notice by one of  
6 the parties;

7           (3) acquisition of all required forms, reports, and  
8 clearances;

9           (4) verification that other applicable terms have been  
10 met;

11           (5) verification that there are no outstanding claims  
12 or disputes; and

13           (6) final payment.

14           SECTION 14. Section 2262.001(2), Government Code, is  
15 amended to read as follows:

16           (2) "Contract management manual [~~guide~~]" means the  
17 manual [~~guide~~] developed under Section 2262.051.

18           SECTION 15. Section 2262.051, Government Code, is amended  
19 to read as follows:

20           Sec. 2262.051. CONTRACT MANAGEMENT MANUAL [~~GUIDE~~]; RULES.

21 (a) In consultation with the attorney general, the Department of  
22 Information Resources, [~~the comptroller,~~] and the state auditor,  
23 the comptroller [~~commission~~] shall develop or periodically update a  
24 contract management manual [~~guide~~] for use by state  
25 agencies. Participation by the state auditor under this  
26 subsection is subject to approval by the legislative audit  
27 committee for inclusion in the audit plan under Section 321.013(c).

1           (b) The comptroller [~~commission~~] may adopt rules necessary  
2 to develop or update the manual [~~guide~~].

3           (c) The manual [~~guide~~] must provide information regarding  
4 the primary duties of a contract manager, including how to:

- 5                   (1) develop and negotiate a contract;
- 6                   (2) select a contractor; and
- 7                   (3) monitor contractor and subcontractor performance  
8 under a contract.

9           (d) The manual [~~guide~~] must include model provisions for  
10 state agency contracts. The manual [~~guide~~] must:

11                   (1) distinguish between essential provisions that a  
12 state agency must include in a contract to protect the interests of  
13 this state and recommended provisions that a state agency may  
14 include in a contract;

15                   (2) recognize the unique contracting needs of an  
16 individual state agency or program and provide sufficient  
17 flexibility to accommodate those needs, consistent with protecting  
18 the interests of this state;

19                   (3) include maximum contract periods under which a new  
20 competitive solicitation is not necessary; and

21                   (4) include the model contract management process  
22 developed under Section [2262.104](#) and recommendations on the  
23 appropriate use of the model.

24           (e) The manual [~~guide~~] must recommend time frames under  
25 which a state agency may issue a competitive solicitation for a  
26 major contract in relation to the date on which the contract is to  
27 be executed.

1 (g) The manual [~~guide~~] must establish procedures under  
2 which a state agency is required to solicit explanations from  
3 qualified potential respondents who did not respond to a  
4 competitive solicitation for a contract on which fewer than two  
5 qualified bids were received by the agency.

6 (h) The manual [~~guide~~] must establish procedures for major  
7 contracts that outsource a state function or process to a  
8 contractor, including when applicable the use of documents required  
9 under Subchapter J, Chapter 2054.

10 SECTION 16. The heading to Section [2262.052](#), Government  
11 Code, is amended to read as follows:

12 Sec. 2262.052. COMPLIANCE WITH MANUAL [~~GUIDE~~].

13 SECTION 17. Section [2262.052](#)(a), Government Code, is  
14 amended to read as follows:

15 (a) Each state agency shall comply with the contract  
16 management manual [~~guide~~].

17 SECTION 18. Section [2262.053](#)(b), Government Code, is  
18 amended to read as follows:

19 (b) The training must provide the contract manager with  
20 information regarding how to:

21 (1) fairly and objectively select and negotiate with  
22 the most qualified contractor;

23 (2) establish prices that are cost-effective and that  
24 reflect the cost of providing the service;

25 (3) include provisions in a contract that hold the  
26 contractor accountable for results;

27 (4) monitor and enforce a contract;

- 1 (5) make payments consistent with the contract;
- 2 (6) comply with any requirements or goals contained in
- 3 the contract management manual [~~guide~~]; and
- 4 (7) use and apply advanced sourcing strategies,
- 5 techniques, and tools.

6 SECTION 19. Section [2262.054](#), Government Code, is amended

7 to read as follows:

8 Sec. 2262.054. PUBLIC COMMENT. The commission by rule may

9 establish procedures by which each state agency is required to

10 invite public comment by publishing the proposed technical

11 specifications for major contracts on the Internet through the

12 information service known as the Texas Marketplace or through a

13 suitable successor information service. The contract management

14 manual [~~guide~~] must define "technical specifications."

15 SECTION 20. Section [2262.101](#), Government Code, as amended

16 by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd

17 Legislature, Regular Session, 2013, is reenacted and amended to

18 read as follows:

19 Sec. 2262.101. CREATION; DUTIES. (a) The Contract

20 Advisory Team is created to assist state agencies in improving

21 contract management practices by:

22 (1) reviewing and making recommendations on the

23 solicitation documents and contract documents for contracts of

24 state agencies that have a value of at least \$10 million;

25 (2) reviewing any findings or recommendations made by

26 the state auditor, including those made under Section [2262.052\(b\)](#),

27 regarding a state agency's compliance with the contract management

1 manual [~~guide~~];

2 (3) providing recommendations to the comptroller  
3 regarding:

4 (A) the development of the contract management  
5 manual [~~guide~~]; and

6 (B) the training under Section 2262.053;

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

9 (5) coordinating and consulting with the quality  
10 assurance team established under Section 2054.158 on all contracts  
11 relating to a major information resources project; [~~and~~]

12 (6) [~~(4)~~] developing and recommending policies and  
13 procedures to improve state agency contract management practices;

14 (7) [~~(5)~~] developing and recommending procedures to  
15 improve state agency contracting practices by including  
16 consideration for best value; and

17 (8) [~~(6)~~] creating and periodically performing a risk  
18 assessment to determine the appropriate level of management and  
19 oversight of contracts by state agencies.

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

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

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

26 (3) the impact of the functions and duties of the state  
27 agency on the health, safety, and well-being of residents

1 ~~[citizens]~~.

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

5 (d) A state agency shall:

6 (1) comply with a recommendation made under Subsection  
7 (a)(1); or

8 (2) submit a written explanation regarding why the  
9 recommendation is not applicable to the contract under review.

10 (e) The team may review documents under Subsection (a)(1)  
11 only for compliance with contract management and best practices  
12 principles and may not make a recommendation regarding the purpose  
13 or subject of the contract.

14 (f) The team may develop an expedited process for reviewing  
15 solicitations under Subsection (a)(1) for contracts:

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

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

20 SECTION 21. The following provisions of the Government Code  
21 are repealed:

22 (1) Section [2155.080](#);

23 (2) Section [2155.081](#);

24 (3) Section [2155.087](#); and

25 (4) Section [2155.138](#).

26 SECTION 22. Sections 2261.104, 2261.105, 2261.208,  
27 2261.351, and 2261.352, Government Code, as added by this Act,

1 apply only to a contract for which a state agency first advertises  
2 or otherwise solicits bids, proposals, offers, or qualifications on  
3 or after the effective date of this Act.

4 SECTION 23. A contract manager is not required to complete  
5 the training required under Section 2261.301, Government Code, as  
6 added by this Act, until September 1, 2017.

7 SECTION 24. A member of a governing body of a state agency  
8 is not required to complete the training required under Section  
9 2261.302, Government Code, as added by this Act, until September 1,  
10 2017.

11 SECTION 25. A state agency is not required to comply with  
12 Section [2261.202](#), Government Code, as amended by this Act, and  
13 Section 2261.004 and Sections 2261.204 through 2261.213,  
14 Government Code, as added by this Act, until September 1, 2017.

15 SECTION 26. To the extent of any conflict, this Act prevails  
16 over another Act of the 84th Legislature, Regular Session, 2015,  
17 relating to nonsubstantive additions to and corrections in enacted  
18 codes.

19 SECTION 27. This Act takes effect November 1, 2015.