

By: Zaffirini

S.B. No. 1638

A BILL TO BE ENTITLED

1 AN ACT
2 relating to training for state employees, including procurement and
3 contract management training.

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

5 SECTION 1. Section 656.047, Government Code, is amended to
6 read as follows:

7 Sec. 656.047. PAYMENT OF PROGRAM EXPENSES. (a) A state
8 agency may spend public funds as appropriate to pay the salary,
9 tuition and other fees, travel and living expenses, training
10 stipend, expense of training materials, and other necessary
11 expenses of an instructor, student, or other participant in a
12 training or education program.

13 (b) A state agency that spends more than \$5,000 in a state
14 fiscal year for a training or education program for any individual
15 employee shall not later than August 31 of that year submit to the
16 Legislative Budget Board a report including:

17 (1) a list of the employees participating in a
18 training or education program and receiving payment from the
19 agency;

20 (2) the amount spent on each employee; and

21 (3) the certification earned by each employee through
22 the training or education program.

23 SECTION 2. Subchapter C, Chapter 656, Government Code, is
24 amended by adding Section 656.054 to read as follows:

1 Sec. 656.054. TRAINING BY COMPTROLLER. (a) The comptroller
2 shall develop each training program provided by the comptroller
3 under this subchapter to meet the needs of a state agency.

4 (b) On an annual basis the comptroller will assess the
5 number of employees requiring procurement or contract management
6 training and will maintain a regular schedule of classes to
7 accommodate that number.

8 (c) The comptroller may use its own staff or contract with
9 private entities or other state agencies to conduct the training.

10 SECTION 3. Sections 2054.057, 2155.078, 2262.053, and
11 2262.0535, Government Code, are transferred to Subchapter C,
12 Chapter 656, Government Code, redesignated as Sections 656.050,
13 656.051, 656.052, and 656.053, Government Code, respectively, and
14 amended to read as follows:

15 Sec. 656.050 [~~2054.057~~]. TRAINING IN CONTRACTING FOR
16 INFORMATION RESOURCES TECHNOLOGIES [~~NEGOTIATION~~]. (a) In this
17 section:

18 (1) "Department" means the Department of Information
19 Resources; and

20 (2) "Information resources technologies" has the
21 meaning assigned by Section 2054.003.

22 (a-1) The department, with the cooperation of the
23 comptroller and other appropriate state agencies, shall develop and
24 implement a program to train state agency personnel in effectively
25 negotiating

26 (b) The department shall make the training available to
27 state agency personnel who are directly or indirectly involved in

1 contract negotiations, such as senior or operational management,
2 purchasers, users of the purchased technologies, and personnel with
3 relevant technical, legal, or financial knowledge. State agency
4 personnel directly involved in contract negotiations for the
5 purchase of information resources technologies shall complete the
6 training developed by the department.

7 (c) The department shall include in the training:

8 (1) information on developing a structured purchasing
9 method that meets an agency's needs;

10 (2) information drawn from the state's previous
11 procurement experience about what is or is not advantageous for the
12 state;

13 (3) the perspective of state agencies with oversight
14 responsibilities related to the state's procurement of information
15 resources technologies; ~~and~~

16 (4) information on how to use contracts entered into
17 by the department under Section 2157.068; and

18 (5) other information that the department considers to
19 be useful.

20 (d) The department may use its own staff or contract with
21 private entities or other state agencies to conduct the training.

22 Sec. 656.051 [~~2155.078~~]. TRAINING AND CERTIFICATION OF STATE
23 AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The comptroller
24 [~~commission~~] shall establish and administer a system of training,
25 continuing education, and certification for state agency
26 purchasing personnel. The comptroller [~~commission~~] may establish
27 and offer appropriate training to vendors on a cost recovery basis.

1 The comptroller [~~commission~~] may adopt rules to administer this
2 section, including rules relating to monitoring a certified
3 purchaser's compliance with the continuing education requirements
4 of this section.

5 (b) Except as provided by Subsection (n), all state agency
6 purchasing personnel, including agencies exempted from the
7 purchasing authority of the comptroller [~~commission~~], must receive
8 the training and continuing education to the extent required by
9 comptroller rule [~~of the commission~~]. A state agency employee who
10 is required to receive the training may not participate in
11 purchases by the employing agency unless the employee has received
12 the required training or received equivalent training from a
13 national association recognized by the comptroller [~~commission~~].
14 The equivalent training may count, as provided by Subsection (k),
15 toward the continuing education requirements.

16 (c) The comptroller [~~commission~~] shall set and collect a fee
17 from state agencies that employ purchasing personnel. The
18 comptroller [~~commission~~] shall set the fee in an amount that
19 recovers the comptroller's [~~commission's~~] costs under this section.

20 (d) The comptroller [~~commission~~] may provide training,
21 continuing education, and certification under this section to
22 purchasing personnel employed by a political subdivision or other
23 public entity of the state. Political subdivision purchasing
24 personnel may receive, but are not required to receive, the
25 training, continuing education, or certification provided under
26 this section. The comptroller [~~commission~~] shall collect the fees
27 described by Subsection (c) for training, education, or

1 certification under this subsection.

2 (e) The comptroller [~~commission~~] may provide training and
3 continuing education under this section using the comptroller's
4 [~~its~~] own personnel or through contracts with private entities.
5 The comptroller [~~commission~~] may also, by agreement with a public
6 entity, use the services of persons employed by the public entity to
7 provide training and continuing education under this section.

8 (f) The comptroller [~~commission~~] shall provide at least
9 three levels of training under this section.

10 (g) The basic training level must include an introduction to
11 contract purchasing methods, ethical issues affecting purchasing
12 decisions, and instruction in any other processes and issues that
13 the comptroller [~~commission~~] considers appropriate for
14 introductory purchasing training.

15 (h) The second training level must include advanced
16 instruction in formal and informal bidding methods, introduction to
17 negotiation methods, instruction in writing specifications, and
18 instruction in any other processes and issues that the comptroller
19 [~~commission~~] considers appropriate for the second level of
20 purchasing training.

21 (i) The third training level must include an introduction to
22 complex negotiations, instruction in the criteria for determining
23 which product or service offers the best value for the state, and
24 instruction in any other processes and issues that the comptroller
25 [~~commission~~] considers appropriate for advanced purchasing
26 training.

27 (j) The comptroller [~~commission~~] may prescribe the

1 circumstances under which a state agency may delegate to a
2 certified purchaser signature purchasing authority to approve
3 purchase orders.

4 (k) The comptroller [~~commission~~] shall require a reasonable
5 number of hours of continuing education to maintain a certification
6 level. The comptroller [~~commission~~] may allow attendance at
7 equivalent certification training recognized by the comptroller
8 [~~commission~~] to count toward the required number of hours.
9 Maintenance of the certification level may be by yearly renewal or
10 another reasonable renewal period comparable to nationally
11 recognized certification requirements.

12 (l) The comptroller's [~~commission's~~] prerequisites for
13 receiving a level-two purchaser certification must include
14 completion of the basic training level, passage of a written
15 examination, and a minimum number of years of purchasing experience
16 prescribed by the comptroller [~~commission~~].

17 (m) The comptroller's [~~commission's~~] prerequisites for
18 receiving a level-three purchaser certification must include
19 completion of the second training level, passage of a written
20 examination, and a minimum of three years of purchasing experience.

21 (n) This section does not apply to an institution to which
22 Section 51.9335, Education Code, applies or to an institution to
23 which Section 73.115, Education Code, applies.

24 Sec. 656.052 [~~2262.053~~]. TRAINING FOR CONTRACT MANAGERS.

25 (a) In this section:

26 (1) "Contract manager" has the meaning assigned by
27 Section 2262.001.

1 (a-1) In coordination with the Department of Information
2 Resources, state auditor, and Health and Human Services Commission,
3 the comptroller shall develop a training program for contract
4 managers.

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

7 (1) fairly and objectively select and negotiate with
8 the most qualified contractor;

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

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

13 (4) monitor and enforce a contract;

14 (5) evaluate and approval requests for payments that
15 are consistent with the contract;

16 (6) comply with any requirements or goals contained in
17 ~~[the]~~ state-issued contract management [guide] documents; [and]

18 (7) use and apply advanced sourcing strategies,
19 techniques, and tools;

20 (8) develop an accurate and comprehensive statement of
21 work;

22 (9) build and maintain a working relationship with the
23 contractor, including communication and timely management of
24 problems;

25 (10) create a process for evaluating the potential
26 risk to the state, including product risk, process risk, financial
27 risk, or schedule risk;

1 (10) create a corrective action procedure for use when
2 contract implementation or performance problems occur;

3 (11) maintain required documentation for contracting
4 decisions, changes to a contract, and problems with a contract;

5 (12) create procedure for the selection and
6 application of the preferred method for the resolution of disputes
7 with the contractor; and

8 (13) develop a process for contract closure and to
9 evaluate performance under the contract.

10 (c) Each state agency shall ensure that the agency's
11 contract managers complete the training developed under this
12 section.

13 (d) The comptroller shall administer training under this
14 section.

15 (e) The comptroller shall certify contract managers who
16 have completed the contract management training required under this
17 section.

18 (f) A state agency may develop qualified contract manager
19 training to supplement the training required under this section.
20 The comptroller may incorporate the training developed by the
21 agency into the training program under this section.

22 Sec. 656.053 [~~2262.0535~~]. CONTRACT TRAINING FOR GOVERNING
23 BODIES. (a) In this section, "state agency" has the meaning
24 assigned by Section 2056.001.

25 (a-1) The comptroller shall adapt the program developed
26 under Section 656.052 [~~2262.053~~] to provide an abbreviated program
27 for training the members of the governing bodies of state agencies.

1 The training may be provided together with other required training
2 for members of state agency governing bodies.

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

7 SECTION 4. Section 2056.002(b), Government Code, is amended
8 to read as follows:

9 (b) The Legislative Budget Board and the Governor's Office
10 of Budget, Policy, and Planning shall determine the elements
11 required to be included in each agency's strategic plan. Unless
12 modified by the Legislative Budget Board and the Governor's Office
13 of Budget, Policy, and Planning, and except as provided by
14 Subsection (c), a plan must include:

15 (1) a statement of the mission and goals of the state
16 agency;

17 (2) a description of the indicators developed under
18 this chapter and used to measure the output and outcome of the
19 agency;

20 (3) identification of the groups of people served by
21 the agency, including those having service priorities, or other
22 service measures established by law, and estimates of changes in
23 those groups expected during the term of the plan;

24 (4) an analysis of the use of the agency's resources to
25 meet the agency's needs, including future needs, and an estimate of
26 additional resources that may be necessary to meet future needs;

27 (5) an analysis of expected changes in the services

1 provided by the agency because of changes in state or federal law;

2 (6) a description of the means and strategies for
3 meeting the agency's needs, including future needs, and achieving
4 the goals established under Section 2056.006 for each area of state
5 government for which the agency provides services;

6 (7) a description of the capital improvement needs of
7 the agency during the term of the plan and a statement, if
8 appropriate, of the priority of those needs;

9 (8) identification of each geographic region of this
10 state, including the Texas-Louisiana border region and the
11 Texas-Mexico border region, served by the agency, and if
12 appropriate the agency's means and strategies for serving each
13 region;

14 (9) a description of the training of the agency's
15 contract managers under Section 656.052 [~~2262.053~~];

16 (10) an analysis of the agency's expected expenditures
17 that relate to federally owned or operated military installations
18 or facilities, or communities where a federally owned or operated
19 military installation or facility is located;

20 (11) an analysis of the strategic use of information
21 resources as provided by the instructions prepared under Section
22 2054.095; and

23 (12) other information that may be required.

24 SECTION 5. Section 2262.101(a), Government Code, as amended
25 by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd
26 Legislature, Regular Session, 2013, is reenacted and amended to
27 read as follows:

1 (a) The Contract Advisory Team is created to assist state
2 agencies in improving contract management practices by:

3 (1) reviewing and making recommendations on the
4 solicitation documents and contract documents for contracts of
5 state agencies that have a value of at least \$10 million;

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

10 (3) providing recommendations to the comptroller
11 regarding:

12 (A) the development of the contract management
13 guide; and

14 (B) the training under Section [656.052](#)
15 [~~[2262.053](#)~~];

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

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

21 (6) [~~(4)~~] developing and recommending policies and
22 procedures to improve state agency contract management practices;

23 (7) [~~(5)~~] developing and recommending procedures to
24 improve state agency contracting practices by including
25 consideration for best value; and

26 (8) [~~(6)~~] creating and periodically performing a
27 risk assessment to determine the appropriate level of management

1 and oversight of contracts by state agencies.

2 SECTION 6. To the extent of any conflict, this Act prevails
3 over another Act of the 84th Legislature, Regular Session, 2015,
4 relating to nonsubstantive additions to and corrections in enacted
5 codes.

6 SECTION 7. This Act takes effect September 1, 2015.