

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Otto, Walle, et al.

H.B. No. 15

A BILL TO BE ENTITLED

1 AN ACT  
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 821.009(b), Government Code, is amended  
6 to read as follows:

7 (b) Notwithstanding any other law and in addition to the  
8 requirements of Subchapter E, Chapter 2262, before a contract  
9 described by Subsection (a) may be entered into by the retirement  
10 system, a representative of the office of the attorney general  
11 shall review the form and terms of the contract and may make  
12 recommendations to the retirement system for changes to the  
13 contract if the attorney general determines that the office of the  
14 attorney general has sufficient subject matter expertise and  
15 resources available to provide this service.

16 SECTION 2. Section 825.103(g), Government Code, is amended  
17 to read as follows:

18 (g) Notwithstanding any other law and except as provided by  
19 Section 2262.202, Chapters 2261 and 2262 do not apply to the  
20 retirement system. The Contract Management and Oversight  
21 ~~[Advisory]~~ Team shall assist the retirement system at the request  
22 of the retirement system. The retirement system may use the  
23 training program for contract management provided under Chapter  
24 2262.

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

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

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(b), Government Code, is  
15 amended to read as follows:

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

19 (1) relate to highway construction or highway  
20 engineering; or

21 (2) are subject to Section 201.112, Transportation  
22 Code.

23 SECTION 11. Chapter 2262, Government Code, is amended by  
24 adding Subchapter E to read as follows:

25 SUBCHAPTER E. CONTRACT MANAGEMENT AND OVERSIGHT TEAM

26 Sec. 2262.201. DEFINITIONS. In this subchapter:

27 (1) "High-risk contract" means a state agency contract



1 or purchase order that:

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

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

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

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

11 (i) a violation of, or noncompliance with,  
12 the terms of the contract;

13 (ii) delivery of an ineffective product,  
14 service, or system;

15 (iii) significant delays or cost overruns;

16 (iv) fraud;

17 (v) misconduct; or

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

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

22 (i) is awarded by an agency with  
23 significant audit findings related to contracting in the previous  
24 two fiscal years;

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

27 (iii) outsources a program or key function

1 of a program of the awarding agency;

2 (iv) has a value of more than \$1 million and  
3 is awarded on an emergency basis or is a sole source contract; or

4 (v) has a value of more than \$1 million and  
5 has change orders that increase the cost of the contract by more  
6 than 20 percent of the original contract cost, excluding routine  
7 contract renewals.

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

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

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

15 Sec. 2262.202. APPLICABILITY OF SUBCHAPTER. (a) This  
16 subchapter applies to contracts of the Texas Department of  
17 Transportation that:

18 (1) do not relate to highway construction or highway  
19 engineering; or

20 (2) are not subject to Section 201.112, Transportation  
21 Code.

22 (b) This subchapter does not apply to a contract of the  
23 Employees Retirement System of Texas or the Teacher Retirement  
24 System of Texas except for a contract with a nongovernmental entity  
25 for claims administration of a group health benefit plan under  
26 Subtitle H, Title 8, Insurance Code.

27 Sec. 2262.203. ESTABLISHMENT; GENERAL DUTIES. The

1 Legislative Budget Board shall establish a Contract Management and  
2 Oversight Team to:

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

5 (2) consult with state agencies on and review  
6 high-risk contracts as provided by Section 2262.204;

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

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

12 (5) coordinate and consult with the comptroller to:

13 (A) develop criteria for high-risk contracts  
14 under Section 2262.201(1)(E);

15 (B) identify strategies to mitigate contract  
16 risks; and

17 (C) monitor contract activity using information  
18 from the centralized accounting and payroll system or any successor  
19 system used to implement the enterprise resource planning component  
20 of the uniform statewide accounting project developed under  
21 Sections 2101.035 and 2101.036.

22 Sec. 2262.204. NOTICE AND REVIEW; WAIVER. (a) Each state  
23 agency must provide written notice to the team not later than the  
24 30th day before the date the agency publicly releases solicitation  
25 documents for a high-risk contract.

26 (b) A state agency must submit to the team information and  
27 documentation requested by the team that relate to a high-risk

1 contract, including information on contract development, vendor  
2 selection, and ongoing contract oversight.

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

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

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

21 (f) The team may adopt criteria for waiving the consultation  
22 and review requirements of this section.

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

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

3           (2) an executed contract is experiencing performance  
4 failure or payment irregularities.

5           SECTION 12. Subchapter C, Chapter 2262, Government Code, is  
6 repealed.

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

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

11           (c) All powers and duties of the Contract Advisory Team are  
12 transferred to the Contract Management and Oversight Team  
13 established by this Act.

14           (d) A rule, form, policy, procedure, or decision of the  
15 Contract Advisory Team continues in effect as a rule, form, policy,  
16 procedure, or decision of the Contract Management and Oversight  
17 Team until superseded by an act of the Contract Management and  
18 Oversight Team.

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

21           (f) Any action or proceeding involving the Contract  
22 Advisory Team is transferred without change in status to the  
23 Contract Management and Oversight Team, and the Contract Management  
24 and Oversight Team assumes, without a change in status, the  
25 position of the Contract Advisory Team in a negotiation or  
26 proceeding to which the Contract Advisory Team is a party.

27           SECTION 14. Sections       2166.2551,       2254.006,       and

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1 2254.0301(a), Government Code, as amended by this Act, apply only  
2 to a state agency contract for which the agency is required to  
3 provide notice to the Legislative Budget Board that is entered into  
4 on or after the effective date of this Act.

5 SECTION 15. This Act takes effect September 1, 2015.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 27 2015 BY:

*Aditya Dandekar*  
Secretary of the Senate

*Kelly Harmon*

1 Amend H.B. No. 15 (senate committee printing) as follows:

2 (1) In SECTION 2 of the bill, in amended Section  
3 825.103(g), Government Code (page 1, lines 43-44), strike  
4 "Management and Oversight [Advisory]" and substitute "Advisory".

5 (2) In SECTION 9 of the bill, in amended Section  
6 2262.0015(a), Government Code (page 2, line 46), between "B,"  
7 and "and", insert "C,".

8 (3) In SECTION 9 of the bill, in amended Section  
9 2262.0015(b), Government Code (page 2, line 48), between "B,"  
10 and "and", insert "C,".

11 (4) In SECTION 11 of the bill, strike the heading to added  
12 Subchapter E, Chapter 2262, Government Code (page 2, line 62),  
13 and substitute the following:

14 SUBCHAPTER E. REVIEW OF AND RECOMMENDATIONS ON STATE HIGH-RISK  
15 CONTRACTS

16 (5) In SECTION 11 of the bill, in added Section  
17 2262.201(1)(D)(vi), Government Code (page 3, line 12), strike  
18 "or".

19 (6) In SECTION 11 of the bill, strike added Section  
20 2262.201(1)(E), Government Code (page 3, lines 13-27), and  
21 substitute the following:

22 (E) is awarded by an agency with significant  
23 audit findings related to contracting in the previous two fiscal  
24 years;

25 (F) is expected to cost more than 20 percent of  
26 the awarding agency's budget available from all sources;

27 (G) outsources a program or key function of a  
28 program of the awarding agency;

29 (H) has a value of more than \$1 million and is

1 awarded on an emergency basis or is a sole source contract; or  
2 (I) has a value of more than \$1 million and has  
3 change orders that increase the cost of the contract by more  
4 than 20 percent of the original contract cost, excluding routine  
5 contract renewals.

6 (7) In SECTION 11 of the bill, strike added Sections  
7 2262.201(2) and (3), Government Code (page 3, lines 28-31), and  
8 renumber subdivisions of Section 2262.201, Government Code, and  
9 cross-references to those subdivisions accordingly.

10 (8) In SECTION 11 of the bill, strike added Section  
11 2262.203, Government Code (page 3, lines 47-68), and renumber  
12 sections of Subchapter E, Chapter 2262, Government Code, and  
13 cross-references to those sections accordingly.

14 (9) In SECTION 11 of the bill, strike added Section  
15 2262.204(d), Government Code (page 4, lines 10-16), and renumber  
16 subsections of Section 2262.204, Government Code, and cross-  
17 references to those subsections accordingly.

18 (10) In SECTION 11 of the bill, in added Section  
19 2262.204(e), Government Code (page 4, lines 17-18), strike "If,  
20 after receiving notice provided under Subsection (d)," and  
21 substitute "If".

22 (11) In SECTION 11 of the bill, in added Section 2262.205,  
23 Government Code (page 4, line 28), strike ", the Legislative  
24 Budget Board, the governor," and substitute "and other relevant  
25 information that may be available, the governor".

26 (12) Strike SECTIONS 3, 4, 8, 12, and 13 of the bill and  
27 renumber the SECTIONS of the bill accordingly.



# ADOPTED

FLOOR AMENDMENT NO. 2

MAY 27 2015

BY:

*Leta Staw*  
Secretary of the Senate

*Kelly Harmon*

1 Amend H.B. No. 15 (senate committee printing) as follows:

2 (1) In the SECTION of the bill providing the effective date  
3 of the bill, strike "This Act takes effect September 1, 2015."  
4 and substitute "Except as otherwise provided by this Act, this  
5 Act takes effect September 1, 2017."

6 (2) Add the following appropriately numbered SECTION to the  
7 bill and renumber subsequent SECTIONS of the bill as  
8 appropriate:

9 SECTION \_\_\_\_\_. (a) The comptroller of public accounts shall  
10 conduct a study on the implementation of this Act. The study  
11 must consider which procedures would best achieve the purposes  
12 of this Act, the most appropriate entities to administer those  
13 procedures, and any recommended legislation necessary to best  
14 achieve the purposes of this Act.

15 (b) The comptroller of public accounts, based on the study  
16 conducted under Subsection (a) of this section, shall issue a  
17 report on its findings to the legislature not later than October  
18 1, 2016.

19 (c) This section takes effect September 1, 2015.

# ADOPTED

MAY 27 2015

*Letty Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 3

BY: *Zaffirini*

1 Amend H.B. No. 15 (senate committee printing) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill as appropriate:

4 SECTION \_\_\_\_\_. (a) Section 2157.068, Government Code, is  
5 amended by adding Subsections (e-1) and (j) to read as follows:

6 (e-1) A state agency purchasing an automated information  
7 system with a value that exceeds \$50,000 must submit a request for  
8 pricing to:

9 (1) at least three vendors included on the list of  
10 commodities available for purchase in the category to which the  
11 purchase relates; or

12 (2) all vendors included on the list in the category if  
13 fewer than three vendors are included in the category.

14 (j) The department shall, in cooperation with state  
15 agencies, monitor and verify the purchase transaction reports  
16 submitted by vendors reflecting monthly sales made under Subsection  
17 (e) to ensure the accuracy of the reports.

18 (b) Section 2155.504(a), Government Code, is amended to  
19 read as follows:

20 (a) Subject to the requirements of Section 2157.068(e-1), a  
21 [A] state agency or local government may purchase goods or services  
22 directly from a vendor under a contract listed on a schedule  
23 developed under this subchapter. A purchase authorized by this  
24 section satisfies any requirement of state law relating to  
25 competitive bids or proposals [~~and satisfies any applicable~~  
26 ~~requirements of Chapter 2157].~~

27 (c) The changes in law made by this section apply only in  
28 relation to a contract:

29 (1) for which a state agency first advertises or

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1 otherwise solicits bids, proposals, offers, or qualifications on or  
2 after the effective date of this Act;

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

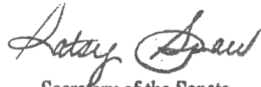
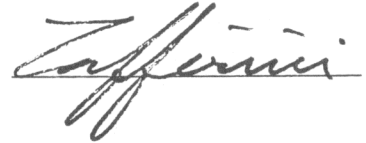
5 (3) for which a change order is submitted on or after  
6 the effective date of this Act.

# ADOPTED

FLOOR AMENDMENT NO. 4

MAY 27 2015

BY:



Secretary of the Senate

1 Amend H.B. No. 15 (Senate Committee Printing) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering subsequent SECTIONS of the bill accordingly:

4 SECTION \_\_. Section 2262.053(b), Government Code, is  
5 amended to read as follows:

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

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

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

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

14 (4) monitor and enforce a contract;

15 (5) make payments consistent with the contract;

16 (6) comply with any requirements or goals contained  
17 in the contract management guide; ~~and~~

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

20 (8) maintain required documentation for contracting  
21 decisions, changes to a contract, and problems with a contract;

22 (9) create a risk evaluation and mitigation strategy;

23 (10) create a plan for potential problems with the  
24 contract;

25 (11) develop an accurate and comprehensive statement  
26 of work; and

27 (12) complete the contract and evaluate performance  
28 under the contract.

# ADOPTED

FLOOR AMENDMENT NO. 5

MAY 27 2015

*Atay Law*  
Secretary of the Senate

BY:

*Zaffarini*

1 Amend H.B. No. 15 (senate committee printing) by adding the  
2 following appropriately numbered SECTIONS to the bill and  
3 renumbering the SECTIONS of the bill as appropriate:

4 SECTION \_\_\_\_\_. Section 2102.005, Government Code, is  
5 amended to read as follows:

6 Sec. 2102.005. INTERNAL AUDITING REQUIRED. A state agency  
7 shall conduct a program of internal auditing that includes:

8 (1) an annual audit plan that is prepared using risk  
9 assessment techniques and that identifies the individual audits  
10 to be conducted during the year; and

11 (2) periodic audits of:

12 (A) the agency's major systems and controls,  
13 including:

14 (i) ~~[(A)]~~ accounting systems and controls;

15 (ii) ~~[(B)]~~ administrative systems and  
16 controls; ~~[and]~~

17 (iii) ~~[(C)]~~ electronic data processing  
18 systems and controls; and

19 (iv) contract management processes and  
20 controls; and

21 (B) one or more of the agency's contracts with  
22 high-risk factors.

23 SECTION \_\_\_\_\_. Section 2113.102(a), Government Code, is  
24 amended to read as follows:

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

28 (1) as provided by ~~+~~

29 ~~[(1)]~~ Subsections (b), (c), and (d); and

1 (2) in accordance with Section 321.020 [~~Chapter 466,~~  
2 ~~pertaining to the state lottery;~~

3 [~~(3) Chapter 2306, pertaining to the Texas Department~~  
4 ~~of Housing and Community Affairs; and~~

5 [~~(4) Chapter 361, Transportation Code, pertaining to~~  
6 ~~the Texas Turnpike Authority division of the Texas Department of~~  
7 ~~Transportation].~~

8 SECTION \_\_\_\_\_. Section 2162.103(a), Government Code, is  
9 amended to read as follows:

10 (a) In comparing the cost of providing a service, the  
11 council shall consider the:

12 (1) cost of supervising the work of a private  
13 contractor; ~~and]~~

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

16 (A) the costs of the comptroller, attorney  
17 general, and other support agencies; and

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

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

22 (4) other costs associated with the transition to  
23 using a private contractor's services; and

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

26 SECTION \_\_\_\_\_. Sections 2261.001(a) and (c), Government  
27 Code, are amended to read as follows:

28 (a) This chapter applies only to each procurement of goods  
29 or services made by a state agency that is neither made by the  
30 comptroller nor made under purchasing authority delegated to the  
31 agency by or under Section 51.9335 or 73.115, Education Code, or

1 Section [~~2155.131 or~~] 2155.132.

2 (c) The comptroller on request shall determine whether a  
3 procurement or type of procurement:

4 (1) is made under purchasing authority delegated to  
5 an agency by or under Section [~~2155.131 or~~] 2155.132; or

6 (2) is made under some other source of purchasing  
7 authority.

8 SECTION \_\_\_\_\_. Section 2261.002, Government Code, is  
9 amended to read as follows:

10 Sec. 2261.002. DEFINITIONS. In this chapter:

11 (1) "Contract" includes an agreement or other written  
12 expression of terms of agreement, including an amendment, a  
13 modification, a renewal, or an extension, for the purchase of  
14 goods or services that is entered into or paid for, wholly or  
15 partly, by a state agency during a fiscal year and a grant,  
16 other than a grant made to a school district or a grant made for  
17 other academic purposes, under which the recipient of the grant  
18 is required to perform a specific act or service, supply a  
19 specific type of product, or both.

20 (2) "Contract deliverable" means a unit or increment  
21 of work required by a contract, including goods, services,  
22 reports, or documents.

23 (3) "Contract manager" means a person who:

24 (A) is employed by a state agency; and

25 (B) has significant contract management duties  
26 for the state agency.

27 (4) "Executive director" means the administrative  
28 head of a state agency.

29 (5) "General counsel" means the general counsel of a  
30 state agency.

31 (6) "Major contract" means a contract, including a

1 renewal of a contract, that has a value of at least \$1 million.  
2 The term includes a service contract.

3 (7) "State agency" has the meaning assigned by  
4 Section 2151.002.

5 SECTION \_\_\_\_\_. Subchapter A, Chapter 2261, Government Code,  
6 is amended by adding Sections 2261.004, 2261.005, 2261.006,  
7 2261.007, 2261.008, and 2261.009 to read as follows:

8 Sec. 2261.004. STATE AGENCY REPOSITORY AND RECORDS.

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

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

13 (c) In this subsection, "contract" includes a sole source  
14 contract. Each state agency shall maintain accurate records of  
15 all essential information relating to agency contracts,  
16 including information on:

17 (1) a contract delay or changes to a contract in  
18 which total expenditures under the contract increase by more  
19 than 20 percent from the original contract amount; and

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

22 (d) Notwithstanding Section 441.185, contracts and other  
23 related information required to be maintained under this section  
24 by a state agency must be retained for the duration of the  
25 contract.

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

28 (b) The following sections prescribe reporting  
29 requirements for certain contracts:

30 (1) Section 322.020;

31 (2) Section 2054.008;



1           (3) Section 2166.2551;

2           (4) Section 2254.006;

3           (5) Section 2254.028; and

4           (6) Section 2254.0301.

5           Sec. 2261.006. PROFESSIONAL SERVICES. A state agency  
6 shall procure professional services in accordance with  
7 Subchapter A, Chapter 2254.

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

11           (1) regarding who may approve a contract for the  
12 agency;

13           (2) for contract planning and solicitation;

14           (3) for contract negotiations;

15           (4) for contract management; and

16           (5) for contract oversight.

17           Sec. 2261.008. INTERAGENCY AGREEMENTS AND CONTRACTS. An  
18 interagency agreement or contract of a state agency is governed  
19 by Chapter 771.

20           Sec. 2261.009. INTERLOCAL CONTRACTS. An interlocal  
21 contract to which a state agency is a party is governed by  
22 Chapter 791.

23           SECTION \_\_\_\_\_. Subchapter B, Chapter 2261, Government Code,  
24 is amended by adding Section 2261.054 to read as follows:

25           Sec. 2261.054. BEST VALUE STANDARD FOR CONTRACTING FOR  
26 GOODS AND SERVICES. In determining the best value for the  
27 state, the purchase price and whether the goods or services meet  
28 specifications are the most important considerations. A state  
29 agency may consider, subject to Sections 2155.074(c) and  
30 2155.075, other relevant factors, including:

31           (1) installation costs;

- 1           (2) life cycle costs;  
2           (3) the quality and reliability of the goods and  
3 services;  
4           (4) the delivery terms;  
5           (5) indicators of probable vendor performance under  
6 the contract such as past vendor performance, the vendor's  
7 financial resources and ability to perform, the vendor's  
8 experience or demonstrated capability and responsibility, and  
9 the vendor's ability to provide reliable maintenance agreements  
10 and support;  
11           (6) the cost of any employee training associated with  
12 a purchase;  
13           (7) the effect of a purchase on agency productivity;  
14           (8) the vendor's anticipated economic impact on the  
15 state or a subdivision of the state, including potential tax  
16 revenue and employment; and  
17           (9) other factors relevant to determining the best  
18 value for the state in the context of a particular purchase.

19           SECTION \_\_\_\_\_. The heading to Subchapter C, Chapter 2261,  
20 Government Code, is amended to read as follows:

21           SUBCHAPTER C. CONTRACT FORMATION AND PROVISIONS

22           SECTION \_\_\_\_\_. Subchapter C, Chapter 2261, Government Code,  
23 is amended by adding Sections 2261.103, 2261.104, 2261.105,  
24 2261.106, and 2261.107 to read as follows:

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

28           Sec. 2261.104. ESSENTIAL CONTRACT PROVISIONS. (a) The  
29 following are required provisions in each contract to which the  
30 provisions are applicable, other than a grant:

- 31           (1) legal authority;

- 1           (2) statement of work;
- 2           (3) indemnification or damage claims;
- 3           (4) consideration;
- 4           (5) specifications;
- 5           (6) funding out clause;
- 6           (7) antitrust;
- 7           (8) payment;
- 8           (9) dispute resolution;
- 9           (10) term of contract;
- 10          (11) confidential information;
- 11          (12) abandonment or default;
- 12          (13) right to audit;
- 13          (14) force majeure;
- 14          (15) independent contractor; and
- 15          (16) termination.

16           (b) If a state agency determines that the circumstances of  
17 a proposed contract require more protection for the state than  
18 the provisions in Subsection (a) provide, the agency shall  
19 include a provision in the contract providing for that  
20 protection.

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

22           (a) In any contract for the acquisition of goods or services to  
23 which a state agency is a party, a provision required by other  
24 applicable law to be included in the contract is considered to  
25 be a part of the executed contract without regard to whether:

- 26           (1) the provision appears on the face of the  
27 contract; or
- 28           (2) the contract includes any provision to the  
29 contrary.

30           (b) If a state agency determines that the circumstances of  
31 a proposed contract require more protection for the state than

1 the provisions described by Subsection (a) provide, the agency  
2 shall include a provision in the contract providing for that  
3 protection.

4 Sec. 2261.106. CONTRACT RENEWAL. A state agency shall  
5 establish a standardized process for renewing all contracts of  
6 the agency.

7 Sec. 2261.107. CONTRACT DURATION. (a) A state agency:

8 (1) must establish a reasonable term for a contract  
9 before solicitation of the contract; and

10 (2) shall make an effort to keep the maximum length  
11 of a contract to four years without reissuing a competitive  
12 solicitation, including any contract renewals or extensions.

13 (b) A contract term established under Subsection (a)(1)  
14 must be included in a solicitation document.

15 (c) A state agency may not enter into a contract that has  
16 an indefinite term.

17 SECTION \_\_\_\_\_. Subchapter D, Chapter 2261, Government Code,  
18 is amended by adding Section 2261.152 to read as follows:

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

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

28 SECTION \_\_\_\_\_. The heading to Subchapter E, Chapter 2261,  
29 Government Code, is amended to read as follows:

30 SUBCHAPTER E. CONTRACT MONITORING AND [CONTRACTOR] OVERSIGHT

31 SECTION \_\_\_\_\_. Section 2261.202, Government Code, is

1 amended to read as follows:

2       Sec. 2261.202. CONTRACT MONITORING RESPONSIBILITIES. (a)

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

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

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

17       Sec. 2261.204. INFORMATION ON CONTRACTOR PERFORMANCE.  
18 After a contract with a value of \$25,000 or more is completed or  
19 otherwise terminated, each state agency shall review the  
20 contractor's performance under the contract and report to the  
21 comptroller on the results of the review using forms made  
22 available to the state agency.

23       Sec. 2261.205. CONTRACTING STAFF. (a) Each state agency  
24 that enters into contracts other than interagency contracts  
25 shall establish a career ladder program for contract management  
26 in the agency.

27       (b) An employee hired as a contract manager may  
28 participate in procurement planning, contract solicitation,  
29 contract formation, price establishment, and other contract  
30 activities.

31       (c) Each state agency shall determine, in consultation

1 with the state auditor, the amount and significance of contract  
2 management duties sufficient for an employee to be considered a  
3 contract manager, program staff, or a contract specialist.

4 Sec. 2261.206. APPROVAL OF CONTRACTS. (a) Each state  
5 agency shall adopt a policy to establish a monetary threshold  
6 above which agency contracts and amendments to or extensions of  
7 agency contracts require written authorization by the agency  
8 executive director.

9 (b) Each state agency shall annually report to the  
10 comptroller a list of persons authorized to approve contracts at  
11 the agency. The list must include each person's name, position,  
12 and supervisory responsibility, if any.

13 Sec. 2261.207. NEGOTIATION OF MAJOR CONTRACT BY SINGLE  
14 EMPLOYEE PROHIBITED. A state agency may not negotiate a major  
15 contract with only one employee engaging in the negotiation.

16 Sec. 2261.208. CONTRACT REVIEW; REPORTING. (a) A  
17 contractor's performance must be periodically reviewed  
18 throughout the term of a contract.

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

23 (1) anticipated to be completed later than originally  
24 estimated; or

25 (2) expected to cost more than the amount that was  
26 originally budgeted.

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

30 Sec. 2261.209. CONTRACT ADMINISTRATION TEAM. (a) This  
31 section applies to a state agency that has a contract with a

1 value of \$5 million or more.

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

4 (1) ensure and verify the performance of agency  
5 contracts with a value of \$5 million or more; and

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

8 Sec. 2261.210. CONTRACT MONITORING PROCESS. A state  
9 agency shall establish and implement a monitoring process for  
10 agency contracts that includes:

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

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

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

17 (4) analyzing contract performance variances; and

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

20 Sec. 2261.211. RISK MANAGEMENT PROCESS. (a) A state  
21 agency shall establish and implement a:

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

26 (A) risk identification or identifying items  
27 that may prevent the agency from achieving contracting goals or  
28 objectives;

29 (B) risk analysis or assessing the impact and  
30 likelihood of a risk;

31 (C) risk evaluation or developing strategies or

1 approaches to address risks that have been identified and  
2 analyzed;

3 (D) risk treatment or the managerial approach to  
4 risk;

5 (E) risk reduction or planning and performing  
6 actions to mitigate risk due to a managerial decision to reduce  
7 risk;

8 (F) contingency planning or developing plans for  
9 corrective action to be taken if a potential risk occurs; and

10 (G) risk monitoring or tracking the  
11 implementation of a risk reduction plan until the risk is  
12 sufficiently mitigated; and

13 (2) procedure for corrective action to be used when  
14 contract implementation or performance problems occur.

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

17 (1) the complexity and subject matter of agency  
18 contracts;

19 (2) the dollar value of agency contracts, including  
20 contract extensions and amendments, and whether the procurement  
21 will result in a major contract;

22 (3) the anticipated payment methodology;

23 (4) the experience of agency staff with the type of  
24 procurement;

25 (5) whether the results of the procurement will  
26 impact the public or only impact the agency;

27 (6) time constraints or the expected duration of the  
28 procurement; and

29 (7) the type, availability, and experience of staff  
30 resources required to implement the objectives of the  
31 procurement.



1       (c) Based on the assessed risk of a state agency contract,  
2 the agency shall, for each contract:

3           (1) determine the appropriate frequency and method of  
4 contract monitoring;

5           (2) allocate contract monitoring resources; and

6           (3) develop a contract auditing plan.

7       Sec. 2261.212. CONTRACT COMMUNICATION. (a) A state agency  
8 shall maintain effective communication procedures regarding  
9 contract performance.

10       (b) The chief financial officer of a state agency, or an  
11 individual designated by the executive director with similar  
12 contract administration duties and responsibilities, shall  
13 report at least monthly to the executive director on the status  
14 of agency contracts. The report must include a clear indication  
15 of:

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

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

20       Sec. 2261.213. REPORT ON CERTAIN PURCHASES. (a) Not  
21 later than December 1 of each year, the comptroller shall  
22 publish a report on the number and dollar value of sole source  
23 and emergency purchases made in the previous fiscal year.

24       (b) Each state agency shall timely provide to the  
25 comptroller the information the comptroller requires for the  
26 purpose of creating the report under Subsection (a) in the  
27 manner and form specified by the comptroller.

28       (c) The comptroller shall establish requirements for the  
29 provision of information under Subsection (b) in consultation  
30 with the Contract Management and Oversight Team created under  
31 Subchapter E, Chapter 2262, the Health and Human Services

1 Commission, and the Texas Department of Transportation.

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

5 (1) the value of the contract cannot be determined at  
6 the time of execution of the contract; and

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

9 SECTION \_\_\_\_\_. Chapter 2261, Government Code, is amended by  
10 adding Subchapters F, G, H, and I to read as follows:

11 SUBCHAPTER F. CHANGES TO CONTRACTS

12 Sec. 2261.251. CONTRACT AMENDMENTS, EXTENSIONS, AND CHANGE  
13 ORDERS. (a) This section does not apply to a contract  
14 amendment, extension, or change order that does not change the  
15 cost or terms of the contract.

16 (b) An extension of or amendment to a state agency  
17 contract, including a change order, is subject to the same  
18 agency approval processes as the original contract.

19 (c) A state agency may not extend or amend a contract  
20 unless the agency complies with the same agency approval  
21 processes for the extension or amendment as required for the  
22 original contract and the agency states in writing why the  
23 extension or amendment is necessary or advantageous to the  
24 state.

25 (d) This section does not affect whether a state agency is  
26 required to undertake a new solicitation process in the manner  
27 required for a new contract in order to extend or amend a  
28 contract.

29 (e) For state agency contracts valued in excess of \$1  
30 million, the agency executive director must authorize a contract  
31 amendment in writing.

1 Sec. 2261.252. LARGE CHANGE IN CONTRACT VALUE; COST  
2 OVERRUNS. (a) If a proposed contract amendment or extension  
3 changes the monetary value of a major contract by at least 20  
4 percent or \$1 million, the state agency must submit the  
5 amendment or extension for review to the agency's executive  
6 director before the agency amends or extends the contract.

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

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

11 Sec. 2261.253. CERTAIN CONTRACT EXTENSIONS AND RENEWALS.  
12 This subchapter does not apply to contract extensions or  
13 renewals that are specifically established as a component of the  
14 original procurement.

#### 15 SUBCHAPTER G. TRAINING

16 Sec. 2261.301. TRAINING FOR CONTRACT MANAGERS. (a) A  
17 state agency shall require a contract manager to complete the  
18 training program for contract managers developed and  
19 administered by the comptroller.

20 (b) A state agency shall maintain a list of contract  
21 managers who have completed the training program for contract  
22 managers.

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

25 Sec. 2261.302. TRAINING FOR GOVERNING BODIES. All members  
26 of the governing body of a state agency shall complete at least  
27 one abbreviated course of the training program for contract  
28 managers developed and administered by the comptroller. This  
29 section does not apply to a state agency that does not enter  
30 into any contracts.

#### 31 SUBCHAPTER H. CONTRACT PLANNING AND SOLICITATION

1       Sec. 2261.351. CONTRACT PLANNING. Before a state agency  
2 solicits a contract, the agency must:

3       (1) identify, justify, and document the need for the  
4 good or service;

5       (2) identify general contracting objectives,  
6 assumptions, and constraints;

7       (3) consider alternatives to soliciting the contract;  
8 and

9       (4) determine the preferred method of delivery for  
10 the good or service.

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

13       (1) a description of the work;

14       (2) a specific and measurable standard of  
15 performance;

16       (3) a list of the test conditions, methods, or  
17 procedures for verifying that the contract deliverable meets the  
18 standard;

19       (4) a method or process to monitor and ensure quality  
20 in the contract deliverable;

21       (5) an acceptance process for each contract  
22 deliverable that is expected to be delivered;

23       (6) a compensation structure that is consistent with  
24 the type and value of work performed; and

25       (7) a remedy, if appropriate, for failure to meet  
26 contract deliverables.

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

29       (1) the quality level of the good or service;

30       (2) the amount of completion that is required;

31       (3) the suitability of the good or service for the

1 work to be done for the agency; and

2 (4) a defined and documented method of evaluation to  
3 be used in making the award and in determining the best value  
4 bid for the procurement.

5 SUBCHAPTER I. CONTRACT CLOSING

6 Sec. 2261.401. CLOSING PROCEDURE. A state agency shall  
7 create and follow a procedure for contract closing that includes  
8 procedures for:

9 (1) verification that all:

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

12 (B) existing options have been exercised or have  
13 expired;

14 (2) issuance of a contract completion notice by one  
15 of the parties;

16 (3) acquisition of all required forms, reports, and  
17 clearances;

18 (4) verification that other applicable terms have  
19 been met;

20 (5) verification that there are no outstanding claims  
21 or disputes; and

22 (6) final payment.

23 SECTION \_\_\_\_\_. Sections 2262.051(c) and (d), Government  
24 Code, are amended to read as follows:

25 (c) The guide must provide required and recommended  
26 contracting processes and procedures and information regarding  
27 the primary duties of [a] contract management [~~manager~~],  
28 including how to:

29 (1) develop and negotiate a contract;

30 (2) fairly and objectively select a contractor; [~~and~~]

31 (3) monitor contractor and subcontractor performance

1 under a contract and ensure compliance with provisions in a  
2 contract that hold the contractor accountable for performance  
3 results;

4 (4) develop an accurate and comprehensive statement  
5 of work and conform contract documents to the statement of work;

6 (5) evaluate and ensure compliance with contract  
7 deliverables and performance metrics and any associated remedies  
8 and incentives;

9 (6) maintain required documentation for contracting  
10 decisions, contract changes, and problems with a contract;

11 (7) communicate any serious issue or risk that is  
12 identified with a contract in a timely manner to the agency's  
13 governing body or the single state officer who governs the  
14 agency;

15 (8) create a risk management process under Section  
16 2261.211;

17 (9) build and maintain a working relationship with  
18 the contractor, including instruction on communication and  
19 timely management of problems;

20 (10) create a procedure for selecting and applying a  
21 preferred dispute resolution method;

22 (11) implement an escalation process to address  
23 contract disagreements;

24 (12) evaluate and approve requests for payments that  
25 are consistent with the contract; and

26 (13) develop a process for contract closure and  
27 performance evaluation of a contractor under a contract.

28 (d) The guide must include model provisions for state  
29 agency contracts. The guide must:

30 (1) distinguish between essential provisions that a  
31 state agency must include in a contract to protect the interests

1 of this state and recommended provisions that a state agency may  
2 include in a contract;

3 (2) recognize the unique contracting needs of an  
4 individual state agency or program and provide procedures for  
5 documenting agency decisions that do not follow required  
6 contracting processes and procedures but are [~~sufficient~~  
7 ~~flexibility to accommodate those needs,~~] consistent with  
8 protecting the interests of this state; and

9 (3) include maximum contract periods under which a  
10 new competitive solicitation is not necessary[~~;~~ ~~and~~

11 [~~(4) include the model contract management process~~  
12 ~~developed under Section 2262.104 and recommendations on the~~  
13 ~~appropriate use of the model].~~

14 SECTION \_\_\_\_\_. Section 2262.053(d), Government Code, is  
15 amended to read as follows:

16 (d) The comptroller shall administer training under this  
17 section and may assess a fee for the training in an amount  
18 sufficient to recover the comptroller's costs under this  
19 section.

20 SECTION \_\_\_\_\_. Except as otherwise provided by this Act,  
21 this Act applies only in relation to a contract:

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

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

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

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 28, 2015**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB15** by Otto (Relating to the management and oversight of state contracts, including contracts for information technology commodity items.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB15, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2017.

Activities associated with the contract advisory team would result in a cost of \$450,000 per year starting in fiscal year 2018 due to the delayed effective date of the bill.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	\$0
2017	\$0
2018	(\$450,000)
2019	(\$450,000)
2020	(\$450,000)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2015
2016	\$0	0.0
2017	\$0	0.0
2018	(\$450,000)	5.0
2019	(\$450,000)	5.0
2020	(\$450,000)	5.0

**Fiscal Analysis**

The bill would amend the Government Code to require state agencies to provide written notice to



the Contract Advisory Team (CAT) at the Comptroller of Public Accounts (CPA) at least 30 days before publication of solicitation documents for high-risk contracts. The team would review initial contract information and documentation to make recommendations to ensure that potential risks related to high-risk contracts have been identified and communicated to the affected agency. If CAT determines that significant risks remain after their review, CAT would provide notice to the Legislative Budget Board, the Governor, and CPA. The CPA and Governor could then recommend cancellation of the contract.

CPA would be required to conduct a study on the implementation of the provisions of the bill. The bill would also require CPA to publish an annual report on the number and dollar value of sole source and emergency purchases made in the previous calendar year.

The bill would amend the Government Code to require agencies to adopt certain procurement related procedures and policies relating to the solicitation, negotiation, approval, management, oversight, and closeout of contracts. The bill would also require each state agency to maintain a comprehensive list that identifies all contracts made with the agency and essential information pertaining to those contracts. Agencies with certain procurement volumes would be required to create a contract administration team to verify contract performance and to maintain agency expertise on contract management and oversight.

The bill would amend the Government Code to allow agencies to use appropriated funds to contract for auditing services in certain circumstances. The bill would also require agencies to periodically audit contracts and contract processes and controls.

The bill would require agencies to make efforts to competitively re-bid contracts at least every four years. The bill would also require state agencies to obtain at least three bids from vendors when using a Department of Information Resources (DIR) multiple award schedule when making purchases in excess of \$50,000.

The requirement that CPA conduct a study on the implementation of the provisions of the bill would take effect September 1, 2015. All other provisions of the bill would take effect September 1, 2017.

## **Methodology**

CPA estimates that the expanded activities and volume of reviews for the contract advisory team (CAT) would require an additional 3 contract specialists and two attorneys starting in fiscal year 2018 for a cost of \$450,000 in General Revenue Funds per year.

For purposes of this fiscal note, it assumed that costs for other activities associated with the bill such as staff training, development and maintenance of a central contract repository, and enhanced contract monitoring would not be significant and could be absorbed by agencies.

## Local Government Impact

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 308 State Auditor's Office, 323 Teacher Retirement System, 327 Employees Retirement System, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 302 Office of the Attorney General, 303 Facilities Commission, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 479 State Office of Risk Management, 529 Health and Human Services Commission, 601 Department of Transportation, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 733 Texas Tech University, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

**LBB Staff:** UP, KK, JI, KMc, FR, SD, LCO, TBo, LBe, MW

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 11, 2015**

**TO:** Honorable Jane Nelson, Chair, Senate Committee on Finance

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB15** by Otto (Relating to the management and oversight of state contracts, including contracts for information technology commodity items.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB15, As Engrossed: a negative impact of (\$2,644,021) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$1,346,616)
2017	(\$1,297,405)
2018	(\$1,462,607)
2019	(\$1,627,809)
2020	(\$1,793,011)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2015
2016	(\$1,346,616)	11.0
2017	(\$1,297,405)	14.0
2018	(\$1,462,607)	16.0
2019	(\$1,627,809)	18.0
2020	(\$1,793,011)	20.0

**Fiscal Analysis**

The bill would repeal and amend portions of the Government Code to replace the interagency Contract Advisory Team with a contract management team at the Legislative Budget Board (LBB) to review high risk contracts and solicitations. The team would review contracts with a value of at least \$10 million as well as contracts below this threshold that meet certain high risk factors. State

agencies would be required to provide written notice to the team at least 30 days before publication of the solicitation documents for high risk contracts. The team would review information and documentation to make recommendations to ensure that potential risks related to high-risk contracts have been identified and communicated to the affected agency. If unresolved, the risks would be reported to the Legislative Budget Board, the Governor, and the Comptroller.

## **Methodology**

Based on the number of new contracts currently reported to the LBB that are in excess of \$10 million, it is estimated that the contract management team created by the bill would review approximately 60 new contracts each year for contracts with a value over \$10 million. It is also estimated that the team would review an additional 175 high risk contracts below this monetary threshold. The volume of contract reviews would be dependent on the criteria developed by the team, and therefore, could be greater or less than this estimate.

After initial review of contracts by the team, it is assumed that a certain number of contracts would be subject to ongoing review past the initial solicitation process. The total number of contracts subject to ongoing monitoring after initial review would increase each year as the team completes reviews of contracts and continues to monitor existing contracts through their completion. As a result, it is estimated that the number of FTEs at the LBB would increase from 11 in fiscal year 2016 to 20 in fiscal year 2020. Some of the work load associated with reviewing contracts could be absorbed by existing staff; new FTEs would include a team manager and a mix of contract specialists, attorneys, and staff with IT expertise. Additionally, the LBB would incur one time expenses in the first year for start-up costs associated with the function.

It is also assumed, based on a sample of state agencies, that any workload impacts to state agencies could be absorbed within existing resources.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 450 Department of Savings and Mortgage Lending, 212 Office of Court Administration, Texas Judicial Council, 303 Facilities Commission, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 320 Texas Workforce Commission, 405 Department of Public Safety, 454 Department of Insurance, 529 Health and Human Services Commission, 580 Water Development Board, 582 Commission on Environmental Quality, 601 Department of Transportation, 696 Department of Criminal Justice, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

**LBB Staff:** UP, KK, JI, KMc, FR, LCO, JLi, KPe, ER, JN, TL

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 20, 2015**

**TO:** Honorable Gary Elkins, Chair, House Committee on Government Transparency & Operation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB15** by Otto (Relating to the management and oversight of state contracts, including contracts for information technology commodity items.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB15, Committee Report 1st House, Substituted: a negative impact of (\$2,644,021) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$1,346,616)
2017	(\$1,297,405)
2018	(\$1,462,607)
2019	(\$1,627,809)
2020	(\$1,793,011)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$1,346,616)	11.0
2017	(\$1,297,405)	14.0
2018	(\$1,462,607)	16.0
2019	(\$1,627,809)	18.0
2020	(\$1,793,011)	20.0

**Fiscal Analysis**

The bill would repeal and amend portions of the Government Code to replace the interagency

Contract Advisory Team with a contract management team at the Legislative Budget Board (LBB) to review high risk contracts and solicitations. The team would review contracts with a value of at least \$10 million as well as contracts below this threshold that meet certain high risk factors. State agencies would be required to provide written notice to the team at least 30 days before publication of the solicitation documents for high risk contracts. Additionally, state agencies would be required to receive approval from the team before spending money (1) under an executed high-risk contract; and (2) to make a payment or a series of payments that exceeds half of the high-risk contract value.

The bill would also limit state agency use of multiple award contracts for information technology (IT) goods and services at the Department of Information Resources (DIR). State agencies would be required to obtain at least three bids if there are three vendors on the schedule for a particular good or service, and purchases from the contracts would be limited to a value of \$1 million or less. Additionally, DIR would be required to approve and sign certain statements of work for purchases from the multiple award schedule.

### **Methodology**

Based on the number of new contracts currently reported to the LBB that are in excess of \$10 million, it is estimated that the contract management team created by the bill would review approximately 60 new contracts each year for contracts with a value over \$10 million. It is also estimated that the team would review an additional 175 high risk contracts below this monetary threshold. The volume of contract reviews would be dependent on the criteria developed by the team, and therefore, could be greater or less than this estimate.

After initial review of contracts by the team, it is assumed that a certain number of contracts would be subject to ongoing review past the initial solicitation process. The total number of contracts subject to ongoing monitoring after initial review would increase each year as the team completes reviews of contracts and continues to monitor existing contracts through their completion. As a result, it is estimated that the number of FTEs at the LBB would increase from 11 in fiscal year 2016 to 20 in fiscal year 2020. Some of the work load associated with reviewing contracts could be absorbed by existing staff; new FTEs would include a team manager and a mix of contract specialists, attorneys, and staff with IT expertise. Additionally, the LBB would incur one time expenses in the first year for start-up costs associated with the function.

DIR estimates there would be a cost associated with implementing provisions of the bill including reviewing statements of work for information technology commodity purchases over \$50,000. DIR anticipates a loss of revenue out of appropriated receipts generated from administrative fees charged to customers of DIR's cooperative contracts program due to the limit of the value of purchases from contracts offered through the program. The agency anticipates that administrative fees would be increased to offset the loss of revenue from purchases for IT services through the program. To the extent administrative fees are not increased, there would likely be a reduction in FTEs at DIR.

It is assumed that any potential workload increase to the CPA for managing IT service contracts previously awarded by DIR could be absorbed within existing resources and/or offset by a reduction in workload associated with the elimination of the Contract Advisory Team.

It is also assumed, based on a sample of state agencies that any workload impacts to state agencies could be absorbed within existing resources.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 450 Department of Savings and Mortgage Lending, 212 Office of Court Administration, Texas Judicial Council, 303 Facilities Commission, 304 Comptroller of Public Accounts, 313 Department of Information Resources, 320 Texas Workforce Commission, 405 Department of Public Safety, 454 Department of Insurance, 529 Health and Human Services Commission, 580 Water Development Board, 582 Commission on Environmental Quality, 601 Department of Transportation, 696 Department of Criminal Justice, 701 Central Education Agency, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration, 758 Texas State University System, 768 Texas Tech University System Administration, 769 University of North Texas System Administration, 781 Higher Education Coordinating Board, 783 University of Houston System Administration

**LBB Staff:** UP, KMc, FR, JI, LCO, JLi, KPe, ER, JN, TL

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 8, 2015**

**TO:** Honorable Gary Elkins, Chair, House Committee on Government Transparency & Operation

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB15** by Otto (Relating to the management and oversight of state contracts, including contracts for information technology commodity items.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB15, As Introduced: a negative impact of (\$3,178,270) through the biennium ending August 31, 2017.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2016	(\$1,616,448)
2017	(\$1,561,822)
2018	(\$1,769,810)
2019	(\$1,977,798)
2020	(\$2,185,786)

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	(\$1,616,448)	14.0
2017	(\$1,561,822)	17.0
2018	(\$1,769,810)	19.0
2019	(\$1,977,798)	22.0
2020	(\$2,185,786)	25.0

**Fiscal Analysis**

The bill would repeal and amend portions of the Government Code to replace the interagency Contract Advisory Team with a contract management team at the Legislative Budget Board (LBB) to review high risk contracts and solicitations. The team would review contracts with a value of at



least \$10 million as well as contracts below this threshold that meet certain high risk factors. State agencies and institutions of higher education would be required to provide written notice to the team at least 30 days before publication of the solicitation documents for high risk contracts. Additionally, state agencies and institutions of higher education would be required to receive approval from the team before spending money (1) under an executed high-risk contract; and (2) to make a payment or a series of payments that exceeds half of the high-risk contract value.

The bill would also eliminate the use of multiple award contracts for information technology (IT) related services at the Department of Information Resources (DIR).

### **Methodology**

Based on the number of new contracts currently reported to the LBB that are in excess of \$10 million, it is estimated that the contract management team created by the bill would review approximately 100 new contracts each year for contracts with a value over \$10 million. It is also estimated that the team would review an additional 175 high risk contracts below this monetary threshold. The volume of contract reviews would be dependent on the criteria developed by the team, and therefore, could be greater or less than this estimate.

After initial review of contracts by the team, it is assumed that a certain number of contracts would be subject to ongoing review past the initial solicitation process. The total number of contracts subject to ongoing monitoring after initial review would increase each year as the team completes reviews of contracts and continues to monitor existing contracts through their completion. As a result, it is estimated that the number of FTEs at the LBB would increase from 14 in fiscal year 2016 to 25 in fiscal year 2020. Some of the work load associated with reviewing contracts could be absorbed by existing staff; new FTEs would include a team manager and a mix of contract specialists, attorneys, and staff with IT expertise. Additionally, the LBB would incur one time expenses in the first year for start-up costs associated with the function.

DIR anticipates a loss of revenue out of appropriated receipts generated from administrative fees charged to customers of DIR's cooperative contracts program due to the elimination of IT service contracts offered through the program. The agency anticipates that administrative fees would be increased to offset the loss of revenue from purchases for IT services through the program. To the extent administrative fees are not increased, there would likely be a reduction in FTEs at DIR.

It is assumed that any potential workload increase to the CPA for managing IT service contracts previously awarded by DIR could be absorbed within existing resources and/or offset by a reduction in workload associated with the elimination of the Contract Advisory Team.

It is also assumed, based on a sample of state agencies and institutions of higher education, that any workload impacts to other state entities could be absorbed within existing resources.

### **Local Government Impact**

The bill would eliminate the use of multiple award contracts for services at DIR. Local governments currently procure services through these programs. The changes in the bill could result in a fiscal impact for local government entities; the costs would vary depending on the extent of purchasing in each local government.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 303 Facilities Commission, 304 Comptroller of Public Accounts, 313 Department of

Information Resources, 320 Texas Workforce Commission, 405  
Department of Public Safety, 450 Department of Savings and Mortgage  
Lending, 454 Department of Insurance, 529 Health and Human Services  
Commission, 580 Water Development Board, 582 Commission on  
Environmental Quality, 601 Department of Transportation, 696  
Department of Criminal Justice, 701 Central Education Agency, 710  
Texas A&M University System Administrative and General Offices, 720  
The University of Texas System Administration, 758 Texas State  
University System, 768 Texas Tech University System Administration,  
769 University of North Texas System Administration, 781 Higher  
Education Coordinating Board, 783 University of Houston System  
Administration

**LBB Staff:** UP, FR, JI, KMc, LCO, JLi, KPe, ER, JN, TL