

Amend SB 533 (house committee report) as follows:

(1) Strike page 6, line 27, through page 7, line 13, and substitute the following appropriately numbered SECTION:

SECTION _____. Section 2261.253, Government Code, is amended to read as follows:

Sec. 2261.253. REQUIRED POSTING OF [~~CERTAIN CONTRACTS, ENHANCED~~] CONTRACT INFORMATION AND PERFORMANCE MONITORING. (a) Each [~~For each contract for the purchase of goods or services from a private vendor, each~~] state agency shall post on its Internet website's home page a link to the Legislative Budget Board's contracts database established under Section 322.020. [~~website.~~

~~[(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed;~~

~~[(2) the statutory or other authority under which a contract that is not competitively bid under Subdivision (1) is entered into without compliance with competitive bidding procedures; and~~

~~[(3) the request for proposals related to a competitively bid contract included under Subdivision (1) until the contract expires or is completed.]~~

(b) For each contract in an amount of \$15,000 or more for the purchase of goods or services from a private vendor that is paid for solely with institutional funds or hospital and clinic fees, as described by Section 51.009, Education Code, an institution of higher education, as defined by Section 61.003, Education Code, shall post on the institution's Internet website:

(1) the contract, including a contract that does not require competitive bidding before selection of the contractor, until the contract expires or is completed;

(2) for a contract that does not require competitive bidding, the statutory or other authority that allows the contract to be entered into without compliance with competitive bidding procedures; and

(3) the request for proposals related to a competitively bid contract posted under Subdivision (1), until the

contract is completed [~~A state agency monthly may post contracts described by Subsection (a) that are valued at less than \$15,000~~].

(c) Each state agency by rule shall establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body or, if the agency is not governed by a multimember governing body, the officer who governs the agency. The agency's contract management office or procurement director shall immediately notify the agency's governing body or governing official, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

~~[(d) This section does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.]~~

(2) On page 7, strike lines 14 and 15 and substitute the following:

SECTION _____. Section 2262.101, Government Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(3) On page 8, between lines 15 and 16, insert the following:

(g) The team shall provide to the Legislative Budget Board a copy of:

(1) each recommendation made under Subsection (a)(1) on a solicitation or contract document not later than the 10th calendar day after the date the team makes the recommendation; and

(2) any written explanation submitted by a state agency under Subsection (d)(2) stating the reason a recommendation is not applicable to the contract under review not later than the 10th calendar day after the date the team receives the explanation.

(4) On page 9, strike lines 16 through 19, and substitute the following:

(c) The changes in law made by this Act apply only to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or after the effective date of this Act or that is amended, modified, renewed, or

extended on or after the effective date of this Act.

(5) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. The heading to Section 322.020, Government Code, is amended to read as follows:

Sec. 322.020. [~~MAJOR~~] CONTRACTS DATABASE.

SECTION _____. Section 322.020, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

(a) In this section [~~, "major contract" means~~]:

(1) "Contract" means a contract, grant, or agreement for the purchase or sale of goods or services that is entered into or paid for, wholly or partly, by a state agency or an amendment, modification, renewal, or extension of the contract, grant, or agreement. The term includes a revenue generating contract, an interagency or interlocal grant or agreement, a purchase order, or other written expression of terms of agreement. [~~a contract for which notice is required under one of the following sections:~~

~~[(A) Section 2054.003;~~

~~[(B) Section 2166.2551;~~

~~[(C) Section 2254.006; or~~

~~[(D) Section 2254.0301; or]~~

(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(3) "State agency" has the meaning assigned by Section 2054.003 [~~a contract, including an amendment, modification, renewal, or extension:~~

~~[(A) for which notice is not required under a section listed in Subdivision (1);~~

~~[(B) that is not a purchase order, an interagency contract, or a contract paid only with funds not appropriated by the General Appropriations Act; and~~

~~[(C) with a value that exceeds \$50,000].~~

(b) This section applies only to:

(1) a major consulting services contract, as defined by Section 2254.021; and

(2) a contract, including any amendment,

modification, renewal, or extension of the contract, that has a value that exceeds or is reasonably expected to exceed \$50,000, other than a contract of an institution of higher education that:

(A) is paid for solely with institutional funds or hospital and clinic fees, as described by Section 51.009, Education Code; or

(B) is for sponsored research.

(b-1) Not later than the 30th calendar day after the date a contract is awarded, amended, modified, renewed, or extended, a [Each] state agency shall provide written notice of the contract to the Legislative Budget Board. The written notice must include copies of the following documents:

(1) each [major] contract entered into by the agency, including each amendment, modification, renewal, or extension of the contract; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the [major] contract.

(b-2) The requirement to provide copies of documents under Subsection (b-1) does not apply to:

(1) an enrollment contract described by 1 T.A.C. Section 391.183 as that section existed on September 1, 2015; or

(2) a contract of the Texas Department of Transportation that:

(A) relates to highway construction or engineering; or

(B) is subject to Section 201.112, Transportation Code.

(b-3) A state agency may redact from the written notice provided under Subsection (b-1) information excepted from disclosure under Chapter 552, including information that may be used to perpetrate fraud on the agency, such as:

(1) certain commercial or financial information;

(2) credit card, debit card, charge card, and access device numbers; and

(3) government information related to security or infrastructure issues for computers.

(b-4) An institution of higher education shall report to the

board a contract paid with appropriated funds for:

(1) a purchase of a major information system, as defined by Section 2054.0965, in an amount that exceeds \$1 million;

(2) a construction project in an amount, including an amount included in any amendment, modification, renewal, or extension of the contract, that exceeds \$50,000; and

(3) professional services, other than a physician or optometric services, in an amount, including an amount included in any amendment, modification, renewal, or extension of the contract, that exceeds \$50,000.

(c) The Legislative Budget Board shall post on the Internet a copy of:

(1) each ~~[major]~~ contract, including each amendment, modification, renewal, or extension of the contract ~~[of a state agency]~~; and

(2) each request for proposal, invitation to bid, or comparable solicitation related to the ~~[major]~~ contract.

SECTION _____. Chapter 322, Government Code, is amended by adding Sections 322.021, 322.0211, and 322.0212 to read as follows:

Sec. 322.021. STATE AGENCY CONTRACT OVERSIGHT. (a) In this section:

(1) "Board" means the Legislative Budget Board.

(2) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(3) "State agency" has the meaning assigned by Section 2054.003.

(b) Subject to Subsection (c), the board may review state agency contracts to determine compliance with the contract management guide developed under Section 2054.554, the comptroller's procurement policy manuals, and each applicable state contracting law, rule, policy, and procedure. The authority to review a state agency contract under this subsection applies regardless of the source of funds or method of financing for the contract.

(c) This section does not apply to a contract of an institution of higher education that is paid for solely with institutional funds or hospital and clinic fees, as described by

Section 51.009, Education Code. The board shall review the contract management handbook developed by an institution of higher education as required by Section 51.9337(b)(3), Education Code, when determining the institution's compliance with contracting rules and procedures.

(d) Board staff may request, and are entitled to obtain, any document related to a contract reviewed under this section or to a purchase under the contract.

(e) Each state agency shall cooperate with the board in conducting a contract review under this section and in resolving any issue resulting from the contract review.

Sec. 322.0211. NOTICE OF VIOLATION OF STATE CONTRACTING LAW; CORRECTIVE ACTION PLAN. (a) If the Legislative Budget Board determines under Section 322.021 that a state agency contract violates the contract management guide, the comptroller's procurement policy manuals, or a state contracting law, rule, policy, or procedure, the board's director shall provide notice of the violation to the agency.

(b) A state agency shall provide a written response to the notice provided under Subsection (a) not later than the 10th business day after the date the agency receives the notice.

(c) If the board determines that the response provided by a state agency under Subsection (b) does not adequately address or resolve the violation determined under Subsection (a), the board's director may provide to the board and the state agency, comptroller, and governor written notice of the violation. A violation notice provided under this subsection must:

(1) detail the specific provision violated by the contract;

(2) recommend actions to be taken to address the violation and any identified risks related to the contract;

(3) list potential remedies for the violation; and

(4) state any enforcement mechanism that may be assessed under Section 322.0212 for the violation.

(d) A state agency that receives notice of a violation under Subsection (c) shall develop a written corrective action plan consistent with the board's recommendations and provide the plan to

the board not later than the 30th calendar day after the date the agency receives the notice.

(e) The board may monitor a state agency's implementation of the corrective action plan.

Sec. 322.0212. ENFORCEMENT. (a) The Legislative Budget Board may assess an enforcement mechanism against a state agency that the board determines under Section 322.021 is in violation of the contract management guide, the comptroller's procurement policy manuals, or a state contracting law, rule, policy, or procedure. The enforcement mechanism must be assessed in accordance with the schedule developed under Subsection (b).

(b) The board may establish a schedule of enforcement mechanisms that may be assessed against a state agency for a violation described by Subsection (a). The enforcement mechanisms may include:

(1) enhanced monitoring of the state agency's contracts by board personnel;

(2) required consultation with the Contract Advisory Team established under Section 2262.101 or the quality assurance team established under Section 2054.158 before issuance of a contract by the state agency;

(3) targeted audits by the State Auditor's Office at the request of the board; and

(4) recommended cancellation of a contract determined to contain a violation described by Section 322.0211(a).

(c) The board's director may recommend to the board an enforcement mechanism to be assessed against a state agency for a contract violation.

(d) The board may increase the severity of an enforcement mechanism assessed against a state agency for repeated contract violations described by Section 322.0211(a).

(e) The board may dismiss an enforcement mechanism assessed against a state agency by the board for a contract violation described by Section 322.0211(a) on successful implementation of a corrective action plan by the agency under Section 322.0211(d).

SECTION _____. Section 2054.0965, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to

read as follows:

(b) Except as otherwise modified by rules adopted by the department, the review must include:

(1) an inventory of the agency's major information systems[~~, as defined by Section 2054.008,~~] and other operational or logistical components related to deployment of information resources as prescribed by the department;

(2) an inventory of the agency's major databases and applications;

(3) a description of the agency's existing and planned telecommunications network configuration;

(4) an analysis of how information systems, components, databases, applications, and other information resources have been deployed by the agency in support of:

(A) applicable achievement goals established under Section 2056.006 and the state strategic plan adopted under Section 2056.009;

(B) the state strategic plan for information resources; and

(C) the agency's business objectives, mission, and goals;

(5) agency information necessary to support the state goals for interoperability and reuse; and

(6) confirmation by the agency of compliance with state statutes, rules, and standards relating to information resources.

(c) In this section, "major information system" includes:

(1) one or more computers that in the aggregate cost more than \$100,000;

(2) a service related to computers, including computer software, that costs more than \$100,000; and

(3) a telecommunications apparatus or device that serves as a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network and costs more than \$100,000.

SECTION _____. The following sections of the Government Code

are repealed:

- (1) Section 322.020(f);
- (2) Section 2054.008;
- (3) Section 2166.2551;
- (4) Section 2254.006; and
- (5) Section 2254.0301.
- (6) Renumber the SECTIONS of the bill appropriately.