

Amend SB 533 (house committee report) as follows:

(1) On page 9, strike lines 16-19.

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 316, Government Code, is amended by adding Section 316.025 to read as follows:

Sec. 316.025. CONTRACTS TO CONFORM WITH LIMITATIONS OF GENERAL APPROPRIATIONS ACT. Notwithstanding any other law, a contract obligation of a state agency, as defined by Section 2103.001, including an institution of higher education, as defined by Section 61.003, Education Code, may be limited or amended by the General Appropriations Act.

SECTION \_\_\_\_\_. Section 321.013, Government Code, is amended by adding Subsections (m) and (n) to read as follows:

(m) In devising the audit plan under Subsection (c), the State Auditor shall consider the performance of audits of programs operated by health and human services agencies that:

(1) have not recently received audit coverage; and

(2) have expenditures of less than \$100 million per year.

(n) In devising the audit plan under Subsection (c), the State Auditor shall consider the performance of audits of programs operated by the Texas Alcoholic Beverage Commission that have not recently received audit coverage.

SECTION \_\_\_\_\_. Chapter 2115, Government Code, is amended by adding Section 2115.006 to read as follows:

Sec. 2115.006. OVERPAYMENTS BY STATE AGENCY. (a) If a state agency makes an overpayment to a vendor, the vendor must return the amount overpaid by the agency before the 121st calendar day after the date the vendor receives written notice of the overpayment. If the amount overpaid by the state agency is not returned before the 121st calendar day, the vendor is subject to late payment interest of 10 percent per year on the amount of the overpayment that has not been returned, which begins to accrue on the date the overpayment becomes overdue.

(b) If the vendor disputes that an overpayment has been made by a state agency, the vendor shall provide the state agency written

notice of the dispute not later than the 30th day after the receipt of the notice required in Subsection (a). On resolution of the dispute, if the vendor is required to return an overpayment to the state agency, the vendor shall return the agreed overpayment before the 121st calendar day after the date the parties resolve the dispute. If the agreed overpayment is not returned before the 121st calendar day, the vendor is subject to late payment interest of 10 percent per year on the amount of the agreed overpayment that has not been returned, which begins to accrue on the date the agreed overpayment becomes overdue.

(c) This section does not apply to the return of any amount overpaid by a state agency to a vendor because of an incorrect contract, invoice, or other documentation.

SECTION \_\_\_\_\_. Section 2155.074(c), Government Code, is amended to read as follows:

(c) A state agency shall consult with and receive approval from the comptroller in an open meeting [~~commission~~] before considering factors other than price and meeting specifications when the agency procures through competitive bidding goods or services with a value that exceeds \$100 million [~~\$100,000~~]. The state agency shall retain in the agency's records a copy of the meeting minutes with the final executed contract.

SECTION \_\_\_\_\_. Subchapter B, Chapter 2251, Government Code, is amended by adding Section 2251.031 to read as follows:

Sec. 2251.031. PAYMENT TO VENDOR. (a) A state agency may not:

(1) pay an invoice from a vendor unless the invoice directly correlates to a corresponding contract with the vendor; or

(2) make a payment to a vendor more than once per month under a contract, unless the contract specifically requires more than one payment per month.

(b) A payment by a state agency to a vendor under a contract must receive:

(1) the approval and signature of two employees of the state agency; or

(2) if a contract manager, as defined by Section 2262.001, has been assigned to the contract by the state agency, the

approval and signature of the contract manager and one other employee of the state agency.

(c) If a finding is made that a payment was made without the signatures required under Subsection (b), the state agency may revoke the payment at any time but remains obligated to pay the vendor all amounts due under and as required by the contract regardless of whether the state agency complied with Subsection (b).

SECTION \_\_\_\_\_. Subchapter C, Chapter 2261, Government Code, is amended by adding Section 2261.103 to read as follows:

Sec. 2261.103. REQUIRED CONTRACT PROVISIONS. (a) An attorney representing a state agency shall assist in the drafting of a contract to be entered into by the agency in order to include at a minimum the provisions listed in Subsection (b) and other applicable provisions recommended in the contract management guide developed under Section 2262.051.

(b) The following are required provisions in each contract to which the provisions are applicable:

- (1) amendments;
- (2) antitrust;
- (3) applicable law and venue;
- (4) applicable law and conforming amendments;
- (5) assignments;
- (6) confidentiality and public information act;
- (7) equal opportunity;
- (8) federal, state, and local law requirements;
- (9) felony criminal convictions;
- (10) financial interests and gifts;
- (11) immigration;
- (12) no conflicts; and
- (13) right to audit.

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

Sec. 2261.152. DOCUMENTATION REQUIRED FOR PAYMENT. (a) A state agency may not make a payment to a vendor without a contract, invoice, or other documentation that clearly demonstrates the agency's obligation to make a payment.

(b) This section does not apply to the return of any amount overpaid by a state agency to a vendor because of an incorrect contract, invoice, or other documentation.

SECTION \_\_\_\_\_. Subchapter B, Chapter 2262, Government Code, is amended by adding Section 2262.056 to read as follows:

Sec. 2262.056. CONTRACT MANAGERS REQUIRED FOR MAJOR CONTRACTS. A state agency, at a minimum, shall assign a contract manager for each major contract of the agency to manage the oversight of the contract.

SECTION \_\_\_\_\_. Chapter 2262, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. CONTRACT OUTSIDE TACTICAL TEAM

Sec. 2262.201. DEFINITIONS. In this subchapter:

(1) "Information resources" has the meaning assigned by Section 2054.003.

(2) "Team" means a contract outside tactical team established under authority provided by this subchapter.

Sec. 2262.202. CONTRACT OUTSIDE TACTICAL TEAM. (a) From appropriated funds, a state agency shall enter into a contract with a team for assistance in improving information resources contract management practices for contracts that have a value of at least \$100 million. The team shall review and make recommendations on the solicitation documents, contract documents, scope of work, project timeline and management, documentation requirements, audit schedule and audit scope, and technical issues for the contract.

(b) A team consists of the following members selected by the state agency:

(1) outside legal counsel; or

(2) providers of professional consulting services with expertise in the subject matter of the contract.

(c) A state agency may not select a provider of professional consulting services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

(1) on the basis of demonstrated competence and qualifications to perform the services; and

(2) for a fair and reasonable price.

(d) A state agency shall:

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

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

SECTION \_\_\_\_\_. (a) The comptroller of public accounts shall conduct an interim study on the effectiveness of the process of barring vendors from participation in state contracts under Section 2155.077, Government Code. The study must include an evaluation of the risk to the state posed by vendors who receive low performance grades under Section 2262.055, Government Code, but who are not barred under Section 2155.077, Government Code.

(b) Not later than December 1, 2018, the comptroller of public accounts shall submit a report on the findings of the study to the governor, lieutenant governor, and members of the legislature.

SECTION \_\_\_\_\_. Except as otherwise provided by this Act, this Act applies only in relation 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, and to a payment made under a contract described by this section.