

## **BILL ANALYSIS**

S.B. 533  
By: Nelson  
Appropriations  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

According to interested parties, a review of state contracting requirements for a state agency that seeks the procurement of a major information resources project allowed state agencies and the private sector to offer recommendations to clarify and strengthen state agency contracting law. S.B. 533 seeks to enact those recommendations.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 533 amends the Government Code to remove the authority of the quality assurance team to recommend major information resources projects, in coordination with the governor, to the Department of Information Resources (DIR) for oversight and to instead require DIR to provide specified additional oversight services for such projects at the direction of the governor, lieutenant governor, or speaker of the house of representatives. The bill authorizes DIR to contract with a vendor to provide the necessary oversight at DIR direction.

S.B. 533 includes the comptroller of public accounts among the entities required to create the quality assurance team and requires those entities to create an automated project review system. The bill requires the quality assurance team to provide annual training for state agency procurement and contract management staff on best practices and methodologies for information technology contracts. The bill establishes that the state auditor serves on the quality assurance team as an advisor.

S.B. 533 requires an applicable state agency to prepare a technical architectural assessment of each proposed major information resources project or major contract in consultation with DIR. The bill requires such an agency, in each project plan for a major information resources project, to consider incorporating into the project the applicable best practices recommended in the quality assurance team's annual report and requires a state agency contract for a major information resources project to comply with the requirements in the comptroller's contract management guide.

S.B. 533 requires the comptroller to update a contract management guide to include policies on the interactions and communication between the state agency's employees and a vendor that contracts with the agency or seeks to conduct business with the agency. The bill establishes that the State Purchasing and General Services Act expressly does not prohibit the exchange of

information between such a state agency and a vendor related to future solicitations or as necessary to monitor an existing contract. The bill requires the comptroller to employ a chief procurement officer to serve as the chief procurement officer for Texas and sets out the chief procurement officer's powers and duties and related provisions. The bill requires each state agency to adopt a certain vendor and employee interaction and communication policy not later than January 1, 2018.

S.B. 533 authorizes the comptroller to enter into agreements to authorize applicable state agencies and political subdivisions of other states to purchase goods or services through comptroller contracts and to charge a reasonable administrative fee to state agencies and political subdivisions of other states that purchase such a good or service. The bill increases from \$1 million to \$5 million the maximum value of specified information technology commodity items such a state agency may contract to purchase. The bill increases from \$150,000 to \$1 million the maximum value of a contract to purchase such a commodity item with a value of more than \$50,000 for which the contracting state agency is required to submit a request for pricing to at least three vendors. The bill changes the minimum and maximum values of a contract for the purchase of such commodity items for which the contracting agency is required to submit a request for pricing to at least six vendors from more than \$150,000 but not more than \$1 million to more than \$1 million but not more than \$5 million.

S.B. 533 specifies that an applicable state agency employee or official involved in agency procurement or contract management is required to disclose any potential conflict of interest specified by state law or agency policy that is known by the employee or official at any time during the procurement process, from the initial request for bids for the purchase of goods or services from a private vendor until the completed final delivery of the goods or services, or during the term of a contract with a private vendor. The bill makes provisions relating to such a disclosure applicable only to a contract for the purchase of goods or services solicited through a purchase order if the amount of the purchase order exceeds \$25,000.

S.B. 533 removes the authorization for an applicable state agency to monthly post certain contracts that are valued at less than \$15,000 on the agency's website and exempts from the requirement that each such agency post specified information relating to certain contracts on the agency's website a contract posted on the Legislative Budget Board's major contracts database. The bill requires a state agency that posts a contract on its website to redact certain information from the posted contract.

S.B. 533 decreases from \$10 million to \$5 million the minimum value of a contract of applicable state agencies whose solicitation documents and contract documents the Contract Advisory Team reviews and about which the team makes recommendations in an effort to assist state agencies in improving contract management practices. The bill authorizes the chief procurement officer to add members to the team by designating members from state agencies that agree to participate on the team and authorizes a state agency to decline a request to participate on the team by submitting a written statement declining the request to the chief procurement officer.

S.B. 533 amends the Education Code to require the Texas Education Agency (TEA) to comply with the comptroller's contract management guide in each contract between TEA and a regional education service center.

S.B. 533 requires the comptroller, not later than January 1, 2018, to employ a chief procurement officer as required by the bill, to make a certain modification to the contract management guide, and to adopt any rules necessary to implement the bill's changes.

#### **EFFECTIVE DATE**

September 1, 2017.