

By: Capriglione

H.B. No. 20

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the review, oversight, and reporting of certain state
3 agency contracts.

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

5 SECTION 1. The heading to Section 322.020, Government Code,
6 is amended to read as follows:

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

8 SECTION 2. Section 322.020, Government Code, is amended by
9 amending Subsections (a), (b), and (c) and adding Subsection (b-1)
10 to read as follows:

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

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

20 [~~(A) Section 2054.008,~~

21 [~~(B) Section 2166.2551,~~

22 [~~(C) Section 2254.006, or~~

23 [~~(D) Section 2254.0301, or~~

24 (2) "State agency" has the meaning assigned by Section

1 2054.003 [~~a contract, including an amendment, modification,~~
2 ~~renewal, or extension:~~

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

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

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

9 (b) This section applies only to:

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

12 (2) a contract, including any amendment,
13 modification, renewal, or extension of the contract, that has a
14 value that exceeds or is reasonably expected to exceed \$50,000,
15 other than:

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

18 (B) a contract of the Texas Department of
19 Transportation that:

20 (i) relates to highway construction or
21 engineering; or

22 (ii) is subject to Section 201.112,
23 Transportation Code.

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

1 copies of the following documents:

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

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

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

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

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

14 SECTION 3. Chapter 322, Government Code, is amended by
15 adding Sections 322.021, 322.0211, and 322.0212 to read as follows:

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

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

19 (2) "State agency" has the meaning assigned by Section
20 2054.003.

21 (b) The board may review state agency contracts to determine
22 compliance with the contract management guide developed under
23 Section 2054.554, the comptroller's procurement policy manuals,
24 and each applicable state contracting law, rule, policy, and
25 procedure. The authority to review a state agency contract under
26 this subsection applies regardless of the source of funds or method
27 of financing for the contract and includes a contract funded only

1 with nonappropriated funds.

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

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

8 Sec. 322.0211. NOTICE OF VIOLATION OF STATE CONTRACTING
9 LAW; CORRECTIVE ACTION PLAN. (a) If the Legislative Budget Board
10 determines under Section 322.021 that a state agency contract
11 violates the contract management guide, the comptroller's
12 procurement policy manuals, or a state contracting law, rule,
13 policy, or procedure, the board's director may provide to the board
14 and the state agency, comptroller, and governor written notice of
15 the violation. A notice provided under this section must:

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

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

20 (3) list potential remedies for the violation; and

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

23 (b) A state agency that receives notice of a violation under
24 Subsection (a) shall develop a written corrective action plan
25 consistent with the board's recommendations and provide the plan to
26 the board not later than the 30th calendar day after the date the
27 agency receives the notice.

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

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

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

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

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

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

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

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

27 (d) The board may increase the severity of an enforcement

1 mechanism assessed against a state agency for repeated contract
2 violations described by Section 322.0211(a).

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

7 SECTION 4. Section 2054.0965, Government Code, is amended
8 by amending Subsection (b) and adding Subsection (c) to read as
9 follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) a telecommunications apparatus or device that
14 serves as a voice, data, or video communications network for
15 transmitting, switching, routing, multiplexing, modulating,
16 amplifying, or receiving signals on the network and costs more than
17 \$100,000.

18 SECTION 5. Section [2261.253](#), Government Code, is amended to
19 read as follows:

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

26 [~~(1) each contract the agency enters into, including~~
27 ~~contracts entered into without inviting, advertising for, or~~

1 ~~otherwise requiring competitive bidding before selection of the~~
2 ~~contractor, until the contract expires or is completed;~~

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

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

10 (b) ~~[A state agency monthly may post contracts described by~~
11 ~~Subsection (a) that are valued at less than \$15,000.~~

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

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

25 SECTION 6. Section 2262.101, Government Code, is amended by
26 adding Subsection (g) to read as follows:

27 (g) The team shall provide to the Legislative Budget Board a

1 copy of:

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

5 (2) any written explanation submitted by a state
6 agency under Subsection (d)(2) stating the reason a recommendation
7 is not applicable to the contract under review not later than the
8 10th calendar day after the date the team receives the explanation.

9 SECTION 7. The following sections of the Government Code
10 are repealed:

- 11 (1) Section [322.020\(f\)](#);
- 12 (2) Section [2054.008](#);
- 13 (3) Section [2166.2551](#);
- 14 (4) Section [2254.006](#); and
- 15 (5) Section [2254.0301](#).

16 SECTION 8. The changes in law made by this Act apply to a
17 contract entered into or amended, modified, renewed, or extended on
18 or after the effective date of this Act. A contract entered into or
19 amended, modified, renewed, or extended before the effective date
20 of this Act is governed by the law in effect on the date the contract
21 was entered into or amended, modified, renewed, or extended, and
22 the former law is continued in effect for that purpose.

23 SECTION 9. This Act takes effect September 1, 2017.