

By: Capriglione

H.B. No. 3598

A BILL TO BE ENTITLED

AN ACT

relating to the contract management guide for state agencies.

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

SECTION 1. Section [2262.005](#), Government Code, is amended to read as follows:

Sec. 2262.005. CONSULTATION WITH INTERESTED PARTIES [~~STATE AGENCIES~~]. The comptroller shall consult with state agencies, vendors, and other interested parties in developing rules, forms, contract terms, guides, manuals, and criteria required under this chapter.

SECTION 2. Section [2262.051](#), Government Code, is amended by amending Subsections (a), (b), (c), (d), and (g) and adding Subsections (i) and (j) to read as follows:

(a) In consultation with the attorney general, the Department of Information Resources, the [~~comptroller, and the~~] state auditor, and state agencies that award major contracts, the comptroller [~~commission~~] shall develop and [~~or~~] periodically update a contract management guide for use by state agencies. Participation by the state auditor under this subsection is subject to approval by the legislative audit committee for inclusion in the audit plan under Section [321.013](#)(c).

(b) The comptroller [~~commission~~] may adopt rules necessary to develop or update the guide.

(c) The guide must provide information regarding the

1 primary duties of a contract manager, including how to:

- 2 (1) develop and negotiate a contract;
- 3 (2) select a contractor; ~~and~~
- 4 (3) monitor contractor and subcontractor performance
- 5 under a contract; and
- 6 (4) encourage competition for goods and services
- 7 purchased by this state.

8 (d) The guide must include model provisions for state agency

9 contracts. The guide must:

10 (1) distinguish between essential provisions that a

11 state agency must include in a contract to protect the interests of

12 this state and recommended provisions that a state agency may

13 include in a contract;

14 (2) recognize the unique contracting needs of an

15 individual state agency or program based on the size, nature, and

16 type of goods or services purchased by the state agency or program

17 and provide sufficient flexibility to accommodate those needs,

18 consistent with protecting the interests of this state;

19 (3) include maximum contract periods under which a new

20 competitive solicitation is not necessary; and

21 (4) include the model contract management process

22 developed under Section [2262.104](#) and recommendations on the

23 appropriate use of the model.

24 (g) The guide must establish procedures under which a state

25 agency is required to:

26 (1) analyze the reasons ~~[solicit explanations from~~

27 ~~qualified potential respondents who did not respond to]~~ a

1 competitive solicitation for a contract received fewer than two
2 qualified bids; and

3 (2) develop and implement improved procurement
4 practices, including:

5 (A) providing earlier notice to prospective
6 vendors of the state agency's intent to issue a competitive
7 solicitation;

8 (B) expanding the time in which a prospective
9 vendor may respond to a competitive solicitation;

10 (C) improving up-front communication between a
11 state agency and a prospective vendor about the state agency's
12 needs and objectives; and

13 (D) improving educational efforts by the state
14 agency to understand vendor capabilities, skills, and benefits [~~on~~
15 ~~which fewer than two qualified bids were received by the agency].~~

16 (i) The guide must suggest best practices related to
17 procurement metrics used by a state agency to measure and monitor
18 the effectiveness of the state agency's procurement methods,
19 including the:

20 (1) number and value of procurements made by the state
21 agency;

22 (2) number of canceled procurements by the state
23 agency;

24 (3) reasons for canceled procurements;

25 (4) common exceptions to the state agency's terms and
26 conditions by a respondent;

27 (5) number of responses per competitive solicitation;

1 and

2 (6) average length of time for each phase of the state
3 agency's procurement processes, including the length of time:

4 (A) between the date the state agency issues the
5 competitive solicitation and the date the state agency begins
6 receiving responses to the solicitation;

7 (B) for the evaluation of responses to a
8 competitive solicitation;

9 (C) of the negotiation between the state agency
10 and a vendor; and

11 (D) between the date the state agency issues the
12 competitive solicitation and the date the state agency awards a
13 contract to a vendor.

14 (j) The guide may include references to procurement
15 maturity models and procurement readiness assessments used by other
16 large public and private enterprises.

17 SECTION 3. This Act takes effect September 1, 2017.