

AN ACT

relating to governmental entity contracting and procurement.

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

SECTION 1. Section 572.069, Government Code, is amended to read as follows:

Sec. 572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn [~~officer's or employee's service or employment with the state agency ceased~~].

SECTION 2. Section 2054.1181(a), Government Code, is amended to read as follows:

(a) At the direction of the governor, lieutenant governor, or speaker of the house of representatives [~~The quality assurance team, in coordination with the governor, may recommend major information resources projects to the department for oversight. As part of this oversight~~], the department shall provide additional oversight services for major information resources projects, including risk management, quality assurance services, independent project monitoring, and project management. A state agency with a

1 project selected for oversight shall pay for oversight by the
2 department and quality assurance team based on a funding model
3 developed by the department. The department may contract with a
4 vendor to provide the necessary oversight at the department's
5 direction.

6 SECTION 3. Section 2054.158, Government Code, is amended to
7 read as follows:

8 Sec. 2054.158. QUALITY ASSURANCE TEAM; DUTIES. (a) The
9 comptroller, state auditor, Legislative Budget Board, and
10 department shall:

11 (1) create a quality assurance team to perform the
12 duties specified in this chapter and other law; [~~and~~]

13 (2) specify in writing the responsibilities of the
14 comptroller, state auditor, Legislative Budget Board, and
15 department in performing the duties; and

16 (3) create an automated project review system.

17 (b) The quality assurance team shall:

18 (1) develop and recommend policies and procedures to
19 improve state agency information resources technology projects;
20 [~~and~~]

21 (2) develop and recommend procedures to improve the
22 implementation of state agency information resources technology
23 projects by including considerations for best value and return on
24 investment; and

25 (3) provide annual training for state agency
26 procurement and contract management staff on best practices and
27 methodologies for information technology contracts.

1 (c) The state auditor serves on the quality assurance team
2 as an advisor.

3 SECTION 4. Section 2054.303(a), Government Code, is amended
4 to read as follows:

5 (a) For each proposed major information resources project
6 or major contract, a state agency must prepare:

7 (1) a business case providing the initial
8 justification for the project or contract, including the
9 anticipated return on investment in terms of cost savings and
10 efficiency for the project or contract; ~~and~~

11 (2) a statewide impact analysis of the project's or
12 contract's effect on the state's common information resources
13 infrastructure, including the possibility of reusing code or other
14 resources; and

15 (3) in consultation with the department, a technical
16 architectural assessment of the project or contract.

17 SECTION 5. Section 2054.304, Government Code, is amended by
18 adding Subsections (d) and (e) to read as follows:

19 (d) In each project plan for a major information resources
20 project, the state agency shall consider incorporating into the
21 project the applicable best practices recommended in the quality
22 assurance team's annual report.

23 (e) A state agency contract for a major information
24 resources project must comply with the requirements in the
25 comptroller's contract management guide developed under Section
26 2262.051.

27 SECTION 6. Subchapter B, Chapter 2155, Government Code, is

1 amended by adding Sections 2155.090 and 2155.091 to read as
2 follows:

3 Sec. 2155.090. VENDOR AND EMPLOYEE INTERACTION AND
4 COMMUNICATION POLICY. (a) The comptroller shall update a contract
5 management guide to include policies on the interactions and
6 communication between employees of the state agency and a vendor
7 that contracts with the state agency or seeks to conduct business
8 with the state agency.

9 (b) This subtitle does not prohibit the exchange of
10 information between a state agency and a vendor related to future
11 solicitations or as necessary to monitor an existing contract.

12 Sec. 2155.091. CHIEF PROCUREMENT OFFICER: POWERS AND
13 DUTIES. (a) The comptroller shall employ a chief procurement
14 officer to serve as the chief procurement officer for this state.

15 (b) The chief procurement officer has authority over state
16 agency procurement, including the authority to:

17 (1) analyze state purchasing data to leverage state
18 purchasing power;

19 (2) provide functional support to state agencies;

20 (3) provide training on state purchasing and contract
21 management;

22 (4) review major contract solicitations for
23 information technology projects monitored by the quality assurance
24 team under Section [2054.158](#);

25 (5) review solicitations for major contracts reviewed
26 by the Contract Advisory Team under Section [2262.101](#);

27 (6) delegate to a state agency authority to contract

1 for the purchase of a good or service valued in an amount specified
2 by comptroller rule; and

3 (7) provide leadership on procurement issues.

4 (c) A state agency shall comply with any request for
5 information from the chief procurement officer necessary to conduct
6 the analysis authorized by Subsection (b)(1).

7 (d) The chief procurement officer shall coordinate with the
8 Department of Information Resources and the quality assurance team
9 to conduct a contract solicitation review required by Subsection
10 (a)(4) and make appropriate recommendations to the comptroller and
11 legislature based on the review. This section grants the chief
12 procurement officer authority only to review a contract
13 solicitation. The Department of Information Resources or the
14 appropriate state agency retains the authority to award a statewide
15 information resources contract as authorized by law.

16 (e) The chief procurement officer shall coordinate with the
17 Contract Advisory Team to conduct the review required by Section
18 2262.101. A state agency shall comply with any request for
19 information by the chief procurement officer that is necessary to
20 conduct the review.

21 SECTION 7. Subchapter D, Chapter 2155, Government Code, is
22 amended by adding Section 2155.205 to read as follows:

23 Sec. 2155.205. INTERSTATE PURCHASING. (a) Subject to
24 Section 2156.181 or other law, the comptroller may enter into
25 agreements to authorize state agencies and political subdivisions
26 of other states to purchase goods or services through comptroller
27 contracts.

1 (b) The comptroller may charge a reasonable administrative
2 fee to state agencies and political subdivisions of other states
3 that purchase a good or service under this section.

4 SECTION 8. Sections 2157.068(e-1) and (e-2), Government
5 Code, are amended to read as follows:

6 (e-1) A state agency contracting to purchase a commodity
7 item shall use the list maintained as required by Subsection (e) as
8 follows:

9 (1) for a contract with a value of \$50,000 or less, the
10 agency may directly award the contract to a vendor included on the
11 list without submission of a request for pricing to other vendors on
12 the list;

13 (2) for a contract with a value of more than \$50,000
14 but not more than \$1 million [~~\$150,000~~], the agency must submit a
15 request for pricing to at least three vendors included on the list
16 in the category to which the contract relates; and

17 (3) for a contract with a value of more than \$1 million
18 [~~\$150,000~~] but not more than \$5 [~~\$1~~] million, the agency must submit
19 a request for pricing to at least six vendors included on the list
20 in the category to which the contract relates or all vendors on the
21 schedule if the category has fewer than six vendors.

22 (e-2) A state agency may not enter into a contract to
23 purchase a commodity item if the value of the contract exceeds \$5
24 [~~\$1~~] million.

25 SECTION 9. Section 2261.252, Government Code, is amended by
26 adding Subsections (a-1), (e), and (f) to read as follows:

27 (a-1) A state agency employee or official is required to

1 disclose under Subsection (a) any potential conflict of interest
2 specified by state law or agency policy that is known by the
3 employee or official at any time during:

4 (1) the procurement process, from the initial request
5 for bids for the purchase of goods or services from a private vendor
6 until the completed final delivery of the goods or services; or

7 (2) the term of a contract with a private vendor.

8 (e) This section applies only to a contract for the purchase
9 of goods or services solicited through a purchase order if the
10 amount of the purchase order exceeds \$25,000.

11 (f) Section 51.923, Education Code, governs the conflicts
12 of interest of the members of the governing board of an institution
13 of higher education, as those terms are defined by Section 61.003,
14 Education Code, and this section does not apply to those members.

15 SECTION 10. Section 2261.253, Government Code, is amended
16 by adding Subsections (e), (f), (g), and (h) to read as follows:

17 (e) A state agency that posts a contract on its Internet
18 website as required under this section shall redact from the posted
19 contract:

20 (1) information that is confidential under law;

21 (2) information the attorney general determines is
22 excepted from public disclosure under Chapter 552; and

23 (3) the social security number of any individual.

24 (f) The redaction of information under Subsection (e) does
25 not exempt the information from the requirements of Section 552.021
26 or 552.221.

27 (g) Subsection (a) does not apply to:

1 (1) a contract posted on the major contracts database
2 established under Section 322.020; or

3 (2) a contract of an institution of higher education
4 that is valued at less than \$15,000 and paid with money other than
5 funds appropriated to the institution by this state.

6 (h) In this section, "institution of higher education" has
7 the meaning assigned by Section 61.003, Education Code, except that
8 the term does not include a public junior college.

9 SECTION 11. Section 2262.101(a), Government Code, is
10 amended to read as follows:

11 (a) The Contract Advisory Team is created to assist state
12 agencies in improving contract management practices by:

13 (1) reviewing and making recommendations on the
14 solicitation documents and contract documents for contracts of
15 state agencies that have a value of at least \$5 [~~\$10~~] million;

16 (2) reviewing any findings or recommendations made by
17 the state auditor, including those made under Section 2262.052(b),
18 regarding a state agency's compliance with the contract management
19 guide;

20 (3) providing recommendations to the comptroller
21 regarding:

22 (A) the development of the contract management
23 guide; and

24 (B) the training under Section 2262.053;

25 (4) providing recommendations and assistance to state
26 agency personnel throughout the contract management process;

27 (5) coordinating and consulting with the quality

1 assurance team established under Section 2054.158 on all contracts
2 relating to a major information resources project;

3 (6) developing and recommending policies and
4 procedures to improve state agency contract management practices;

5 (7) developing and recommending procedures to improve
6 state agency contracting practices by including consideration for
7 best value; and

8 (8) creating and periodically performing a risk
9 assessment to determine the appropriate level of management and
10 oversight of contracts by state agencies.

11 SECTION 12. Section 2262.102, Government Code, is amended
12 by adding Subsection (a-1) to read as follows:

13 (a-1) The chief procurement officer described by Section
14 2155.091 may add members to the team by designating members from
15 state agencies that agree to participate on the team. A state
16 agency may decline a request to participate on the team under this
17 subsection by submitting a written statement declining the request
18 to the chief procurement officer.

19 SECTION 13. Section 2269.056(b), Government Code, is
20 amended to read as follows:

21 (b) The governmental entity shall base its selection among
22 offerors on applicable criteria listed for the particular method
23 used. The governmental entity shall publish in the request for
24 proposals or qualifications:

25 (1) the criteria that will be used to evaluate the
26 offerors;

27 (2) [~~and~~] the applicable weighted value for each

1 criterion; and

2 (3) for state agencies, a detailed methodology for
3 scoring each criterion.

4 SECTION 14. Section 2269.361(a), Government Code, is
5 amended to read as follows:

6 (a) A governmental entity shall request proposals from
7 design-build firms identified under Section 2269.359(c). A
8 response to a request for detailed proposals must be submitted on or
9 before the earlier of the time for submission requested by the
10 governmental entity or [~~firm must submit a proposal not later than~~]
11 the 180th day after the date the governmental entity makes a public
12 request for the proposals from the selected firms. The request for
13 proposals must include:

14 (1) a design criteria package;

15 (2) if the project site is identified, a geotechnical
16 baseline report or other information that provides the design-build
17 firm minimum geotechnical design parameters to submit a proposal;

18 (3) detailed instructions for preparing the technical
19 proposal and the items to be included, including a description of
20 the form and level of completeness of drawings expected; and

21 (4) the relative weighting of the technical and price
22 proposals and the formula by which the proposals will be evaluated
23 and ranked.

24 SECTION 15. Subchapter A, Chapter 8, Education Code, is
25 amended by adding Section 8.012 to read as follows:

26 Sec. 8.012. CONTRACT MANAGEMENT GUIDE. The agency shall
27 comply with the comptroller's contract management guide developed

1 under Section 2262.051, Government Code, in each contract between
2 the agency and a regional education service center established
3 under this chapter.

4 SECTION 16. Section 51.923(e), Education Code, is amended
5 to read as follows:

6 (e) For purposes of this section, a member of a governing
7 board has a substantial interest in a business entity if:

8 (1) the member owns one [~~10~~] percent or more of the
9 voting stock or shares of the business entity or owns either one
10 [~~10~~] percent or more or \$15,000 or more of the fair market value of
11 the business entity;

12 (2) funds received by the member from the business
13 entity exceed one [~~10~~] percent of the member's gross income for the
14 previous year;

15 (3) the member is an officer of the business entity or
16 a member of the governing board of the business entity; or

17 (4) an individual related to the member in the first
18 degree by consanguinity or affinity, as determined under Chapter
19 573, Government Code, has an interest in the business entity as
20 described by Subdivision (1), (2), or (3).

21 SECTION 17. (a) Not later than January 1, 2018, the
22 comptroller shall:

23 (1) employ a chief procurement officer as required by
24 Section 2155.091, Government Code, as added by this Act; and

25 (2) adopt any rules necessary to implement the changes
26 in law made by this Act.

27 (b) Not later than January 1, 2018, each state agency shall

1 adopt a vendor and employee interaction and communication policy as
2 required by Section 2155.090, Government Code, as added by this
3 Act.

4 (c) The changes in law made by this Act apply only in
5 relation to a contract for which a state agency first advertises or
6 otherwise solicits bids, proposals, offers, or qualifications on or
7 after the effective date of this Act.

8 (d) Notwithstanding the other provisions of this Act,
9 Section 2269.361(a), Government Code, as amended by this Act,
10 applies to a contract entered into on or after the effective date of
11 this Act and for which a bid or other solicitation response was
12 submitted after June 21, 2017.

13 (e) Notwithstanding the other provisions of this Act,
14 Section 51.923, Education Code, as amended by this Act, applies
15 only to a contract or other transaction entered into on or after the
16 effective date of this Act. A contract or other transaction entered
17 into before the effective date of this Act is governed by the law in
18 effect on the date on which the contract or other transaction was
19 entered into, and the former law is continued in effect for that
20 purpose.

21 SECTION 18. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 533 passed the Senate on April 20, 2017, by the following vote: Yeas 31, Nays 0; May 19, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2017, House granted request of the Senate; May 28, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 533 passed the House, with amendments, on May 17, 2017, by the following vote: Yeas 139, Nays 0, two present not voting; May 22, 2017, House granted request of the Senate for appointment of Conference Committee; May 28, 2017, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 2, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor