

1-1 By: Nelson S.B. No. 533
 1-2 (In the Senate - Filed January 19, 2017; February 8, 2017,
 1-3 read first time and referred to Committee on Finance;
 1-4 March 30, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 14, Nays 0; March 30, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17			X	
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			
1-23	X			

1-24 COMMITTEE SUBSTITUTE FOR S.B. No. 533 By: Nelson

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to state agency contracting and procurement.
 1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-29 SECTION 1. Section 2054.1181(a), Government Code, is
 1-30 amended to read as follows:
 1-31 (a) At the direction of the governor, lieutenant governor,
 1-32 or speaker of the house of representatives ~~[The quality assurance~~
 1-33 ~~team, in coordination with the governor, may recommend major~~
 1-34 ~~information resources projects to the department for oversight. As~~
 1-35 ~~part of this oversight],~~ the department shall provide additional
 1-36 oversight services for major information resources projects,
 1-37 including risk management, quality assurance services, independent
 1-38 project monitoring, and project management. A state agency with a
 1-39 project selected for oversight shall pay for oversight by the
 1-40 department and quality assurance team based on a funding model
 1-41 developed by the department. The department may contract with a
 1-42 vendor to provide the necessary oversight at the department's
 1-43 direction.
 1-44 SECTION 2. Section 2054.158, Government Code, is amended to
 1-45 read as follows:
 1-46 Sec. 2054.158. QUALITY ASSURANCE TEAM; DUTIES. (a) The
 1-47 comptroller, state auditor, Legislative Budget Board, and
 1-48 department shall:
 1-49 (1) create a quality assurance team to perform the
 1-50 duties specified in this chapter and other law; ~~[and]~~
 1-51 (2) specify in writing the responsibilities of the
 1-52 comptroller, state auditor, Legislative Budget Board, and
 1-53 department in performing the duties; and
 1-54 (3) create an automated project review system.
 1-55 (b) The quality assurance team shall:
 1-56 (1) develop and recommend policies and procedures to
 1-57 improve state agency information resources technology projects;
 1-58 ~~[and]~~
 1-59 (2) develop and recommend procedures to improve the
 1-60 implementation of state agency information resources technology

2-1 projects by including considerations for best value and return on
2-2 investment; and
2-3 (3) provide annual training for state agency
2-4 procurement and contract management staff on best practices and
2-5 methodologies for information technology contracts.

2-6 (c) The state auditor serves on the quality assurance team
2-7 as an advisor.

2-8 SECTION 3. Section 2054.303(a), Government Code, is amended
2-9 to read as follows:

2-10 (a) For each proposed major information resources project
2-11 or major contract, a state agency must prepare:

2-12 (1) a business case providing the initial
2-13 justification for the project or contract, including the
2-14 anticipated return on investment in terms of cost savings and
2-15 efficiency for the project or contract; ~~and~~

2-16 (2) a statewide impact analysis of the project's or
2-17 contract's effect on the state's common information resources
2-18 infrastructure, including the possibility of reusing code or other
2-19 resources; and

2-20 (3) in consultation with the department, a technical
2-21 architectural assessment of the project or contract.

2-22 SECTION 4. Section 2054.304, Government Code, is amended by
2-23 adding Subsections (d) and (e) to read as follows:

2-24 (d) In each project plan for a major information resources
2-25 project, the state agency shall consider incorporating into the
2-26 project the applicable best practices recommended in the quality
2-27 assurance team's annual report.

2-28 (e) A state agency contract for a major information
2-29 resources project must comply with the requirements in the
2-30 comptroller's contract management guide developed under Section
2-31 2262.051.

2-32 SECTION 5. Subchapter B, Chapter 2155, Government Code, is
2-33 amended by adding Sections 2155.090 and 2155.091 to read as
2-34 follows:

2-35 Sec. 2155.090. VENDOR AND EMPLOYEE INTERACTION AND
2-36 COMMUNICATION POLICY. The comptroller shall update a contract
2-37 management guide to include policies on the interactions and
2-38 communication between employees of the state agency and a vendor
2-39 that contracts with the state agency or seeks to conduct business
2-40 with the state agency.

2-41 (b) This subtitle does not prohibit the exchange of
2-42 information between a state agency and a vendor related to future
2-43 solicitations or as necessary to monitor an existing contract.

2-44 Sec. 2155.091. CHIEF PROCUREMENT OFFICER: POWERS AND
2-45 DUTIES. (a) The comptroller shall employ a chief procurement
2-46 officer to serve as the chief procurement officer for this state.

2-47 (b) The chief procurement officer has authority over state
2-48 agency procurement, including the authority to:

2-49 (1) analyze state purchasing data to leverage state
2-50 purchasing power;

2-51 (2) provide functional support to state agencies;

2-52 (3) provide training on state purchasing and contract
2-53 management;

2-54 (4) review major contract solicitations for
2-55 information technology projects monitored by the quality assurance
2-56 team under Section 2054.158;

2-57 (5) review solicitations for major contracts reviewed
2-58 by the Contract Advisory Team under Section 2262.101;

2-59 (6) delegate to a state agency authority to contract
2-60 for the purchase of a good or service valued in an amount specified
2-61 by comptroller rule; and

2-62 (7) provide leadership on procurement issues.

2-63 (c) A state agency shall comply with any request for
2-64 information from the chief procurement officer necessary to conduct
2-65 the analysis authorized by Subsection (b)(1).

2-66 (d) The chief procurement officer shall coordinate with the
2-67 Department of Information Resources and the quality assurance team
2-68 to conduct a contract solicitation review required by Subsection
2-69 (a)(4) and make appropriate recommendations to the comptroller and

3-1 legislature based on the review. This section grants the chief
3-2 procurement officer authority only to review a contract
3-3 solicitation. The Department of Information Resources or the
3-4 appropriate state agency retains the authority to award a statewide
3-5 information resources contract as authorized by law.

3-6 (e) The chief procurement officer shall coordinate with the
3-7 Contract Advisory Team to conduct the review required by Section
3-8 2262.101. A state agency shall comply with any request for
3-9 information by the chief procurement officer that is necessary to
3-10 conduct the review.

3-11 SECTION 6. Subchapter D, Chapter 2155, Government Code, is
3-12 amended by adding Section 2155.205 to read as follows:

3-13 Sec. 2155.205. INTERSTATE PURCHASING.

3-14 (a) Notwithstanding Section 2156.181 or other law, the
3-15 comptroller may enter into agreements to authorize state agencies
3-16 and political subdivisions of other states to purchase goods or
3-17 services through comptroller contracts.

3-18 (b) The comptroller may charge a reasonable administrative
3-19 fee to state agencies and political subdivisions of other states
3-20 that purchase a good or service under this section.

3-21 SECTION 7. Sections 2157.068(e-1) and (e-2), Government
3-22 Code, are amended to read as follows:

3-23 (e-1) A state agency contracting to purchase a commodity
3-24 item shall use the list maintained as required by Subsection (e) as
3-25 follows:

3-26 (1) for a contract with a value of \$50,000 or less, the
3-27 agency may directly award the contract to a vendor included on the
3-28 list without submission of a request for pricing to other vendors on
3-29 the list;

3-30 (2) for a contract with a value of more than \$50,000
3-31 but not more than \$1 million [~~\$150,000~~], the agency must submit a
3-32 request for pricing to at least three vendors included on the list
3-33 in the category to which the contract relates; and

3-34 (3) for a contract with a value of more than \$1 million
3-35 [~~\$150,000~~] but not more than \$5 [~~\$1~~] million, the agency must submit
3-36 a request for pricing to at least six vendors included on the list
3-37 in the category to which the contract relates or all vendors on the
3-38 schedule if the category has fewer than six vendors.

3-39 (e-2) A state agency may not enter into a contract to
3-40 purchase a commodity item if the value of the contract exceeds \$5
3-41 [~~\$1~~] million.

3-42 SECTION 8. Section 2261.252, Government Code, is amended by
3-43 adding Subsections (a-1) and (e) to read as follows:

3-44 (a-1) A state agency employee or official is required to
3-45 disclose under Subsection (a) any potential conflict of interest
3-46 specified by state law or agency policy that is known by the
3-47 employee or official at any time during:

3-48 (1) the procurement process, from the initial request
3-49 for bids for the purchase of goods or services from a private vendor
3-50 until the completed final delivery of the goods or services; or

3-51 (2) the term of a contract with a private vendor.

3-52 (e) This section applies only to a contract for the purchase
3-53 of goods or services solicited through a purchase order if the
3-54 amount of the purchase order exceeds \$25,000.

3-55 SECTION 9. Section 2261.253, Government Code, is amended by
3-56 amending Subsection (b) and adding Subsection (e) to read as
3-57 follows:

3-58 (b) [~~A state agency monthly may post contracts described by~~
3-59 Subsection (a) does not apply to a contract posted on the major
3-60 contracts database established under Section 322.020 [~~that are~~
3-61 valued at less than \$15,000].

3-62 (e) A state agency that posts a contract on its Internet
3-63 website as required under this section shall redact from the posted
3-64 contract:

3-65 (1) information that is confidential under law;

3-66 (2) information the attorney general determines is
3-67 excepted from public disclosure under Chapter 552; and

3-68 (3) the social security number of any individual.

3-69 SECTION 10. Section 2262.101(a), Government Code, is

4-1 amended to read as follows:

4-2 (a) The Contract Advisory Team is created to assist state
4-3 agencies in improving contract management practices by:

4-4 (1) reviewing and making recommendations on the
4-5 solicitation documents and contract documents for contracts of
4-6 state agencies that have a value of at least \$5 [~~\$10~~] million;

4-7 (2) reviewing any findings or recommendations made by
4-8 the state auditor, including those made under Section 2262.052(b),
4-9 regarding a state agency's compliance with the contract management
4-10 guide;

4-11 (3) providing recommendations to the comptroller
4-12 regarding:

4-13 (A) the development of the contract management
4-14 guide; and

4-15 (B) the training under Section 2262.053;

4-16 (4) providing recommendations and assistance to state
4-17 agency personnel throughout the contract management process;

4-18 (5) coordinating and consulting with the quality
4-19 assurance team established under Section 2054.158 on all contracts
4-20 relating to a major information resources project;

4-21 (6) developing and recommending policies and
4-22 procedures to improve state agency contract management practices;

4-23 (7) developing and recommending procedures to improve
4-24 state agency contracting practices by including consideration for
4-25 best value; and

4-26 (8) creating and periodically performing a risk
4-27 assessment to determine the appropriate level of management and
4-28 oversight of contracts by state agencies.

4-29 SECTION 11. Section 2262.102, Government Code, is amended
4-30 by adding Subsection (a-1) to read as follows:

4-31 (a-1) The chief procurement officer described by Section
4-32 2155.091 may add members to the team by designating members from
4-33 state agencies that agree to participate on the team. A state
4-34 agency may decline a request to participate on the team under this
4-35 subsection by submitting a written statement declining the request
4-36 to the chief procurement officer.

4-37 SECTION 12. Subchapter A, Chapter 8, Education Code, is
4-38 amended by adding Section 8.012 to read as follows:

4-39 Sec. 8.012. CONTRACT MANAGEMENT GUIDE. The agency shall
4-40 comply with the comptroller's contract management guide developed
4-41 under Section 2262.051, Government Code, in each contract between
4-42 the agency and a regional education service center established
4-43 under this chapter.

4-44 SECTION 13. (a) Not later than January 1, 2018, the
4-45 comptroller shall:

4-46 (1) employ a chief procurement officer as required by
4-47 Section 2155.091, Government Code, as added by this Act;

4-48 (2) modify the contract management guide as required
4-49 by Section 2262.051(i), Government Code, as added by this Act; and

4-50 (3) adopt any rules necessary to implement the changes
4-51 in law made by this Act.

4-52 (b) Not later than January 1, 2018, each state agency shall
4-53 adopt a vendor and employee interaction and communication policy as
4-54 required by Section 2155.090, Government Code, as added by this
4-55 Act.

4-56 (c) The changes in law made by this Act apply only in
4-57 relation to a contract for which a state agency first advertises or
4-58 otherwise solicits bids, proposals, offers, or qualifications on or
4-59 after the effective date of this Act.

4-60 SECTION 14. This Act takes effect September 1, 2017.

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