H.B. No. 1524

AN ACT

relating to correcting outdated references to the Texas Building and Procurement Commission.

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

SECTION 1.  Section 411.064, Government Code, is amended to read as follows:

Sec. 411.064.  ASSISTANCE OF TEXAS DEPARTMENT OF TRANSPORTATION OR TEXAS FACILITIES [~~GENERAL SERVICES~~] COMMISSION. (a) On request of the department, the Texas Department of Transportation and the Texas Facilities [~~General Services~~] Commission shall:

(1)  assist the department in the marking and designation of parking lots, parking garages, and parking spaces;

(2)  maintain the painting of lines and curb markings; and

(3)  furnish and erect direction and information signs.

(b)  The department may recover the cost of providing the services described in Subsection (a) from the agency or agencies for which the service was provided. To the extent that either the Texas Facilities [~~General Services~~] Commission or the Texas Department of Transportation provides or assists in providing the services described in Subsection (a), that agency shall be reimbursed by the department from its funds or the funds received from another agency under this subsection.

SECTION 2.  Section 411.0645(a), Government Code, is amended to read as follows:

(a)  The department, the City of Austin, the Capital Metropolitan Transportation Authority, the Texas Facilities [~~General Services~~] Commission, the State Preservation Board, and The University of Texas at Austin shall each designate a representative to a committee established for the purpose of coordinating transportation in and adjacent to the Capitol Complex. The representative of the department shall convene the initial meeting of the committee, and the committee shall elect officers and meet as decided by the committee.

SECTION 3.  Sections 469.106(b) and (d), Government Code, are amended to read as follows:

(b)  The department and the Texas Facilities [~~Building and Procurement~~] Commission shall ensure compliance with the standards and specifications described by Subsection (a) for a building or facility described by Subsection (a) and leased for an annual amount of more than $12,000 or built by or for the state.

(d)  If an inspection under Subsection (c) determines that a building or facility does not comply with all applicable standards and specifications, the leasing agency or the Texas Facilities [~~Building and Procurement~~] Commission, as applicable, shall cancel the lease unless the lessor brings the building or facility into compliance not later than:

(1)  the 60th day after the date the person performing the inspection delivers the results of the inspection to the lessor or the lessor's agent; or

(2)  a later date established by the commission if circumstances justify a later date.

SECTION 4.  Section 1232.003(4), Government Code, is amended to read as follows:

(4)  "Commission" means the Texas Facilities [~~Building and Procurement~~] Commission.

SECTION 5.  Section 2101.0115(c), Government Code, is amended to read as follows:

(c)  A state agency's annual report must include:

(1)  the name and job title of each bonded agency employee, the amount of the bond, and the name of the surety company that issued the bond;

(2)  an analysis of space occupied by the agency, including:

(A)  the total amount of space rented by the agency, expressed in square feet;

(B)  the total amount of space occupied by the agency in state-owned buildings, expressed in square feet;

(C)  the name and address of each building in which the agency occupies space and the amount of square feet in each building devoted to each particular use;

(D)  the cost per square foot of all rented space;

(E)  the annual and monthly cost of all rented space;

(F)  the name of each lessor of space rented by the agency;

(G)  a description of the agency's progress toward achieving the objective provided by Section 2165.104, if the agency is subject to that section; and

(H)  any other information helpful to describe the agency's use of space;

(3)  an itemization of all fees paid by the agency for professional or consulting services provided under Subchapter A or B, Chapter 2254, including the name of each person receiving those fees and the reason for the provision of the services;

(4)  an itemization of all fees paid by the agency for legal services, other than legal services provided by an agency employee or the attorney general, including the name of each person receiving those fees and the reason for the provision of the services;

(5)  a copy of the form prepared by the agency under Section 2205.041, relating to the agency's use and cost of operating aircraft that are state-owned or under rental or long-term lease;

(6)  an itemization of any purchases made under Section 2155.067, including each product purchased, the amount of the purchase, and the name of the vendor;

(7)  for each fiscal year ending in an even-numbered calendar year:

(A)  a copy of the master file report verification form certified by the General Land Office, if applicable to the agency, to confirm that the agency is in compliance with Subchapter E, Chapter 31, Natural Resources Code; or

(B)  if the agency's inventory record is inaccurate or incomplete, a statement that the agency will submit the appropriate forms to the General Land Office not later than the 15th day after the date the agency submits its annual report;

(8)  a copy of the report prepared by the agency under Section 2161.124, relating to the agency's use of historically underutilized businesses;

(9)  a report of each transfer of appropriated money between appropriation items that shows the sum of all transfers affecting each item;

(10)  an itemization of each passenger vehicle the agency purchased, including the make, model, purchase price, assigned type of use, and fuel efficiency as expressed by the manufacturer's fuel efficiency rating;

(11)  a schedule, applicable to state agencies determined by the Legislative Budget Board, detailing total expenditures by or on behalf of the agency for:

(A)  employee benefits, including social security, health insurance, retirement contributions, benefit replacement pay, and workers' and unemployment compensation payments;

(B)  bond debt service; and

(C)  payments for general governmental services as defined by the comptroller, including services of the comptroller, the attorney general, the Texas Facilities [~~General Services~~] Commission, the Department of Information Resources, and the state auditor;

(12)  for an institution of higher education, the total amount of lump-sum vacation and compensatory leave payments made to employees who separated from state service during the fiscal year;

(13)  the name and job title of each state officer or employee authorized to use a state-owned or state-leased vehicle and the reasons for the authorization, in accordance with Section 2113.013; and

(14)  a report of expenditures made for each commodity or service identified under Section 2155.448, including:

(A)  the total amount spent on those commodities and services;

(B)  the total amount spent for commodities and services purchased that accomplish the same purpose; and

(C)  the total amount spent for all other recycled, remanufactured, or environmentally sensitive commodities or services, itemized by type of commodity or service.

SECTION 6.  Section 2152.0011(b), Government Code, is amended to read as follows:

(b)  In this chapter, "commission" [~~or "Texas Building and Procurement Commission"~~] means the Texas Facilities Commission.

SECTION 7.  Sections 2155.0011 and 2155.002, Government Code, are amended to read as follows:

Sec. 2155.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

Sec. 2155.002.  [~~COMMISSION~~] FOCUS ON LARGE EXPENDITURES. To the extent possible, the comptroller [~~commission~~] shall focus its efforts under this chapter and Chapters 2156, 2157, and 2158 on purchases and contracts that involve relatively large amounts of money.

SECTION 8.  Section 2155.061, Government Code, is amended to read as follows:

Sec. 2155.061.  COMPTROLLER [~~COMMISSION~~] PURCHASING SYSTEM. (a) The comptroller [~~commission~~] shall acquire by purchase, lease, rental, or another manner all goods and services for a state agency, including a purchase that does not require a competitive bid or a spot purchase.

(b)  The comptroller [~~commission~~] shall operate an effective and economical system for purchasing goods and services.

SECTION 9.  Section 2155.062(a), Government Code, is amended to read as follows:

(a)  In purchasing goods and services the comptroller [~~commission~~] may use, but is not limited to, the:

(1)  contract purchase procedure;

(2)  multiple award contract procedure, including under any schedules developed under Subchapter I;

(3)  open market purchase procedure; or

(4)  reverse auction procedure.

SECTION 10.  Section 2155.064, Government Code, is amended to read as follows:

Sec. 2155.064.  SCHEDULE AND BULK PURCHASING. The comptroller [~~commission~~] may combine orders in a system of schedule purchasing and shall attempt to benefit from bulk purchasing.

SECTION 11.  Sections 2155.065(a) and (c), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] is authorized to make contracts with the Texas Department of Criminal Justice for the purchase of goods and services for use by another state agency.

(c)  The comptroller [~~commission~~] shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller [~~commission~~] or meeting commercial specifications approved by the comptroller [~~commission~~].

SECTION 12.  Section 2155.066, Government Code, is amended to read as follows:

Sec. 2155.066.  REVIEW OF SPECIFICATIONS. The comptroller [~~commission~~] shall review the specifications and purchase conditions of goods or services considered for purchase.

SECTION 13.  Sections 2155.067(a), (c), (d), and (f), Government Code, are amended to read as follows:

(a)  If, after review under Section 2155.066, the comptroller [~~commission~~] finds that specifications and conditions of a purchase request describe a product that is proprietary to one vendor and do not permit an equivalent product to be supplied, the comptroller [~~commission~~] shall require the requesting state agency to justify in writing the specifications or conditions.

(c)  The written justification must:

(1)  explain the need for the specifications;

(2)  state the reason competing products are not satisfactory; and

(3)  provide other information requested by the comptroller [~~commission~~].

(d)  If the comptroller [~~commission~~] requires a resubmission with written justification, the comptroller [~~commission~~] shall notify the requesting state agency of the requirement not later than the 10th day after the date of receiving the purchase request.

(f)  The comptroller [~~commission~~] shall issue an invitation to bid to vendors not later than the 20th day after the date of receiving the required written justification.

SECTION 14.  Sections 2155.068, 2155.069, 2155.070, 2155.072, 2155.073, 2155.074, and 2155.075, Government Code, are amended to read as follows:

Sec. 2155.068.  UNIFORM STANDARDS AND SPECIFICATIONS. (a) The comptroller [~~commission~~] may coordinate uniform standards and specifications for goods purchased by the comptroller [~~commission~~]. The comptroller [~~commission~~] by rule may adopt appropriate standards developed by a nationally recognized standards-making association as part of its specifications and standards program.

(b)  The comptroller [~~commission~~] shall enlist the cooperation of other state agencies in the establishment, maintenance, and revision of uniform standards and specifications.

(c)  The comptroller [~~commission~~] shall review contracts administered by the comptroller [~~commission~~] to ensure that all goods and services meet contract specifications.

(d)  As part of the standards and specifications program, the comptroller [~~commission~~] shall:

(1)  review contracts for opportunities to recycle waste produced at state buildings;

(2)  develop and update a list of equipment and appliances that meet the energy efficiency standards provided by Section 2158.301; and

(3)  assist state agencies in selecting products under Section 2158.301, as appropriate.

Sec. 2155.069.  TESTING AND INSPECTION. (a) The comptroller [~~commission~~] may test and inspect goods and services purchased under a contract administered by the comptroller [~~commission~~] to ensure compliance with specifications.

(b)  The comptroller [~~commission~~] may contract for testing under this section.

(c)  The comptroller [~~commission~~] may, on request, test and inspect goods and services purchased by other state governmental entities on a cost recovery basis.

(d)  The comptroller [~~commission~~] may also test and inspect goods and services before they are purchased. Other state agencies may test and inspect goods and services before purchase under standard industry testing methods, or they may contract for testing. The comptroller [~~commission~~] may inform agencies about available private testing facilities.

Sec. 2155.070.  FAILURE TO MEET SPECIFICATIONS. (a) A state agency that determines that goods or services received under a contract administered by the comptroller [~~commission~~] do not meet specifications shall promptly notify the comptroller [~~commission~~] in writing of the reasons for the determination. The comptroller [~~commission~~] shall immediately make its own determination of whether the goods and services meet specifications.

(b)  The comptroller [~~commission~~] or a state agency, including an institution of higher education, has the authority to determine that goods and services exempted from the comptroller's [~~commission's~~] purchasing authority meet or fail to meet specifications.

(c)  On determining that contract specifications or conditions have not been met, the comptroller [~~commission~~] shall act against the defaulting contractor, with the assistance of the attorney general as necessary.

(d)  If the comptroller [~~commission~~] receives repeated complaints against a vendor, the comptroller [~~commission~~] shall remove the vendor's name and the vendor's goods and services from the comptroller's [~~commission's~~] bidders list for not longer than one year. If complaints resume after the vendor is reinstated on the bidders list, the comptroller [~~commission~~] may bar the vendor from participating in state contracts for a period under Section 2155.077.

Sec. 2155.072.  STATEWIDE OR REGIONAL SERVICES CONTRACTS; [~~COMMISSION~~] STUDIES. (a) The comptroller [~~commission~~] annually shall select for study at least one service that is purchased by one or more state agencies. The comptroller [~~commission~~] shall study a selected service to determine whether the state would benefit if the service were provided to appropriate state agencies under a regional or statewide contract. The comptroller [~~commission~~] shall give priority to studying services for which the comptroller [~~commission~~] has delegated the purchasing function to many state agencies.

(b)  The comptroller [~~commission~~] is not required to enter into a statewide or regional contract for the provision of a service to state agencies if more than five bidders are willing to provide the service to the state under a statewide or regional contract.

Sec. 2155.073.  PARTICIPATION BY SMALL BUSINESSES IN STATE PURCHASING. The comptroller [~~commission~~] shall foster participation of small businesses in the purchasing activities of the state by:

(1)  assisting state agencies in developing procedures to ensure the inclusion of small businesses on state agency master bid lists;

(2)  informing small businesses of state purchasing opportunities;

(3)  assisting small businesses in complying with the procedures for bidding on state contracts;

(4)  working with state and federal agencies and with private organizations in disseminating information on state purchasing procedures and the opportunities for small businesses to participate in state contracts;

(5)  assisting state agencies with the development of a comprehensive list of small businesses capable of providing goods or services to the state;

(6)  making recommendations to state agencies to simplify contract specifications and terms to increase the opportunities for small business participation;

(7)  working with state agencies to establish a statewide policy for increasing the use of small businesses;

(8)  assisting state agencies in seeking small businesses capable of supplying goods and services that the agencies require;

(9)  assisting state agencies in identifying and advising small businesses on the types of goods and services needed by the agencies; and

(10)  assisting state agencies in increasing the volume of business placed with small businesses.

Sec. 2155.074.  BEST VALUE STANDARD FOR PURCHASE OF GOODS OR SERVICES. (a) For a purchase of goods and services under this chapter, each state agency, including the comptroller [~~commission~~], shall purchase goods and services that provide the best value for the state.

(b)  In determining the best value for the state, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the comptroller [~~commission~~] or other state agency may, subject to Subsection (c) and Section 2155.075, consider other relevant factors, including:

(1)  installation costs;

(2)  life cycle costs;

(3)  the quality and reliability of the goods and services;

(4)  the delivery terms;

(5)  indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;

(6)  the cost of any employee training associated with a purchase;

(7)  the effect of a purchase on agency productivity;

(8)  the vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment; and

(9)  other factors relevant to determining the best value for the state in the context of a particular purchase.

(c)  A state agency shall consult with and receive approval from the comptroller [~~commission~~] before considering factors other than price and meeting specifications when the agency procures through competitive bidding goods or services with a value that exceeds $100,000.

Sec. 2155.075.  REQUIREMENT TO SPECIFY VALUE FACTORS IN REQUEST FOR BIDS OR PROPOSALS. (a) For a purchase made through competitive bidding, the comptroller [~~commission~~] or other state agency making the purchase must specify in the request for bids the factors other than price that the comptroller [~~commission~~] or agency will consider in determining which bid offers the best value for the state.

(b)  For a purchase made through competitive sealed proposals, the comptroller [~~commission~~] or other state agency making the purchase:

(1)  must specify in the request for proposals the known factors other than price that the comptroller [~~commission~~] or agency will consider in determining which proposal offers the best value for the state; and

(2)  may concurrently inform each vendor that made a proposal on the contract of any additional factors the comptroller [~~commission~~] or agency will consider in determining which proposal offers the best value for the state if the comptroller [~~commission~~] or other agency determines after opening the proposals that additional factors not covered under Subdivision (1) are relevant in determining which proposal offers the best value for the state.

SECTION 15.  Section 2155.076(a), Government Code, is amended to read as follows:

(a)  The comptroller [~~commission~~] and each state agency by rule shall develop and adopt protest procedures for resolving vendor protests relating to purchasing issues. An agency's rules must be consistent with the comptroller's [~~commission's~~] rules. The rules must include standards for maintaining documentation about the purchasing process to be used in the event of a protest.

SECTION 16.  Sections 2155.077(a), (a-1), (b), (c), and (d), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] may bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, for:

(1)  substandard performance under a contract with the state or a state agency;

(2)  material misrepresentations in a bid or proposal to the state or a state agency or during the course of performing a contract with the state or a state agency;

(3)  fraud;

(4)  breaching a contract with the state or a state agency; or

(5)  repeated unfavorable performance reviews under Section 2155.089 or repeated unfavorable classifications received by the vendor under Section 2262.055 after considering the following factors:

(A)  the severity of the substandard performance by the vendor;

(B)  the impact to the state of the substandard performance;

(C)  any recommendations by a contracting state agency that provides an unfavorable performance review;

(D)  whether debarment of the vendor is in the best interest of the state; and

(E)  any other factor that the comptroller considers relevant, as specified by comptroller rule.

(a-1)  The comptroller [~~commission~~] shall bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if the vendor has been:

(1)  convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or

(2)  assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

(b)  Except as provided by Subsection (d), the comptroller [~~commission~~] shall bar a vendor from participating in state contracts under Subsection (a) or (a-2) for a period that is commensurate with the seriousness of the vendor's action and the damage to the state's interests.

(c)  The comptroller [~~commission~~] by rule shall:

(1)  state generally the reasons for which a vendor may be barred from participating in state contracts and the periods for which the vendor may be barred; and

(2)  prescribe the procedures under which the comptroller [~~commission~~] will determine whether and for how long a vendor will be barred.

(d)  The comptroller [~~commission~~] shall bar a vendor from participating in state contracts under Subsection (a-1) for a period of five years from the date the vendor was convicted or the penalty was assessed.

SECTION 17.  Section 2155.079, Government Code, is amended to read as follows:

Sec. 2155.079.  BUYING UNDER CONTRACT ESTABLISHED BY AGENCY OTHER THAN COMPTROLLER [~~COMMISSION~~]. (a) The comptroller [~~commission~~] shall adopt rules specifying the circumstances under which it is advantageous for the state to allow a state agency to purchase goods or services under a contract made by another state agency other than the comptroller [~~commission~~], including as provided under Subchapter I.

(b)  If comptroller [~~commission~~] rules allow other agencies to make purchases under a contract entered into by an agency using delegated purchasing authority, the agency purchasing under delegated authority may offer the goods or services available under the contract to other agencies only if the agency first:

(1)  establishes that the goods or services being offered under its contract are not available under a contract administered by the comptroller [~~commission~~]; and

(2)  informs the comptroller [~~commission~~] of the terms of the contract and the capabilities of the vendor.

SECTION 18.  Sections 2155.080(a), (b), and (d), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] may establish an advisory committee on procurement. The purpose of the committee is to represent before the comptroller [~~commission~~] the state agency purchasing community and the political subdivisions that use the comptroller's [~~commission's~~] purchasing services.

(b)  The committee is composed of officers or employees from the comptroller [~~commission~~], from state agencies, including institutions of higher education, and from political subdivisions who are invited by the comptroller [~~commission~~] to serve on the committee. The comptroller [~~commission~~] shall invite officers and employees who are experienced in public purchasing, in public finance, or who possess other appropriate expertise to serve on the committee. Service on the committee is an additional duty of the member's public office or employment. Chapter 2110 [~~Article 6252-33, Revised Statutes,~~] does not apply to the size or composition of the committee. The comptroller [~~commission~~] shall set staggered terms for the members of the committee.

(d)  The committee shall recommend improvements in comptroller [~~commission~~] or state agency purchasing practices to the comptroller [~~commission~~]. The committee shall review and comment on findings and recommendations related to purchasing that are made by state agency internal auditors or by the state auditor.

SECTION 19.  Sections 2155.081(a) and (b), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] may establish a vendor advisory committee. The purpose of the committee is to represent before the comptroller [~~commission~~] the vendor community, to provide information to vendors, and to obtain vendor input on state procurement practices.

(b)  The committee is composed of employees from the comptroller [~~commission~~] and vendors who have done business with the state who are invited by the comptroller [~~commission~~] to serve on the committee. The comptroller [~~commission~~] shall invite a cross-section of the vendor community to serve on the committee, inviting both large and small businesses and vendors who provide a variety of different goods and services to the state. Chapter 2110 [~~Article 6252-33, Revised Statutes,~~] does not apply to the size or composition of the committee. The comptroller [~~commission~~] shall set staggered terms for the members of the committee.

SECTION 20.  Sections 2155.083(a), (c), (d), (f), and (k), Government Code, are amended to read as follows:

(a)  Except as provided by Subsection (n), this section applies to each state agency making a procurement that will exceed $25,000 in value, without regard to the source of funds the agency will use for the procurement, including a procurement that:

(1)  is otherwise exempt from the comptroller's [~~commission's~~] purchasing authority or the application of this subtitle;

(2)  is made under delegated purchasing authority;

(3)  is related to a construction project; or

(4)  is a procurement of professional or consulting services.

(c)  The comptroller [~~commission~~] each business day shall produce and post a business daily in an electronic format. The comptroller [~~commission~~] shall post in the business daily information as prescribed by this section about each state agency procurement that will exceed $25,000 in value. The comptroller [~~commission~~] shall also post in the business daily other information relating to the business activity of the state that the comptroller [~~commission~~] considers to be of interest to the public.

(d)  The comptroller [~~commission~~] shall make the business daily available on the Internet. Each state agency shall cooperate with the comptroller [~~commission~~] in making the electronic business daily available.

(f)  The comptroller [~~commission~~] and other state agencies may not charge a fee designed to recover the cost of preparing and gathering the information that is published in the business daily. These costs are considered part of a procuring agency's responsibility to publicly inform potential bidders or offerors of its procurement opportunities.

(k)  Each state agency that will award a procurement contract estimated to exceed $25,000 in value shall send to the comptroller [~~commission~~]:

(1)  the information the comptroller [~~commission~~] requires for posting in the state business daily under this section; and

(2)  a notice when the procurement contract has been awarded or when the state agency has decided to not make the procurement.

SECTION 21.  Sections 2155.084(a) and (c), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] or the governing body of an institution of higher education may negotiate purchases of goods of any kind needed by a state agency or the institution of higher education with the appropriate agency of the federal government. The governing body of an institution of higher education may act under this section either directly or through the comptroller [~~commission~~] or another state agency.

(c)  In negotiating purchases of goods from the federal government under this section or under Subchapter G, Chapter 2175, the comptroller [~~commission~~] or the governing body of the institution of higher education may waive the requirement of a bidder's bond and performance bond that otherwise would be required.

SECTION 22.  Section 2155.085, Government Code, is amended to read as follows:

Sec. 2155.085.  REVERSE AUCTION PROCEDURE. (a) The comptroller [~~commission~~] shall:

(1)  purchase goods or services using the reverse auction procedure whenever:

(A)  the procedure provides the best value to the state; or

(B)  all purchasing methods provide equal value to the state;

(2)  offer historically underutilized businesses assistance and training relating to the reverse auction procedure; and

(3)  advise historically underutilized businesses on contracts available using the reverse auction procedure.

(b)  The comptroller [~~commission~~] shall set a goal of purchasing at least 20 percent of the dollar value of goods or services purchased by the comptroller [~~commission~~] using the reverse auction procedure.

SECTION 23.  The heading to Subchapter C, Chapter 2155, Government Code, is amended to read as follows:

SUBCHAPTER C. DELEGATIONS OF AND EXCLUSIONS FROM COMPTROLLER'S [~~COMMISSION'S~~] PURCHASING AUTHORITY AND CERTAIN EXEMPTIONS FROM COMPETITIVE BIDDING

SECTION 24.  Section 2155.131, Government Code, is amended to read as follows:

Sec. 2155.131.  DELEGATION OF AUTHORITY TO STATE AGENCIES. The comptroller [~~commission~~] may delegate purchasing functions to a state agency.

SECTION 25.  Sections 2155.132(a), (b), (c), (d), (f), and (g), Government Code, are amended to read as follows:

(a)  A state agency is delegated the authority to purchase goods and services if the purchase does not exceed $15,000. If the comptroller [~~commission~~] determines that a state agency has not followed the comptroller's [~~commission's~~] rules or the laws related to the delegated purchases, the comptroller [~~commission~~] shall report its determination to the members of the state agency's governing body and to the governor, lieutenant governor, speaker of the house of representatives, and Legislative Budget Board.

(b)  The comptroller [~~commission~~] by rule may delegate to a state agency the authority to purchase goods and services if the purchase exceeds $15,000. In delegating purchasing authority under this subsection or Section 2155.131, the comptroller [~~commission~~] shall consider factors relevant to a state agency's ability to perform purchasing functions, including:

(1)  the capabilities of the agency's purchasing staff and the existence of automated purchasing tools at the agency;

(2)  the certification levels held by the agency's purchasing personnel;

(3)  the results of the comptroller's [~~commission's~~] procurement review audits of an agency's purchasing practices; and

(4)  whether the agency has adopted and published protest procedures consistent with those of the comptroller [~~commission~~] as part of its purchasing rules.

(c)  The comptroller [~~commission~~] shall monitor the purchasing practices of state agencies that are making delegated purchases under Subsection (b) or Section 2155.131 to ensure that the certification levels of the agency's purchasing personnel and the quality of the agency's purchasing practices continue to warrant the amount of delegated authority provided by the comptroller [~~commission~~] to the agency. The comptroller [~~commission~~] may revoke for cause all or part of the purchasing authority that the comptroller [~~commission~~] delegated to a state agency. The comptroller [~~commission~~] shall adopt rules to administer this subsection.

(d)  The comptroller [~~commission~~] by rule:

(1)  shall prescribe procedures for a delegated purchase; and

(2)  shall prescribe procedures by which agencies may use the comptroller's [~~commission's~~] services for delegated purchases, in accordance with Section 2155.082.

(f)  Goods purchased under this section may not include:

(1)  an item for which a contract has been awarded under the contract purchase procedure, unless the quantity purchased is less than the minimum quantity specified in the contract;

(2)  an item required by statute to be purchased from a particular source; or

(3)  a scheduled item that has been designated for purchase by the comptroller [~~commission~~].

(g)  A large purchase may not be divided into small lot purchases to meet the dollar limits prescribed by this section. The comptroller [~~commission~~] may not require that unrelated purchases be combined into one purchase order to exceed the dollar limits prescribed by this section.

SECTION 26.  Section 2155.136(b), Government Code, is amended to read as follows:

(b)  To make a purchase under this section, the medical or dental unit must:

(1)  follow the competitive sealed proposals procedures under Subchapter C, Chapter 2157, and comptroller [~~commission~~] rules on the use of competitive sealed proposals; and

(2)  submit to the comptroller [~~commission~~] a written finding that competitive sealed bidding or informal competitive bidding is not practical or is disadvantageous to the state for the proposed acquisition.

SECTION 27.  Section 2155.137(a), Government Code, is amended to read as follows:

(a)  The comptroller [~~commission~~] shall provide for emergency purchases by a state agency and may set a monetary limit on the amount of an emergency purchase.

SECTION 28.  Section 2155.138(c), Government Code, is amended to read as follows:

(c)  The comptroller [~~commission~~] shall make awards under this section based on proposed goods and services meeting formal state specifications developed by the comptroller [~~commission~~] or meeting commercial specifications approved by the comptroller [~~commission~~].

SECTION 29.  Sections 2155.140 and 2155.141, Government Code, are amended to read as follows:

Sec. 2155.140.  PURCHASE FROM GIFT OR GRANT NOT WITHIN COMPTROLLER'S [~~COMMISSION'S~~] PURCHASING AUTHORITY. The comptroller's [~~commission's~~] authority does not apply to a purchase of goods or services from a gift or grant, including an industrial or federal grant or contract in support of research.

Sec. 2155.141.  PURCHASES FOR AUXILIARY ENTERPRISE NOT WITHIN COMPTROLLER'S [~~COMMISSION'S~~] PURCHASING AUTHORITY. The comptroller's [~~commission's~~] authority does not extend to a purchase of goods and services for an auxiliary enterprise.

SECTION 30.  Section 2155.1441(d), Government Code, is amended to read as follows:

(d)  A state agency shall provide appropriate information to the comptroller [~~commission~~] concerning acquisitions made by the agency under this section, but the comptroller's [~~commission's~~] authority under this chapter and Chapters 2156, 2157, and 2158 does not extend to the acquisition of goods and services made under this section.

SECTION 31.  Section 2155.145, Government Code, is amended to read as follows:

Sec. 2155.145.  CERTAIN PURCHASES BY TEXAS [~~NATURAL RESOURCE CONSERVATION~~] COMMISSION ON ENVIRONMENTAL QUALITY. The Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality is delegated all purchasing functions relating to the administration of Subchapters F and I, Chapter 361, Health and Safety Code, subject to the rules adopted by the comptroller [~~commission~~] under Section 2155.132(c).

SECTION 32.  Section 2155.146(c), Government Code, is amended to read as follows:

(c)  The comptroller [~~commission~~] shall procure goods or services for the Employees Retirement System of Texas at the request of the retirement system, and the retirement system may use the services of the comptroller [~~commission~~] in procuring goods or services.

SECTION 33.  Section 2155.147(c), Government Code, is amended to read as follows:

(c)  The comptroller [~~commission~~] shall procure goods and services for the General Land Office at the request of the land office, and the land office may use the services of the comptroller [~~commission~~] in procuring goods and services.

SECTION 34.  Section 2155.148(c), Government Code, is amended to read as follows:

(c)  The comptroller [~~commission~~] shall procure goods or services for the Texas Emergency Services Retirement System at the request of the retirement system, and the retirement system may use the services of the comptroller [~~commission~~] in procuring goods or services.

SECTION 35.  Section 2155.149(c), Government Code, is amended to read as follows:

(c)  At the request of the Veterans' Land Board, the comptroller [~~commission~~] shall procure goods and services described by Subsection (a) for the Veterans' Land Board.  The Veterans' Land Board may use the services of the comptroller [~~commission~~] in procuring goods and services described by Subsection (a).

SECTION 36.  Section 2155.150(c), Government Code, is amended to read as follows:

(c)  The comptroller [~~commission~~] shall procure goods and services, under Subsection (a), for the Railroad Commission of Texas at the request of the railroad commission, and the railroad commission may use the services of the comptroller [~~commission~~] in procuring goods and services.

SECTION 37.  The heading to Subchapter D, Chapter 2155, Government Code, is amended to read as follows:

SUBCHAPTER D. EXTENSION OF COMPTROLLER [~~COMMISSION~~] PURCHASING SERVICES TO OTHER ENTITIES

SECTION 38.  Sections 2155.203 and 2155.204, Government Code, are amended to read as follows:

Sec. 2155.203.  PURCHASES BY LEGISLATURE AND LEGISLATIVE AGENCIES. A house of the legislature, or an agency, council, or committee of the legislature, including the Legislative Budget Board, the Texas Legislative Council, the state auditor's office, and the Legislative Reference Library, may use the comptroller's [~~commission's~~] purchasing services for purchasing goods and services, including items covered by Section 21, Article XVI, Texas Constitution.

Sec. 2155.204.  LOCAL GOVERNMENT PURCHASING PROGRAM. The comptroller's [~~commission's~~] provision of purchasing services for local governments is governed by Subchapter D, Chapter 271, Local Government Code.

SECTION 39.  Sections 2155.261, 2155.262, 2155.263, 2155.265, 2155.267, 2155.269, and 2155.270, Government Code, are amended to read as follows:

Sec. 2155.261.  APPLICABILITY. This subchapter:

(1)  applies to a purchase or other acquisition under this chapter or Chapters 2156, 2157, and 2158 for which competitive bidding or competitive sealed proposals are required;

(2)  applies to a state agency that makes a purchase or other acquisition under this chapter or Chapters 2156, 2157, and 2158, including the comptroller [~~commission~~] and an agency that makes an acquisition under Section 2155.131 [~~or 2155.133~~]; and

(3)  does not apply to a purchase or other acquisition made by the comptroller [~~commission~~] under Subchapter A, Chapter 2156.

Sec. 2155.262.  UNIFORM REGISTRATION FORM. (a) The comptroller [~~commission~~] shall develop a uniform registration form for applying to do business with the comptroller [~~commission~~] or with another state agency.

(b)  The comptroller [~~commission~~] and each state agency shall make the form available to an applicant.

(c)  The form must include an application for:

(1)  certification as a historically underutilized business;

(2)  a payee identification number for use by the comptroller; and

(3)  placement on the comptroller's [~~commission's~~] master bidders list.

(d)  A state agency shall submit to the comptroller [~~commission~~] each uniform registration form that it receives.

Sec. 2155.263.  [~~COMMISSION TO MAINTAIN~~] CENTRALIZED MASTER BIDDERS LIST. (a) The comptroller [~~commission~~] shall maintain a centralized master bidders list and register on the list the name and address of each vendor that applies for registration under rules adopted under this subchapter. The comptroller [~~commission~~] may include other relevant vendor information on the list.

(b)  The comptroller [~~commission~~] shall maintain the centralized master bidders list in a manner that facilitates a state agency's solicitation of vendors that serve the agency's geographic area.

(c)  The centralized master bidders list shall be used for all available procurement processes authorized by this subtitle and shall also be used to the fullest extent possible by state agencies that make purchases exempt from the comptroller's [~~commission's~~] purchasing authority.

Sec. 2155.265.  ACCESS TO MASTER BIDDERS LIST. (a) The comptroller [~~commission~~] shall make the master bidders list available to each state agency that makes a purchase or other acquisition to which this subchapter applies.

(b)  The comptroller [~~commission~~] shall make the list available either electronically or in another form, depending on each state agency's needs.

Sec. 2155.267.  [~~COMMISSION~~] RULES AND PROCEDURES REGARDING MASTER BIDDERS LIST. (a) The comptroller [~~commission~~] shall adopt procedures for:

(1)  making and maintaining the master bidders list; and

(2)  removing an inactive vendor from the list.

(b)  The comptroller [~~commission~~] shall establish by rule a vendor classification process under which only a vendor able to make a bid or proposal on a particular purchase or other acquisition may be solicited under this subchapter.

Sec. 2155.269.  WAIVER. The comptroller [~~commission~~] by rule may establish a process under which the requirement for soliciting bids or proposals from eligible vendors on a bidders list may be waived for an appropriate state agency or an appropriate purchase or other acquisition under circumstances in which the requirement is not warranted.

Sec. 2155.270.  AGENCY ASSISTANCE WITH BIDDERS LIST ISSUES. The comptroller [~~commission~~] may assist a state agency with issues relating to a bidders list.

SECTION 40.  Section 2155.321(2), Government Code, is amended to read as follows:

(2)  "Purchase information" means information that the comptroller [~~commission~~] determines is necessary to audit a purchase under this subchapter.

SECTION 41.  Section 2155.322(c), Government Code, is amended to read as follows:

(c)  The comptroller [~~commission~~] by rule may require that purchase information be sent directly to the comptroller [~~commission~~] in circumstances under which the comptroller [~~commission~~] considers it necessary.

SECTION 42.  The heading to Section 2155.323, Government Code, is amended to read as follows:

Sec. 2155.323.  [~~COMPTROLLER~~] AUDIT OF FINANCIAL INFORMATION[~~; TRANSMISSION OF PURCHASE INFORMATION TO COMMISSION~~].

SECTION 43.  Section 2155.384, Government Code, is amended to read as follows:

Sec. 2155.384.  AUTHORITY TO PAY CHARGES. The comptroller [~~commission~~], a state agency, or an entity authorized under Chapter 271, Local Government Code, or Section 2155.202 to purchase from a contract entered into under the authority of the comptroller [~~commission~~] may pay a restocking charge, cancellation fee, or other similar charge if the comptroller [~~commission~~], state agency, or other entity determines that the charge is justifiable.

SECTION 44.  Section 2155.385(a), Government Code, is amended to read as follows:

(a)  If authorized by rule adopted by the comptroller under Section 403.023, the comptroller [~~commission~~] may contract with one or more credit card issuers for state agencies to use credit cards to pay for purchases. The comptroller [~~commission~~] may not enter into a contract that conflicts with the [~~comptroller's~~] rules described by this subsection.

SECTION 45.  Section 2155.441(c), Government Code, is amended to read as follows:

(c)  The comptroller [~~commission~~] is not required to purchase products under this section that do not meet formal state specifications developed by the comptroller [~~commission~~] or meet commercial specifications approved by the comptroller [~~commission~~].

SECTION 46.  Section 2155.442, Government Code, is amended to read as follows:

Sec. 2155.442.  PREFERENCE FOR ENERGY EFFICIENT PRODUCTS. The comptroller [~~commission~~] shall give preference to energy efficient products in purchases made under this subtitle if:

(1)  the products meet state specifications regarding quantity and quality; and

(2)  the cost of the product is equal to or less than the cost of other similar products that are not energy efficient.

SECTION 47.  Section 2155.443, Government Code, is amended to read as follows:

Sec. 2155.443.  PREFERENCE FOR RUBBERIZED ASPHALT PAVING. The comptroller [~~commission~~] may give preference to rubberized asphalt paving made from scrap tires by a facility in this state in purchases of rubberized asphalt paving material if the cost as determined by a life-cycle cost benefit analysis does not exceed by more than 15 percent the bid cost of alternative paving materials.

SECTION 48.  Sections 2155.444(a), (d), and (e), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] and all state agencies making purchases of goods, including agricultural products, shall give preference to those produced or grown in this state or offered by Texas bidders as follows:

(1)  goods produced or offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident shall be given a first preference and goods produced in this state or offered by other Texas bidders shall be given second preference, if the cost to the state and quality are equal; and

(2)  agricultural products grown in this state shall be given first preference and agricultural products offered by Texas bidders shall be given second preference, if the cost to the state and quality are equal.

(d)  The comptroller [~~commission~~] and all state agencies making purchase of vegetation for landscaping purposes, including plants, shall give preference to Texas vegetation native to the region if the cost to the state is not greater and the quality is not inferior.

(e)  The comptroller [~~commission~~] and all state agencies procuring services shall give first preference to services offered by a Texas bidder that is owned by a service-disabled veteran who is a Texas resident and shall give second preference to services offered by other Texas bidders if:

(1)  the services meet state requirements regarding the service to be performed and expected quality; and

(2)  the cost of the service does not exceed the cost of other similar services of similar expected quality that are offered by a bidder that is not entitled to a preference under this subsection.

SECTION 49.  Sections 2155.445(a), (b), and (c), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] and state agencies shall give preference to recycled, remanufactured, or environmentally sensitive products, as those terms are defined by rule of the comptroller [~~commission~~], in purchases made under this subtitle if:

(1)  the product meets state specifications regarding quantity and quality; and

(2)  the average price of the product is not more than 10 percent greater than the price of comparable nonrecycled products.

(b)  The comptroller [~~commission~~] regularly shall review and revise its procurement procedures and specifications for the purchase of goods to:

(1)  eliminate procedures and specifications that explicitly discriminate against recycled, remanufactured, or environmentally sensitive products, as those terms are defined by rule of the comptroller [~~commission~~]; and

(2)  encourage the use of recycled, remanufactured, or environmentally sensitive products.

(c)  In developing new procedures and specifications, the comptroller [~~commission~~] shall encourage the use of recycled products and products that may be recycled or reused or that are remanufactured or environmentally sensitive.

SECTION 50.  Sections 2155.446(a) and (b), Government Code, are amended to read as follows:

(a)  Subject to Subsection (c), the comptroller [~~commission~~] shall contract for paper containing the highest proportion of recycled fibers for all purposes for which paper with recycled fibers may be used and to the extent that the paper is available through normal commercial sources to supply the state's needs.

(b)  Subject to Subsection (c), a state agency that purchases through the comptroller [~~commission~~] shall place orders for papers containing recycled fibers to the highest extent of its needs and to the extent that the paper is available through the comptroller's [~~commission's~~] purchasing procedures.

SECTION 51.  Section 2155.447, Government Code, is amended to read as follows:

Sec. 2155.447.  PURCHASE OF RECYCLED OIL. The comptroller [~~commission~~], all state agencies, and all state agency employees who purchase motor oil and other automotive lubricants for state-owned vehicles shall give preference to motor oils and lubricants that contain at least 25 percent recycled oil if the cost to the state and the quality are comparable to those of new oil and lubricants.

SECTION 52.  Sections 2155.448(a) and (b), Government Code, are amended to read as follows:

(a)  Each state fiscal year, the comptroller [~~commission~~] by rule may identify recycled, remanufactured, or environmentally sensitive commodities or services, as those terms are defined by rule of the comptroller [~~commission~~], and designate purchasing goals for the procurement of those commodities and services by state agencies for that fiscal year.

(b)  A state agency that intends to purchase a commodity or service that accomplishes the same purpose as a commodity or service identified under Subsection (a) that does not meet the definition of a recycled product or that is not remanufactured or environmentally sensitive, as those terms are defined by rule of the comptroller [~~commission~~], shall include with the procurement file a written justification signed by the executive head of the agency stating the reasons for the determination that the commodity or service identified by the comptroller [~~commission~~] will not meet the requirements of the agency.

SECTION 53.  Section 2155.449(b), Government Code, is amended to read as follows:

(b)  The comptroller [~~commission~~] and all state agencies procuring goods or services shall give preference to goods or services produced in an economically depressed or blighted area if:

(1)  the goods or services meet state specifications regarding quantity and quality; and

(2)  the cost of the good or service does not exceed the cost of other similar products or services that are not produced in an economically depressed or blighted area.

SECTION 54.  Section 2155.450, Government Code, is amended to read as follows:

Sec. 2155.450.  PREFERENCE FOR PRODUCTS OF FACILITIES ON FORMERLY CONTAMINATED PROPERTY. The comptroller [~~commission~~] and state agencies shall give preference to goods produced at a facility located on property for which the owner has received a certificate of completion under Section 361.609, Health and Safety Code, if the goods meet state specifications regarding quantity, quality, delivery, life cycle costs, and price.

SECTION 55.  Section 2155.451(b), Government Code, is amended to read as follows:

(b)  The comptroller [~~commission~~] and state agencies procuring goods or services may:

(1)  give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2)  require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

SECTION 56.  Section 2155.452, Government Code, is amended to read as follows:

Sec. 2155.452.  PREFERENCE FOR CONTRACTORS PROVIDING FOODS OF HIGHER NUTRITIONAL VALUE. (a) The comptroller [~~commission~~] and state agencies making purchases of food for consumption in a public cafeteria may give preference to contractors who provide foods of higher nutritional value and who do not provide foods containing trans fatty acids for consumption in the cafeteria.

(b)  In complying with this section, the comptroller [~~commission~~] and state agencies shall review the Department of Agriculture's nutrition standards.

SECTION 57.  Sections 2155.502(a), (b), and (c), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by:

(1)  the federal government, including the federal General Services Administration; or

(2)  any other governmental entity in any state.

(b)  In developing a schedule under Subsection (a) or (e), the comptroller [~~commission~~] or department, as appropriate, shall modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter.

(c)  The comptroller [~~commission~~] may not list a multiple award contract on a schedule developed under Subsection (a) if the goods or services provided by that contract:

(1)  are available from only one vendor;

(2)  are telecommunications services, facilities, or equipment;

(3)  are commodity items as defined by Section 2157.068(a); or

(4)  are engineering services as described by Section 1001.003, Occupations Code, or architectural services as described by Section 1051.001, Occupations Code.

SECTION 58.  Sections 2155.505(b) and (c), Government Code, are amended to read as follows:

(b)  The comptroller [~~commission~~] shall strongly encourage each vendor with a contract listed on a schedule developed under this subchapter and who is not a historically underutilized business or small business to use historically underutilized or small businesses to sell or provide a service under the contract. If a vendor does not make a good faith effort to use historically underutilized and small businesses under the contract, the comptroller [~~commission~~] may exclude the vendor from being listed on a schedule developed under this subchapter.

(c)  A historically underutilized business or small business may sell or provide a service under another vendor's contract listed on a schedule developed under this subchapter if:

(1)  the contract is on a schedule developed under Section 2155.502;

(2)  the vendor for the contract authorizes in writing the historically underutilized business or small business to sell or provide a service under that contract; and

(3)  the historically underutilized business or small business provides that written authorization to the comptroller [~~commission~~].

SECTION 59.  Sections 2155.506, 2155.508, and 2155.510, Government Code, are amended to read as follows:

Sec. 2155.506.  REPORTING REQUIREMENTS. (a) A vendor listed on a contract for a schedule developed under this subchapter shall report its sales to the comptroller [~~commission~~] in the manner prescribed by the comptroller [~~commission~~].

(b)  The comptroller [~~commission~~] shall compile the information reported under Subsection (a) and include the information in its report under Section 2101.011.

Sec. 2155.508.  INTERNET AVAILABILITY. (a) The comptroller [~~commission~~] shall develop a database of the multiple award contracts developed under this subchapter and make that information available on an Internet site. The database must have search capabilities that allow a person to easily access the contracts.

(b)  The comptroller [~~commission~~] shall allow vendors to apply through the Internet site to be listed on a schedule developed under this subchapter. The applicant shall provide an electronic mail address to the comptroller [~~commission~~] as part of the application process.

Sec. 2155.510.  REBATES. (a) The comptroller [~~commission~~] may collect a rebate from a vendor under a contract listed on a schedule developed under this subchapter.

(b)  If a purchase resulting in a rebate under this section is made in whole or in part with federal funds, the comptroller [~~commission~~] shall ensure that, to the extent the purchase was made with federal funds, the appropriate portion of the rebate is reported to the purchasing agency for reporting and reconciliation purposes with the appropriate federal funding agency.

SECTION 60.  Sections 2156.001, 2156.0011, and 2156.004, Government Code, are amended to read as follows:

Sec. 2156.001.  CONTRACT PURCHASE PROCEDURE AUTHORIZED. The comptroller [~~commission~~] may use the contract purchase procedure to purchase goods and services.

Sec. 2156.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

Sec. 2156.004.  BID DEPOSIT. (a) The comptroller [~~commission~~], as considered necessary, may require a bid deposit in an amount determined by the comptroller [~~commission~~]. The amount of the deposit, if any, must be stated in the public notice and the invitation to bid.

(b)  On the award of a bid or the rejection of all bids, the comptroller [~~commission~~] shall refund the bid deposit of an unsuccessful bidder.

(c)  The comptroller [~~commission~~] may accept from a bidder a bid deposit in the form of a blanket bond.

SECTION 61.  Section 2156.006(b), Government Code, is amended to read as follows:

(b)  The comptroller [~~commission~~] may waive this requirement if the failure to comply is beyond the bidder's control.

SECTION 62.  Sections 2156.007(a), (b), and (d), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] or other state agency making a purchase shall award a contract to the bidder offering the best value for the state while conforming to the specifications required.

(b)  In determining the bidder offering the best value, the comptroller [~~commission~~] or other state agency may consider the safety record of the bidder, the entity represented by the bidder, and any person acting for the represented entity only if:

(1)  the comptroller [~~commission~~] or other state agency has adopted a written definition and criteria for accurately determining the safety record of a bidder; and

(2)  the comptroller [~~commission~~] or state agency provided notice in the bid specifications to prospective bidders that a bidder's safety record may be considered in determining the bidder offering the best value for the state.

(d)  In determining the bidder offering the best value, in addition to price the comptroller [~~commission~~] or other state agency shall consider:

(1)  the quality and availability of the goods or contractual services and their adaptability to the use required;

(2)  the scope of conditions attached to the bid;

(3)  the bidder's ability, capacity, and skill to perform the contract or provide the service required;

(4)  the bidder's ability to perform the contract or provide the service promptly, or in the time required, without delay or interference;

(5)  the bidder's character, responsibility, integrity, and experience or demonstrated capability;

(6)  the quality of performance of previous contracts or services;

(7)  the bidder's previous and existing compliance with laws relating to the contract or service;

(8)  the bidder's previous or existing noncompliance with specification requirements relating to the time of submission of specified information, including samples, models, drawings, or certificates;

(9)  the sufficiency of the bidder's financial resources and ability to perform the contract or provide the service; and

(10)  the bidder's ability to provide future maintenance, repair parts, and service for the use of the contract's subject.

SECTION 63.  Sections 2156.008, 2156.009, and 2156.010, Government Code, are amended to read as follows:

Sec. 2156.008.  REJECTION OF BIDS. (a) The comptroller [~~commission~~] or other state agency making the purchase shall reject a bid in which there is a material failure to comply with specification requirements.

(b)  The comptroller [~~commission~~] or other state agency may reject all bids or parts of bids if the rejection serves the state's interest.

Sec. 2156.009.  REASONS FOR AWARD. On award of a contract, the division of the comptroller [~~commission~~] responsible for purchasing or the state agency making the purchase shall prepare and file with other records relating to the transaction a statement of the reasons for making the award to the successful bidder and the factors considered in determining which bidder offered the best value for the state.

Sec. 2156.010.  TIE BIDS. In the case of tie bids, the value and cost to the state being equal, a contract shall be awarded under comptroller [~~commission~~] rules.

SECTION 64.  Sections 2156.011(a), (b), and (d), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] may require a performance bond before executing a contract.

(b)  The comptroller [~~commission~~] may require the bond in an amount that the comptroller [~~commission~~] finds reasonable and necessary to protect the state's interests.

(d)  Any bond required shall be filed with the comptroller [~~commission~~].

SECTION 65.  Section 2156.061, Government Code, is amended to read as follows:

Sec. 2156.061.  USE OF OPEN MARKET PURCHASE PROCEDURE [~~AUTHORIZED; USE OF PROCEDURE~~]. On a comptroller [~~commission~~] determination that a purchase of goods or services may be made most effectively in the open market, the comptroller [~~commission~~] may use the open market purchase procedure and the purchase may be made without newspaper advertising.

SECTION 66.  Sections 2156.064(a) and (b), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] shall keep a record of all open market orders and bids submitted on the orders.

(b)  A tabulation of the bids shall be open for public inspection, under rules established by the comptroller [~~commission~~].

SECTION 67.  Sections 2156.065, 2156.066, 2156.121, 2156.122, 2156.123, 2156.124, 2156.125, and 2156.126, Government Code, are amended to read as follows:

Sec. 2156.065.  AGENCY REVIEW OF BIDS. (a) On the request of a state agency to review the bids on a purchase administered by the comptroller [~~commission~~], the comptroller [~~commission~~] shall send or make available to the requesting agency copies of each bid received and the comptroller's [~~commission's~~] recommended award.

(b)  If, after review of the bids and evaluation of the quality of goods or services offered in the bids, the state agency determines that the bid selected by the comptroller [~~commission~~] does not offer the best value for the state, the agency may file with the comptroller [~~commission~~] a written recommendation that the award be made to the bidder who, according to the agency's determination, offers the best value for the state. The agency recommendation must include a justification of the agency's determination.

(c)  The comptroller [~~commission~~] shall consider, but is not bound by, the agency recommendation in making the award.

Sec. 2156.066.  STATEMENT OF REASONS FOR AWARD. The division of the comptroller [~~commission~~] responsible for purchasing or the state agency making a purchase shall prepare and file with other records relating to a transaction under this subchapter a statement of the reasons for placing an order with a successful bidder for the transaction and the factors considered in determining the bid offering the best value for the state.

Sec. 2156.121.  USE OF COMPETITIVE SEALED PROPOSALS. (a) The comptroller [~~commission~~] or other state agency may follow a procedure using competitive sealed proposals to acquire goods or services if the comptroller [~~commission~~] determines that competitive sealed bidding and informal competitive bidding for the purchase or type of purchase are not practical or are disadvantageous to the state.

(b)  A state agency shall send its proposal specifications and criteria to the comptroller [~~commission~~] for approval or request the comptroller [~~commission~~] to develop the proposal specifications and criteria.

(c)  The comptroller [~~commission~~] shall determine whether to delegate sole oversight of the acquisition to a state agency or to retain oversight of the procurement.

Sec. 2156.122.  SOLICITATION OF PROPOSALS. The comptroller [~~commission~~] or other state agency shall:

(1)  solicit proposals under this subchapter by a request for proposals; and

(2)  give public notice of a request for proposals in the manner provided for requests for bids under Subchapter B.

Sec. 2156.123.  OPENING AND FILING OF PROPOSALS; PUBLIC INSPECTION. (a) The comptroller [~~commission~~] or other state agency shall avoid disclosing the contents of each proposal on opening the proposal and during negotiations with competing offerors.

(b)  The comptroller [~~commission~~] or other state agency shall file each proposal in a register of proposals, which, after a contract is awarded, is open for public inspection unless the register contains information that is excepted from required disclosure under Subchapter C, Chapter 552.

Sec. 2156.124.  DISCUSSION AND REVISION OF PROPOSALS. (a) As provided in a request for proposals and under rules adopted by the comptroller [~~commission~~], the comptroller [~~commission~~] or other state agency may discuss acceptable or potentially acceptable proposals with offerors to assess an offeror's ability to meet the solicitation requirements. When the comptroller [~~commission~~] is managing the request for proposals process, it shall invite a requisitioning agency to participate in discussions conducted under this section.

(b)  After receiving a proposal but before making an award, the comptroller [~~commission~~] or other state agency may permit the offeror to revise the proposal to obtain the best final offer.

(c)  The comptroller [~~commission~~] or other state agency may not disclose information derived from proposals submitted from competing offerors in conducting discussions under this section.

(d)  The comptroller [~~commission~~] or other state agency shall provide each offeror an equal opportunity to discuss and revise proposals.

Sec. 2156.125.  CONTRACT AWARD. (a) The comptroller [~~commission~~] or other state agency shall make a written award of a contract to the offeror whose proposal offers the best value for the state, considering price, past vendor performance, vendor experience or demonstrated capability, and the evaluation factors in the request for proposals.

(b)  The comptroller [~~commission~~] or other state agency shall refuse all offers if none of the offers submitted is acceptable.

(c)  The comptroller [~~commission~~] or other state agency shall determine which proposal offers the best value for the state in accordance with Sections 2155.074 and 2155.075.

(d)  The comptroller [~~commission~~] or other state agency shall state in writing in the contract file the reasons for making an award.

Sec. 2156.126.  ADOPTION OF RULES; STATE AGENCY ASSISTANCE. The comptroller [~~commission~~] may adopt rules and request assistance from other state agencies to perform its responsibilities under this subchapter.

SECTION 68.  Sections 2156.181(a) and (b), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] may enter into one or more compacts, interagency agreements, or cooperative purchasing agreements directly with one or more state governments, agencies of other states, or other governmental entities or may participate in, sponsor, or administer a cooperative purchasing agreement through an entity that facilitates those agreements for the purchase of goods or services if the comptroller [~~commission~~] determines that the agreement would be in the best interest of the state.

(b)  The comptroller [~~commission~~] may adopt rules to implement this section.

SECTION 69.  Section 2157.001(1), Government Code, is amended to read as follows:

(1)  "Automated information system" includes:

(A)  the computers and computer devices on which an information system is automated, including computers and computer devices that the comptroller [~~commission~~] identifies in guidelines developed by the comptroller [~~commission~~] in consultation with the department and in accordance with Chapter 2054 and rules adopted under that chapter;

(B)  a service related to the automation of an information system, including computer software or computers;

(C)  a telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network, and services related to telecommunications that are not covered under Paragraph (D); and

(D)  for the department, as telecommunications provider for the state, the term includes any service provided by a telecommunications provider, as that term is defined by Section 51.002, Utilities Code.

SECTION 70.  Sections 2157.0011 and 2157.003, Government Code, are amended to read as follows:

Sec. 2157.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

Sec. 2157.003.  DETERMINING BEST VALUE FOR PURCHASES OF AUTOMATED INFORMATION SYSTEMS. "Best value" for purposes of this chapter means the lowest overall cost of an automated information system.  In determining the lowest overall cost for a purchase or lease of an automated information system under this chapter, the comptroller [~~commission~~] or a state agency shall consider factors including:

(1)  the purchase price;

(2)  the compatibility to facilitate the exchange of existing data;

(3)  the capacity for expanding and upgrading to more advanced levels of technology;

(4)  quantitative reliability factors;

(5)  the level of training required to bring persons using the system to a stated level of proficiency;

(6)  the technical support requirements for the maintenance of data across a network platform and the management of the network's hardware and software;

(7)  the compliance with applicable department statewide standards validated by criteria adopted by the department by rule; and

(8)  applicable factors listed in Sections 2155.074 and 2155.075.

SECTION 71.  Sections 2157.006(a) and (c), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] or other state agency shall purchase an automated information system using:

(1)  the purchasing method described by Section 2157.068 for commodity items; or

(2)  a purchasing method designated by the comptroller [~~commission~~] to obtain the best value for the state, including a request for offers method.

(c)  The comptroller [~~commission~~] shall adopt rules for designating purchasing methods under Subsection (a)(2).

SECTION 72.  Section 2157.068(i), Government Code, is amended to read as follows:

(i)  Unless the agency has express statutory authority to employ a best value purchasing method other than a purchasing method designated by the comptroller [~~commission~~] under Section 2157.006(a)(2), a state agency shall use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if:

(1)  the agency has obtained an exemption from the department or approval from the Legislative Budget Board under Subsection (f); or

(2)  the agency is otherwise exempt from this section.

SECTION 73.  Sections 2157.121, 2157.122, 2157.123, 2157.124, 2157.125, and 2157.126, Government Code, are amended to read as follows:

Sec. 2157.121.  ACQUISITION THROUGH COMPETITIVE SEALED PROPOSALS. (a) The comptroller [~~commission~~] or other state agency may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals if the comptroller [~~commission~~] determines that competitive sealed bidding and informal competitive bidding are not practical or are disadvantageous to the state.

(b)  A state agency, other than the department, shall send its proposal specifications and criteria to the comptroller [~~commission~~] for approval or request the comptroller [~~commission~~] to develop the proposal specifications and criteria.

(c)  The department may acquire a telecommunications device, system, or service or an automated information system by using competitive sealed proposals without regard to whether the comptroller [~~commission~~] makes the determination required under Subsection (a) for other state agencies.

Sec. 2157.122.  SOLICITATION OF PROPOSALS; PUBLIC NOTICE. The comptroller [~~commission~~] or other state agency shall:

(1)  solicit proposals under this subchapter by a request for proposals; and

(2)  give public notice of the request in the manner provided for requests for bids under Subchapter B, Chapter 2156.

Sec. 2157.123.  OPENING AND FILING PROPOSALS; PUBLIC INSPECTION. (a) The comptroller [~~commission~~] or other state agency shall avoid disclosing the contents of each proposal on opening the proposal and during negotiations with competing offerors.

(b)  The comptroller [~~commission~~] or other state agency shall file each proposal in a register of proposals, which, after a contract is awarded, is open for public inspection unless the register contains information that is excepted from required disclosure under Subchapter C, Chapter 552.

Sec. 2157.124.  DISCUSSION AND REVISION OF PROPOSAL. (a) As provided by a request for proposals and under comptroller [~~commission~~] rules, the comptroller [~~commission~~] or other state agency may discuss an acceptable or potentially acceptable proposal with an offeror to assess the offeror's ability to meet the solicitation requirements. When the comptroller [~~commission~~] is managing the request for proposals process, it shall invite a requisitioning agency to participate in discussions conducted under this section.

(b)  After receiving a proposal but before making an award, the comptroller [~~commission~~] or other state agency may permit an offeror to revise a proposal to obtain the best final offer.

(c)  The comptroller [~~commission~~] or other state agency may not disclose information derived from a proposal submitted by a competing offeror in conducting discussions under this section.

(d)  The comptroller [~~commission~~] or other state agency shall provide each offeror an equal opportunity to discuss and revise proposals.

Sec. 2157.125.  CONTRACT AWARD; FACTORS CONSIDERED. (a) The comptroller [~~commission~~] or other state agency shall make a written award of a purchase or lease to the offeror whose proposal under this subchapter offers the best value for the state, considering price, past vendor performance, vendor experience or demonstrated capability, and the evaluation factors in the request for proposals.

(b)  The comptroller [~~commission~~] or other state agency shall refuse all offers if no offer submitted is acceptable.

(c)  In determining which proposal under this subchapter offers the best value for the state, the comptroller [~~commission~~] or other state agency shall, when applicable and subject to Sections 2155.074 and 2155.075, consider factors including:

(1)  the installation cost;

(2)  the overall life of the system or equipment;

(3)  the cost of acquisition, operation, and maintenance of hardware included with, associated with, or required for the system or equipment during the state's ownership or lease;

(4)  the cost of acquisition, operation, and maintenance of software included with, associated with, or required for the system or equipment during the state's ownership or lease;

(5)  the estimated cost of other supplies needed because of the acquisition;

(6)  the estimated cost of employee training needed because of the acquisition;

(7)  the estimated cost of necessary additional permanent employees because of the acquisition; and

(8)  the estimated increase in employee productivity because of the acquisition.

(d)  The comptroller [~~commission~~] or other state agency shall state in writing in the contract file the reasons for making an award.

Sec. 2157.126.  RULES. The comptroller [~~commission~~] shall adopt rules necessary or convenient to perform its responsibilities regarding requests for proposals under this subchapter and shall request assistance from other state agencies as needed.

SECTION 74.  Sections 2157.181, 2157.182, and 2157.184, Government Code, are amended to read as follows:

Sec. 2157.181.  PREAPPROVED CONTRACT TERMS AND CONDITIONS. (a) The comptroller [~~commission~~], with the concurrence of the department, may negotiate with vendors preapproved terms and conditions to be included in contracts relating to the purchase or lease of a telecommunication device, system, or service or an automated information system awarded to a vendor by a state agency.

(b)  The comptroller [~~commission~~] and the department must agree to the wording of preapproved terms and conditions negotiated with a vendor.

Sec. 2157.182.  VALIDITY OF PREAPPROVED TERMS AND CONDITIONS; RENEGOTIATION. (a) Preapproved terms and conditions to which a vendor, the comptroller [~~commission~~], and the department agree are valid for two years after the date of the agreement and must provide that the terms and conditions are to be renegotiated before the end of the two years.

(b)  The comptroller [~~commission~~] and the department jointly shall establish procedures to ensure that terms and conditions are renegotiated before they expire in a contract between the vendor and a state agency.

Sec. 2157.184.  NOTIFICATION OF STATE AGENCIES AND VENDORS. The comptroller [~~commission~~] and the department jointly shall establish procedures to notify state agencies and potential vendors of the provisions of this subchapter regarding preapproved terms and conditions.

SECTION 75.  Section 2158.0011, Government Code, is amended to read as follows:

Sec. 2158.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

SECTION 76.  Section 2158.004(d), Government Code, is amended to read as follows:

(d)  The comptroller [~~commission~~] may waive the requirements of this section for a state agency on receipt of certification supported by evidence acceptable to the comptroller [~~commission~~] that:

(1)  the agency's vehicles will be operating primarily in an area in which neither the agency nor a supplier has or can reasonably be expected to establish adequate refueling for compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle; or

(2)  the agency is unable to obtain equipment or refueling facilities necessary to operate vehicles using compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, at a projected cost that is reasonably expected to be no greater than the net costs of continued use of conventional gasoline or diesel fuels, measured over the expected useful life of the equipment or facilities supplied.

SECTION 77.  Sections 2158.006 and 2158.007, Government Code, are amended to read as follows:

Sec. 2158.006.  DETERMINATION OF ALTERNATIVE FUELS PROGRAM PARAMETERS. In developing the use of compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, the comptroller [~~commission~~] should work with state agency fleet operators, vehicle manufacturers and converters, fuel distributors, and others to determine the vehicles to be covered, taking into consideration:

(1)  range;

(2)  specialty uses;

(3)  fuel availability;

(4)  vehicle manufacturing and conversion capability;

(5)  safety;

(6)  resale values; and

(7)  other relevant factors.

Sec. 2158.007.  COMPLIANCE WITH APPLICABLE SAFETY STANDARDS. In purchasing, leasing, maintaining, or converting vehicles for use with compressed natural gas, liquefied natural gas, liquefied petroleum gas, methanol or methanol/gasoline blends of 85 percent or greater, ethanol or ethanol/gasoline blends of 85 percent or greater, biodiesel or biodiesel/diesel blends of 20 percent or greater, or electricity, including electricity to power a plug-in hybrid motor vehicle, the comptroller [~~commission~~] shall comply with all applicable safety standards adopted by the United States Department of Transportation and the Railroad Commission of Texas.

SECTION 78.  Section 2158.122(a), Government Code, is amended to read as follows:

(a)  On consent of the comptroller [~~commission~~] and the governor, a person may print extra copies of matter printed under a state contract and sell the copies at a price fixed by the comptroller [~~commission~~] if in the opinion of the comptroller [~~commission~~] and the governor the printed matter should be distributed in this manner for the benefit of the public.

SECTION 79.  Sections 2158.181 and 2158.241, Government Code, are amended to read as follows:

Sec. 2158.181.  SAFETY STANDARDS FOR ELECTRICAL ITEMS. The comptroller [~~commission~~] or another state agency may not purchase an electrical item unless the item meets applicable safety standards of the federal Occupational Safety and Health Administration.

Sec. 2158.241.  INTERSTATE COMPACTS AND COOPERATIVE AGREEMENTS FOR PROCURING RECYCLED PRODUCTS. The comptroller [~~commission~~] may enter into compacts and cooperative agreements with other states and government entities for procuring products made of recycled materials when the comptroller [~~commission~~] determines it is in the best interest of the state.

SECTION 80.  Section 2158.301, Government Code, as added by Chapter 262 (S.B. 12), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

Sec. 2158.301.  ENERGY CONSERVATION. If available and cost effective, the comptroller [~~commission~~] or another state agency shall purchase equipment and appliances for state use that meet or exceed the federal Energy Star standards designated by the United States Environmental Protection Agency and the United States Department of Energy.

SECTION 81.  Sections 2161.0011, 2161.0015, 2161.002, and 2161.003, Government Code, are amended to read as follows:

Sec. 2161.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

Sec. 2161.0015.  DETERMINING SIZE STANDARDS FOR HISTORICALLY UNDERUTILIZED BUSINESSES. The comptroller [~~commission~~] may establish size standards that a business may not exceed if it is to be considered a historically underutilized business under this chapter. In determining the size standards, the comptroller [~~commission~~] shall determine the size at which a business should be considered sufficiently large that the business probably does not significantly suffer from the effects of past discriminatory practices.

Sec. 2161.002.  [~~COMMISSION~~] ADMINISTRATION; RULES [~~COMPTROLLER ASSISTANCE~~]. (a) To administer Subchapters B and C, the comptroller [~~commission~~] may:

(1)  require information from a state agency; and

(2)  adopt rules.

(c)  In adopting rules to administer this chapter, the comptroller [~~commission~~] shall adopt rules that are based on the results of the "State of Texas Disparity Study, A Report to the Texas Legislature as Mandated by H.B. 2626, 73rd Legislature, December 1994" (prepared by National Economic Research Associates, Inc.). The comptroller [~~commission~~] shall revise the rules in response to the findings of any updates of the study that are prepared on behalf of the state.

(d)  The comptroller shall adopt rules to provide goals for increasing the contract awards for the purchase of goods or services by the comptroller [~~commission~~] and other state agencies to businesses that qualify as historically underutilized businesses because the businesses are owned or owned, operated, and controlled, as applicable, wholly or partly by one or more veterans as defined by 38 U.S.C. Section 101(2) who have a service-connected disability as defined by 38 U.S.C. Section 101(16). The goals established under this subsection are in addition to the goals established under Subsection (c) and the goals established under Subsection (c) may not be reduced as a result of the establishment of goals under this subsection.

Sec. 2161.003.  AGENCY RULES. A state agency, including an institution of higher education, shall adopt the comptroller's [~~commission's~~] rules under Section 2161.002 as the agency's or institution's own rules. Those rules apply to the agency's construction projects and purchases of goods and services paid for with appropriated money without regard to whether a project or purchase is otherwise subject to this subtitle.

SECTION 82.  Section 2161.004(a), Government Code, is amended to read as follows:

(a)  This chapter and rules adopted by the comptroller [~~commission~~] under this chapter apply to state agency construction projects and purchases of goods and services that are paid for with appropriated money and made under the authority of this subtitle or other law.

SECTION 83.  Section 2161.005, Government Code, is amended to read as follows:

Sec. 2161.005.  TRANSFER OF FUNDS FOR PURCHASING. If the state auditor reports to the comptroller [~~commission~~] under Section 2161.123(d) that a state agency is not complying with Section 2161.123, the comptroller [~~commission~~] shall report that fact to the Legislative Budget Board. If the Legislative Budget Board determines that, one year after the date of the state auditor's report to the comptroller [~~commission~~], the agency is still not complying with Section 2161.123, the budget board may, under Section 69, Article XVI, Texas Constitution, direct the emergency transfer of the agency's appropriated funds for making purchases under purchasing authority delegated under Section 2155.131 [~~or 2155.133~~] to the appropriate state agency. The amount transferred from the agency's funds to the appropriate agency shall be an amount determined by the Legislative Budget Board.

SECTION 84.  The heading to Subchapter B, Chapter 2161, Government Code, is amended to read as follows:

SUBCHAPTER B. GENERAL POWERS AND DUTIES [~~OF COMMISSION~~]

SECTION 85.  The heading to Section 2161.061, Government Code, is amended to read as follows:

Sec. 2161.061.  [~~COMMISSION~~] CERTIFICATION OF HISTORICALLY UNDERUTILIZED BUSINESSES.

SECTION 86.  Sections 2161.061(a), (b), (c), and (d), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] shall certify historically underutilized businesses.

(b)  As one of its certification procedures, the comptroller [~~commission~~] may:

(1)  approve the certification program of one or more local governments or nonprofit organizations in this state that certify historically underutilized businesses, minority business enterprises, women's business enterprises, or disadvantaged business enterprises under substantially the same definition, to the extent applicable, used by Section 2161.001, if the local government or nonprofit organization meets or exceeds the standards established by the comptroller [~~commission~~]; and

(2)  certify a business that is certified by a local government or by a nonprofit organization as a historically underutilized business under this chapter.

(c)  To maximize the number of certified historically underutilized businesses, the comptroller [~~commission~~] shall enter into agreements with local governments in this state that conduct certification programs described by Subsection (b) and with nonprofit organizations. The comptroller [~~commission~~] may terminate an agreement if a local government or nonprofit organization fails to meet the standards established by the comptroller [~~commission~~] for certifying historically underutilized businesses. The agreements must take effect immediately and:

(1)  allow for automatic certification of businesses certified by the local government or nonprofit organization;

(2)  provide for the efficient updating of the comptroller [~~commission~~] database containing information about historically underutilized businesses and potential historically underutilized businesses; and

(3)  provide for a method by which the comptroller [~~commission~~] may efficiently communicate with businesses certified by the local government or nonprofit organization and provide those businesses with information about the state historically underutilized business program.

(d)  A local government or a nonprofit organization that certifies historically underutilized businesses, minority business enterprises, women's business enterprises, or disadvantaged business enterprises as described in Subsections (b) and (c) shall complete the certification of an applicant or provide an applicant with written justification of its certification denial within the period established by the comptroller [~~commission~~] in its rules for certification activities.

SECTION 87.  Sections 2161.062, 2161.063, and 2161.064, Government Code, are amended to read as follows:

Sec. 2161.062.  ASSISTANCE TO HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The comptroller [~~commission~~] shall seek the advice of the governor, legislature, and state agencies in identifying and developing opportunities for historically underutilized businesses.

(b)  The comptroller [~~commission~~] shall offer historically underutilized businesses assistance and training regarding state procurement procedures.

(c)  The comptroller [~~commission~~] shall advise historically underutilized businesses of available state contracts and shall advise historically underutilized businesses to apply for registration on the comptroller's [~~commission's~~] master bidders list.

(d)  The comptroller [~~commission~~] shall send historically underutilized businesses an orientation package on certification or recertification. The package shall include:

(1)  a certificate issued in the historically underutilized business's name;

(2)  a description of the significance and value of certification;

(3)  a list of state purchasing personnel;

(4)  information regarding electronic commerce opportunities;

(5)  information regarding the Texas Marketplace website; and

(6)  additional information about the state procurement process.

(e)  A state agency with a biennial budget that exceeds $10 million shall designate a staff member to serve as the historically underutilized businesses coordinator for the agency during the fiscal year. The procurement director may serve as the coordinator. In agencies that employ a historically underutilized businesses coordinator, the position of coordinator, within the agency's structure, must be at least equal to the position of procurement director. In addition to any other responsibilities, the coordinator shall:

(1)  coordinate training programs for the recruitment and retention of historically underutilized businesses;

(2)  report required information to the comptroller [~~commission~~]; and

(3)  match historically underutilized businesses with key staff within the agency.

Sec. 2161.063.  ASSISTING STATE AGENCIES. (a) The comptroller [~~commission~~] shall encourage state agencies to use historically underutilized businesses by:

(1)  working with state agencies to establish a statewide policy for increasing the use of historically underutilized businesses;

(2)  assisting state agencies in seeking historically underutilized businesses capable of supplying required goods or services;

(3)  assisting state agencies in identifying and advising historically underutilized businesses on the types of goods and services the agencies need; and

(4)  assisting state agencies in increasing the amount of business placed with historically underutilized businesses.

(b)  The comptroller [~~commission~~] shall assist the Texas Department of Economic Development in performing the department's duties under Section 481.0068.

Sec. 2161.064.  DIRECTORY. (a) The comptroller [~~commission~~] shall compile, in the most cost-efficient form, a directory of businesses certified as historically underutilized businesses under Section 2161.061.

(b)  The comptroller [~~commission~~] at least semiannually shall update the directory and provide access to the directory electronically or in another form to each state agency.

(c)  Depending on the needs of a state agency, the comptroller [~~commission~~] shall provide access to the directory electronically or in another form.

(d)  The comptroller [~~commission~~] shall provide a copy of the directory to every municipality in January and July of each year. On request, the comptroller [~~commission~~] shall make the directory available to other local governments and the public.

(e)  A state agency, including the comptroller [~~commission~~], shall use the directory in determining awards of state purchasing and public works contracts.

SECTION 88.  Section 2161.065(a), Government Code, is amended to read as follows:

(a)  The comptroller [~~commission~~] shall design a mentor-protege program to foster long-term relationships between prime contractors and historically underutilized businesses and to increase the ability of historically underutilized businesses to contract with the state or to receive subcontracts under a state contract. Each state agency with a biennial appropriation that exceeds $10 million shall implement the program designed by the comptroller [~~commission~~].

SECTION 89.  Sections 2161.066(a), (d), and (e), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] shall design a program of forums in which historically underutilized businesses are invited by state agencies to deliver technical and business presentations that demonstrate their capability to do business with the agency:

(1)  to senior managers and procurement personnel at state agencies that acquire goods and services of a type supplied by the historically underutilized businesses; and

(2)  to contractors with the state who may be subcontracting for goods and services of a type supplied by the historically underutilized businesses.

(d)  Each state agency that has a historically underutilized businesses coordinator shall:

(1)  design its own program and model the program to the extent appropriate on the program developed by the comptroller [~~commission~~] under this section; and

(2)  sponsor presentations by historically underutilized businesses at the agency.

(e)  The comptroller [~~commission~~] and each state agency that has a historically underutilized businesses coordinator shall aggressively identify and notify individual historically underutilized businesses regarding opportunities to make a presentation regarding the types of goods and services supplied by the historically underutilized business and shall advertise in appropriate trade publications that target historically underutilized businesses regarding opportunities to make a presentation.

SECTION 90.  Section 2161.121, Government Code, as amended by Chapters 48 (H.B. 2472) and 1312 (S.B. 59), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

Sec. 2161.121.  [~~COMMISSION~~] REPORT OF CONTRACTS AWARDED TO HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The comptroller [~~commission~~] shall prepare a consolidated report that:

(1)  includes the number and dollar amount of contracts awarded and paid to historically underutilized businesses certified by the comptroller [~~commission~~];

(2)  analyzes the relative level of opportunity for historically underutilized businesses for various categories of acquired goods and services; and

(3)  tracks, by vendor identification number and, to the extent allowed by federal law, by social security number, the graduation rates for historically underutilized businesses that grew to exceed the size standards determined by the comptroller [~~commission~~].

(b)  Each state agency shall send to the comptroller [~~commission~~] information required by Section 2161.122 and other information required by the comptroller [~~commission~~] for the preparation of the comptroller's [~~commission's~~] report not later than March 15 and September 15 of each year.

(c)  The comptroller [~~commission~~] shall base its report on the compilation and analysis of reports received under Subsection (b) and other information maintained or received by [~~from~~] the comptroller.

(d)  The comptroller [~~commission~~] shall send to the presiding officer of each house of the legislature:

(1)  on May 15 of each year, a report on the previous six-month period; and

(2)  on November 15 of each year, a report on the preceding fiscal year.

SECTION 91.  Sections 2161.122(c), (d), and (e), Government Code, are amended to read as follows:

(c)  Each state agency shall report to the comptroller [~~commission~~] in accordance with Section 2161.125 the following information with regard to the expenditure of both treasury and nontreasury funds:

(1)  the total dollar amount of purchases and payments made under contracts awarded to historically underutilized businesses;

(2)  the number of businesses participating in any issuance of state bonds by the agency;

(3)  the number of contracts awarded to businesses with regard to the agency's acquisition, construction, or equipping of a facility or implementation of a program; and

(4)  the number of bids, proposals, or other applicable expressions of interest made by historically underutilized businesses with regard to the agency's acquisition, construction, or equipping of a facility or implementation of a program.

(d)  A state agency participating in a group purchasing program shall send to the comptroller [~~commission~~] in the agency's report under Section 2161.121 a separate list of purchases from historically underutilized businesses that are made through the group purchasing program, including the dollar amount of each purchase allocated to the reporting agency.

(e)  A state agency's report is a record of the agency's purchases for which the agency selected the vendor. If the vendor was selected by the comptroller [~~commission~~] as part of its state contract program, the comptroller [~~commission~~] shall include the purchase in the comptroller's [~~commission's~~] report of its own purchases unless the comptroller [~~commission~~] made a sole source purchase for the agency under Section 2155.067. The state agency for which the purchase was made shall report the selection of the vendor on its report as if the agency selected the vendor when the agency drew specifications for goods or services that are proprietary to one vendor.

SECTION 92.  Sections 2161.123(a), (c), (d), and (f), Government Code, are amended to read as follows:

(a)  Each state agency, including the comptroller [~~commission~~], that is required to have a strategic plan under Chapter 2056 shall include in its strategic plan a written plan for increasing the agency's use of historically underutilized businesses in purchasing and public works contracting. The governing board of each university system or institution of higher education not included in a university system, other than a public junior college, shall prepare a written plan for increasing the use of historically underutilized businesses in purchasing and public works contracting by the system or institution.

(c)  On request, the comptroller [~~commission~~] shall provide technical assistance to a state agency that is preparing its plan.

(d)  The comptroller [~~commission~~] and the state auditor shall cooperate to develop procedures providing for random periodic monitoring of state agency compliance with this section. The state auditor shall report to the comptroller [~~commission~~] a state agency that is not complying with this section. In determining whether a state agency is making a good faith effort to comply, the state auditor shall consider whether the agency:

(1)  has adopted rules under Section 2161.003;

(2)  has used the comptroller's [~~commission's~~] directory under Section 2161.064 and other resources to identify historically underutilized businesses that are able and available to contract with the agency;

(3)  made good faith, timely efforts to contact identified historically underutilized businesses regarding contracting opportunities;

(4)  conducted its procurement program in accordance with the good faith effort methodology set out in comptroller [~~commission~~] rules; and

(5)  established goals for contracting with historically underutilized businesses in each procurement category based on:

(A)  scheduled fiscal year expenditures; and

(B)  the availability of historically underutilized businesses in each category as determined by rules adopted under Section 2161.002.

(f)  If the state auditor reports to the comptroller [~~commission~~] that a state agency is not complying with this section, the comptroller [~~commission~~] shall assist the agency in complying.

SECTION 93.  Sections 2161.124(a) and (b), Government Code, are amended to read as follows:

(a)  Each state agency, including the comptroller [~~commission~~], shall prepare a report for each fiscal year documenting progress under its plan for increasing use of historically underutilized businesses.

(b)  The comptroller [~~commission~~] shall develop a standard form for the report.

SECTION 94.  Section 2161.126, Government Code, is amended to read as follows:

Sec. 2161.126.  EDUCATION AND OUTREACH [~~BY COMMISSION~~]. Before October 15 of each year, the comptroller [~~commission~~] shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the education and training efforts that the comptroller [~~commission~~] has made toward historically underutilized businesses. The report must include the following as related to historically underutilized businesses:

(1)  the comptroller's [~~commission's~~] vision, mission, and philosophy;

(2)  marketing materials and other educational materials distributed by the comptroller [~~commission~~];

(3)  the comptroller's [~~commission's~~] policy regarding education, outreach, and dissemination of information;

(4)  goals that the comptroller [~~commission~~] has attained during the fiscal year;

(5)  the comptroller's [~~commission's~~] goals, objectives, and expected outcome measures for each outreach and education event; and

(6)  the comptroller's [~~commission's~~] planned future initiatives on education and outreach.

SECTION 95.  Section 2161.127(a), Government Code, is amended to read as follows:

(a)  Each state agency must include as part of its legislative appropriations request a detailed report for consideration by the budget committees of the legislature that shows the extent to which the agency complied with this chapter and rules of the comptroller [~~commission~~] adopted under this chapter during the two calendar years preceding the calendar year in which the request is submitted.  To the extent the state agency did not comply, the report must demonstrate the reasons for that fact.  The extent to which a state agency complies with this chapter and rules of the comptroller [~~commission~~] adopted under this chapter is considered a key performance measure for purposes of the appropriations process.

SECTION 96.  Section 2161.181, Government Code, is amended to read as follows:

Sec. 2161.181.  GOALS FOR PURCHASES OF GOODS AND SERVICES. A state agency, including the comptroller [~~commission~~], shall make a good faith effort to increase the contract awards for the purchase of goods or services that the agency expects to make during a fiscal year to historically underutilized businesses based on rules adopted by the comptroller [~~commission~~] to implement the disparity study described by Section 2161.002(c).

SECTION 97.  Section 2161.182(a), Government Code, is amended to read as follows:

(a)  A state agency that contracts for a construction project, including a project under Section 2166.003, shall make a good faith effort to increase the construction contract awards that the agency expects to make during a fiscal year to historically underutilized businesses based on rules adopted by the comptroller [~~commission~~] to implement the disparity study described by Section 2161.002(c).

SECTION 98.  Section 2161.183(a), Government Code, is amended to read as follows:

(a)  Not later than the 60th day of its fiscal year, a state agency, including the comptroller [~~commission~~]:

(1)  shall estimate the total value of contract awards the agency expects to make for that fiscal year that are subject to Section 2161.181; and

(2)  shall estimate the total value of contract awards the agency expects to make for that fiscal year under Chapter 2166.

SECTION 99.  Section 2161.253(e), Government Code, is amended to read as follows:

(e)  The comptroller [~~commission~~] shall adopt rules to administer this subchapter.

SECTION 100.  Sections 2163.001, 2163.0011, 2163.002, 2163.003, and 2163.004, Government Code, are amended to read as follows:

Sec. 2163.001.  REVIEW PROCESS. (a) The comptroller [~~commission~~] shall develop a systematic review process to identify commercially available services being performed by the comptroller [~~commission~~] and study the services to determine if they may be better provided by other state agency providers of the services or private commercial sources.

(b)  In reviewing its services, the comptroller [~~commission~~] shall:

(1)  determine whether competitive vendors exist in the private sector;

(2)  compare the cost of contracting for the services from other state agency providers of the services or private commercial sources to the comptroller's [~~commission's~~] cost of performing the services; and

(3)  document cost savings from contracting for the services from other state agency providers of the services or private commercial sources.

(c)  Each commercially available service performed by the comptroller [~~commission~~] shall be reviewed at least once every six years.

Sec. 2163.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

Sec. 2163.002.  COST COMPARISON AND CONTRACT CONSIDERATIONS. (a) The comptroller [~~commission~~] shall consider all of its direct and indirect costs in determining the cost of providing a service.

(b)  In comparing the cost of providing a service, the comptroller [~~commission~~] must include the:

(1)  cost of supervising the work of a private contractor; and

(2)  cost to the state of the comptroller's [~~commission's~~] performance of the service, including:

(A)  the costs of the office of the attorney general and other support agencies; and

(B)  other indirect costs related to the comptroller's [~~commission's~~] performance of the service.

Sec. 2163.003.  CONTRACTING WITH ANOTHER STATE AGENCY OR PRIVATE SOURCE. (a) If the comptroller [~~commission~~] determines that a service can be performed with a comparable or better level of quality at a savings to the state of at least 10 percent by using other state agency providers of the service or a private commercial source, the comptroller [~~commission~~] may contract with other state agency providers of the services or private commercial sources for the service.

(b)  The comptroller [~~commission~~] maintains responsibility for providing a contracted service and shall set measurable performance standards for a contractor.

Sec. 2163.004.  PROHIBITION. The comptroller [~~commission~~] may not begin providing a service the General Services Commission did not provide as of September 1, 2001, unless, after conducting an in-depth analysis on cost in accordance with Section 2163.002 and on availability of a service, the comptroller [~~commission~~] determines that it can perform the service at a higher level of quality or at a lower cost than other state agency providers of the service or private commercial sources.

SECTION 101.  Sections 2171.001 and 2171.0011, Government Code, are amended to read as follows:

Sec. 2171.001.  TRAVEL DIVISION. The travel division of the comptroller [~~commission~~] is composed of the central travel office and the office of vehicle fleet management.

Sec. 2171.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

SECTION 102.  Section 2171.051(c), Government Code, is amended to read as follows:

(c)  After approval by the comptroller [~~executive director~~], the central travel office shall designate state agencies that may use the services of the office. The comptroller [~~executive director~~] shall approve the use of those services by the designated state agencies after the director of the travel division certifies to the comptroller [~~executive director~~] that the central travel office is capable of providing those services.

SECTION 103.  Sections 2171.052(c) and (d), Government Code, are amended to read as follows:

(c)  The comptroller [~~commission~~] may make contracts with travel agents that meet certain reasonable requirements prescribed by the central travel office, with preference given to resident entities of this state.

(d)  To the greatest extent possible, the comptroller [~~commission~~] shall use electronic means to solicit and receive bids under this section.

SECTION 104.  Sections 2171.055(a), (b), (c), (d), (e), (f), (g), (h), and (j), Government Code, are amended to read as follows:

(a)  State agencies in the executive branch of state government shall participate under comptroller [~~commission~~] rules in the comptroller's [~~commission's~~] contracts for travel services, provided that all travel agents approved by the comptroller [~~commission~~] are permitted to contract with the state and provide travel services to all state agencies.

(b)  An institution of higher education as defined by Section 61.003, Education Code, is not required to participate in the comptroller's [~~commission's~~] contracts for travel agency services or other travel services purchased from funds other than general revenue funds or educational and general funds as defined by Section 51.009, Education Code. The Employees Retirement System of Texas is not required to participate in the comptroller's [~~commission's~~] contracts for travel agency services or other travel services purchased from funds other than general revenue funds.

(c)  The comptroller [~~commission~~] may provide by rule for exemptions from required participation.

(d)  Agencies of the state that are not required to participate in comptroller [~~commission~~] contracts for travel services may participate as provided by Section 2171.051.

(e)  A county officer or employee who is engaged in official county business may participate in the comptroller's [~~commission's~~] contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. A county sheriff or deputy sheriff or juvenile probation officer who is transporting a state prisoner under a felony warrant may participate in the comptroller's [~~commission's~~] contract for travel services for purposes of obtaining reduced airline fares and reduced travel agent fees for the law enforcement or probation officer and the prisoner. The comptroller [~~commission~~] may charge a participating county a fee not to exceed the costs incurred by the comptroller [~~commission~~] in providing services under this subsection. The comptroller [~~commission~~] shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to counties under this subsection. The comptroller [~~commission~~] shall deposit the fees collected under this subsection to the credit of the county airline fares account. The county airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The comptroller [~~commission~~] shall adopt rules and make or amend contracts as necessary to administer this subsection.

(f)  An officer or employee of a public junior college, as defined by Section 61.003, Education Code, of an open-enrollment charter school established under Subchapter D, Chapter 12, Education Code, or of a school district who is engaged in official business may participate in the comptroller's [~~commission's~~] contract for travel services. The comptroller [~~commission~~] may charge a participating public junior college, open-enrollment charter school, or school district a fee not to exceed the costs incurred by the comptroller [~~commission~~] in providing services under this subsection. The comptroller [~~commission~~] shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to public junior colleges, open-enrollment charter schools, and school districts under this subsection. The comptroller [~~commission~~] shall deposit the fees collected under this subsection to the credit of the public education travel account. The public education travel account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The comptroller [~~commission~~] shall adopt rules and make or amend contracts as necessary to administer this subsection.

(g)  A municipal officer or employee who is engaged in official municipal business may participate in the comptroller's [~~commission's~~] contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The comptroller [~~commission~~] may charge a participating municipality a fee not to exceed the costs incurred by the comptroller [~~commission~~] in providing services under this subsection. The comptroller [~~commission~~] shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to municipalities under this subsection. The comptroller [~~commission~~] shall deposit the fees collected under this subsection to the credit of the municipality airline fares account. The municipality airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The comptroller [~~commission~~] shall adopt rules and make or amend contracts as necessary to administer this subsection.

(h)  A board member or employee of a communication district or an emergency communication district established under Chapter 772, Health and Safety Code, who is engaged in official district business may participate in the comptroller's [~~commission's~~] contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The comptroller [~~commission~~] may charge a participating district a fee not to exceed the costs incurred by the comptroller [~~commission~~] in providing services under this subsection. The comptroller [~~commission~~] shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to districts under this subsection. The comptroller [~~commission~~] shall deposit the fees collected under this subsection to the credit of the emergency communication district airline fares account. The emergency communication district airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The comptroller [~~commission~~] shall adopt rules and make or amend contracts as necessary to administer this subsection.

(j)  An officer or employee of a hospital district created under general or special law who is engaged in official hospital district business may participate in the comptroller's [~~commission's~~] contract for travel services for the purpose of obtaining reduced airline fares and reduced travel agent fees. The comptroller [~~commission~~] may charge a participating hospital district a fee not to exceed the costs incurred by the comptroller [~~commission~~] in providing services under this subsection. The comptroller [~~commission~~] shall periodically review fees and shall adjust them as needed to ensure recovery of costs incurred in providing services to hospital districts under this subsection. The comptroller [~~commission~~] shall deposit the fees collected under this subsection to the credit of the hospital district airline fares account. The hospital district airline fares account is an account in the general revenue fund that may be appropriated only for the purposes of this chapter. The comptroller [~~commission~~] shall adopt rules and make or amend contracts as necessary to administer this subsection.

SECTION 105.  Sections 2171.056(a), (b), and (c), Government Code, are amended to read as follows:

(a)  This section applies only to a state agency in the executive branch of state government that is required to participate in the comptroller's [~~commission's~~] contracts for travel services.

(b)  Except as provided by comptroller [~~commission~~] rule, a state agency may not:

(1)  purchase commercial airline or rental car transportation if the amount of the purchase exceeds the amount of the central travel office's contracted fares or rates; or

(2)  reimburse a person for the purchase of commercial airline or rental car transportation for the amount that exceeds the amount of the central travel office's contracted fares or rates.

(c)  The comptroller [~~commission~~] shall educate state agencies about this section.

SECTION 106.  Section 2171.104(d), Government Code, is amended to read as follows:

(d)  The Texas Facilities Commission [~~commission~~] shall require a state agency to transfer surplus or salvage vehicles identified by the management plan to the Texas Facilities Commission [~~commission~~] and shall sell or dispose of the vehicles in accordance with the provisions of Chapter 2175 that provide for disposition of surplus or salvage property by the Texas Facilities Commission [~~commission~~].

SECTION 107.  The heading to Chapter 2172, Government Code, is amended to read as follows:

CHAPTER 2172. MISCELLANEOUS GENERAL SERVICES PROVIDED BY COMPTROLLER [~~COMMISSION~~]

SECTION 108.  Sections 2172.001, 2172.0011, and 2172.002, Government Code, are amended to read as follows:

Sec. 2172.001.  CENTRAL SUPPLY STORE. The comptroller [~~commission~~] may operate a central supply store at which only state agencies, the legislature, and legislative agencies may obtain small supply items. If the comptroller [~~commission~~] operates a central supply store, the comptroller [~~commission~~] shall devise an appropriate method of billing a using entity for the supplies.

Sec. 2172.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

Sec. 2172.002.  BUSINESS MACHINE REPAIR. (a) The comptroller [~~commission~~] may maintain a facility for repairing office machines and may offer repair services to the following entities located in Austin:

(1)  state agencies;

(2)  the legislature; and

(3)  legislative agencies.

(b)  Using entities shall pay the comptroller [~~commission~~] for repair services by vouchers prepared and sent to the using entity by the comptroller [~~commission~~].

(c)  The comptroller [~~commission~~] may not repair or maintain a privately owned machine.

SECTION 109.  Sections 2172.003(a), (b), and (c), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] may:

(1)  assist a state agency with the agency's printing activities; and

(2)  assess and evaluate those activities.

(b)  The comptroller [~~commission~~] may recommend changes intended to increase the productivity and cost-effectiveness of printing operations of state agencies. Recommendations may be reported periodically as provided by comptroller [~~to the appropriate associate deputy director under commission~~] rules.

(c)  The comptroller [~~commission~~] may:

(1)  adopt standard accounting procedures that permit evaluating and comparing the costs of printing operations conducted by state agencies;

(2)  coordinate activities among state print shops;

(3)  review state agency requisitions for new printing shop equipment;

(4)  assist state agencies in expediting the production of printing and graphic arts;

(5)  maintain a roster of state print shops and their equipment, facilities, and special capabilities;

(6)  serve as a clearinghouse for private vendors of printing services to ensure that printing services and supplies are purchased in the most efficient and economical manner;

(7)  coordinate the consolidation of print shops operated by state agencies when the agencies involved determine that consolidation is appropriate; and

(8)  develop procedures for the recovery of the comptroller's [~~commission's~~] reasonable costs under Chapter 317 from amounts appropriated to the state agencies for which identified savings are achieved.

SECTION 110.  Sections 2172.004 and 2172.005, Government Code, are amended to read as follows:

Sec. 2172.004.  ARCHIVES. The comptroller [~~commission~~] may store and display the archives of Texas.

Sec. 2172.005.  DONATIONS. The comptroller [~~commission~~] may solicit and accept private donations for the Congress Avenue beautification program, a capital improvements project in Austin. The program includes improvements in the Capitol Complex [~~capitol complex~~] generally north of the Capitol along either side of Congress Avenue.

SECTION 111.  Sections 2172.006(a), (b), and (d), Government Code, are amended to read as follows:

(a)  Notwithstanding any other provision of law, the comptroller [~~commission~~] may negotiate and contract with a privately owned business entity for the design and manufacture of:

(1)  an official state lapel pin for purchase by members and former members of the house of representatives;

(2)  an official state lapel pin for purchase by members and former members of the senate;

(3)  an official state ring for purchase by members and former members of the house of representatives; and

(4)  an official state ring for purchase by members and former members of the senate.

(b)  The comptroller [~~commission~~] must submit any design of an official state lapel pin or ring to the State Preservation Board for its approval.

(d)  The comptroller [~~commission~~] by rule shall establish the purchase price for a lapel pin or ring. After payment of amounts required under the contract and recovery of its costs of administering this section, the comptroller [~~commission~~] shall deposit any remaining funds received from the sale of items under this section to the credit of the Texas preservation trust fund.

SECTION 112.  Sections 2176.0011, 2176.003, and 2176.004, Government Code, are amended to read as follows:

Sec. 2176.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

Sec. 2176.003.  [~~COMMISSION~~] EVALUATION OF STATE AGENCY MAIL OPERATIONS. The comptroller [~~commission~~] shall:

(1)  evaluate the mail operations of state agencies located in Travis County and make recommendations to identify and eliminate practices resulting in excessive mail costs; and

(2)  establish minimum objectives and responsibilities for managing mail for the agencies.

Sec. 2176.004.  [~~COMMISSION~~] PROCEDURES FOR IMPROVEMENT OF MAIL OPERATIONS. The comptroller [~~commission~~] shall:

(1)  in conjunction with the United States Postal Service, establish procedures to improve the measurement of state agency mail costs, using postage meters or stamps as appropriate;

(2)  establish procedures to determine the advantages to state agencies of presorting mail;

(3)  establish procedures to determine the lowest cost class of mail necessary to effectively accomplish individual state agency functions;

(4)  evaluate the cost-effectiveness of using alternatives to the United States Postal Service for delivering state agency mail;

(5)  train state agency personnel regarding cost-effective mailing practices;

(6)  set standards for receipt, delivery, collection, and dispatch of mail; and

(7)  publish and disseminate standards, guides, and instructions for managing mail and establish and implement procedures for monitoring compliance with the standards, guides, and instructions.

SECTION 113.  Section 2176.051(a), Government Code, is amended to read as follows:

(a)  The comptroller [~~commission~~] shall operate a messenger service for delivering unstamped written communications and packages between the following entities located in Travis County:

(1)  state agencies;

(2)  the legislature; and

(3)  legislative agencies.

SECTION 114.  Sections 2176.102, 2176.103, 2176.104, 2176.105, 2176.106, and 2176.107, Government Code, are amended to read as follows:

Sec. 2176.102.  [~~COMMISSION~~] EVALUATION. The comptroller [~~commission~~] shall evaluate the outgoing first-class mail practices of state agencies located in Travis County, including the lists, systems, and formats used to create mail.

Sec. 2176.103.  DISCOUNTED POSTAL RATES. The comptroller [~~commission~~] shall achieve the maximum available discount on postal rates whenever acceptable levels of timeliness, security, and quality of service can be maintained using the discounted rate.

Sec. 2176.104.  REQUIREMENT TO CONSULT WITH COMPTROLLER [~~COMMISSION~~]. A state agency to which this subchapter applies shall consult the comptroller [~~commission~~] before the agency may:

(1)  purchase, upgrade, or sell mail processing equipment;

(2)  contract with a private entity for mail processing; or

(3)  take actions that significantly affect the agency's first-class mail practices.

Sec. 2176.105.  GUIDELINES FOR MEASURING AND ANALYZING FIRST-CLASS MAIL PRACTICES. (a) The comptroller [~~commission~~] shall adopt and distribute to each state agency to which this subchapter applies guidelines by which outgoing first-class mail practices may be measured and analyzed. The guidelines must require using the services of the United States Postal Service to the extent possible.

(b)  The comptroller [~~commission~~] shall review and update the guidelines at least once every two years, beginning two years after the date on which the guidelines are adopted.

Sec. 2176.106.  TRAINING. (a) Not later than the 90th day after the date on which the initial guidelines under Section 2176.105 are distributed, and at least annually beginning one year after the date of distribution, the comptroller [~~commission~~] shall provide training to state agency personnel who handle first-class mail.

(b)  The comptroller [~~commission~~] may use to the extent possible free training provided by the United States Postal Service.

Sec. 2176.107.  PREREQUISITE TO UPGRADING OR REPLACING MAIL EQUIPMENT; COMPARISON AND ANALYSIS. (a) If the comptroller [~~commission~~] determines that upgrading existing mail production or processing equipment or purchasing new mail production or processing equipment is required to improve outgoing first-class mail practices of the comptroller [~~commission~~] or another state agency located in Travis County, the comptroller [~~commission~~] shall prepare a cost-benefit analysis demonstrating that the upgrade or purchase is more cost-effective than contracting with a private entity to provide the equipment or mail service.

(b)  The comptroller [~~commission~~] shall approve the most cost-effective method.

SECTION 115.  The heading to Section 2176.109, Government Code, is amended to read as follows:

Sec. 2176.109.  FEES FOR COMPTROLLER [~~COMMISSION~~] SERVICES.

SECTION 116.  Sections 2176.109(a) and (c), Government Code, are amended to read as follows:

(a)  The comptroller [~~commission~~] by interagency contract shall charge and collect fees from each state agency to which this subchapter applies for the comptroller's [~~commission's~~] services under this subchapter.

(c)  The comptroller [~~commission~~] shall transfer to the general revenue fund the amount of a fee charged a state agency under this section that is greater than the amount of the comptroller's [~~commission's~~] actual expenses for performing the services for the agency.

SECTION 117.  Sections 2176.152 and 2176.203, Government Code, are amended to read as follows:

Sec. 2176.152.  PROCESSING UNITED STATES MAIL IN CAPITOL COMPLEX. United States mail may be delivered to and from the post office located in the Capitol Complex [~~capitol complex~~] on agreement between the comptroller [~~commission~~] and the affected agency.

Sec. 2176.203.  NOTIFICATION OF SERVICE OPTIONS. The comptroller [~~commission~~] shall, as part of the guidelines developed under Section 2176.105, provide information to state agencies about special mail services offered by the United States Postal Service. The comptroller [~~commission~~] shall assist a state agency in determining which service to use, considering the state agency's needs for accountability, timeliness, security, and quality of service.

SECTION 118.  Section 2254.007(b), Government Code, is amended to read as follows:

(b)  This section does not apply to the enforcement of a contract entered into by a state agency as that term is defined by Section 2151.002. In this subsection, "state agency" includes the Texas Facilities [~~Building and Procurement~~] Commission and the comptroller.

SECTION 119.  Section 2262.0011, Government Code, is amended to read as follows:

Sec. 2262.0011.  COMPTROLLER POWERS AND [~~TRANSFER OF~~] DUTIES[~~; REFERENCE~~]. [~~(a)~~] The comptroller has under this chapter the powers and duties described by Section 2151.004(d) [~~of the commission under this chapter are transferred to the comptroller~~].

[~~(b)  In this chapter, a reference to the commission means the comptroller.~~]

SECTION 120.  Sections 2262.051(a) and (b), Government Code, are amended to read as follows:

(a)  In consultation with the attorney general, the Department of Information Resources, [~~the comptroller,~~] and the state auditor, the comptroller [~~commission~~] shall develop 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.

SECTION 121.  Section 2262.054, Government Code, is amended to read as follows:

Sec. 2262.054.  PUBLIC COMMENT. The comptroller [~~commission~~] by rule may establish procedures by which each state agency is required to invite public comment by publishing the proposed technical specifications for major contracts on the Internet through the information service known as the Texas Marketplace or through a suitable successor information service. The guide must define "technical specifications."

SECTION 122.  Section 361.965(e), Health and Safety Code, is amended to read as follows:

(e)  The comptroller [~~Texas Building and Procurement Commission~~] and the Department of Information Resources shall adopt rules to implement this section.

SECTION 123.  Section 195.008(b), Local Government Code, is amended to read as follows:

(b)  The committee consists of:

(1)  the following persons appointed by the director and librarian:

(A)  one person who is employed by or is an officer of a title insurance agent or title insurance company;

(B)  an officer or employee of a federal government-sponsored entity;

(C)  a person who as a usual business practice obtains copies of recorded instruments from a county clerk to maintain an abstract or title plant; and

(D)  a public representative;

(2)  two persons who are county judges or county commissioners appointed by the County Judges and Commissioners Association of Texas;

(3)  four county clerks appointed by the County and District Clerks' Association of Texas;

(4)  three persons who are employed by or officers of different title insurance agents or companies appointed by the Texas Land Title Association;

(5)  the presiding officer of the Title Insurance Subcommittee of the Real Estate, Probate, and Trust Law section of the State Bar of Texas or the functional equivalent of that subcommittee;

(6)  the attorney general or a person designated by the attorney general;

(7)  the comptroller or a person designated by the comptroller;

(8)  the executive director of the Texas Facilities [~~General Services~~] Commission or a person designated by the executive director;

(9)  the executive director of the Department of Information Resources or a person designated by the executive director; and

(10)  the director and librarian or a person designated by the director and librarian, who also serves as presiding officer of the committee.

SECTION 124.  Sections 263.152(a) and (a-1), Local Government Code, are amended to read as follows:

(a)  The commissioners court of a county may:

(1)  periodically sell the county's surplus or salvage property by competitive bid or auction, except that competitive bidding or an auction is not necessary if the purchaser is another county or a political subdivision within the county that is selling the surplus or salvage property;

(2)  offer the property as a trade-in for new property of the same general type if the commissioners court considers that action to be in the best interests of the county;

(3)  order any of the property to be destroyed or otherwise disposed of as worthless if the commissioners court undertakes to sell that property under Subdivision (1) and is unable to do so because no bids are made;

(4)  dispose of the property by donating it to a civic or charitable organization located in the county if the commissioners court determines that:

(A)  undertaking to sell the property under Subdivision (1) would likely result in no bids or a bid price that is less than the county's expenses required for the bid process;

(B)  the donation serves a public purpose; and

(C)  the organization will provide the county with adequate consideration, such as relieving the county of transportation or disposal expenses related to the property;

(5)  transfer gambling equipment in the possession of the county following its forfeiture to the state to the Texas Facilities [~~Building and Procurement~~] Commission for sale under Section 2175.904, Government Code; or

(6)  order any vehicle retired under a program designed to encourage the use of low-emission vehicles to be crushed and recycled, if practicable, without a competitive bid or auction.

(a-1)  The commissioners court shall remit money received from the Texas Facilities [~~Building and Procurement~~] Commission from the sale of gambling equipment under Section 2175.904(c), Government Code, less administrative expenses incurred by the county in connection with the transfer and sale of the equipment, to the local law enforcement agency that originally seized the equipment.

SECTION 125.  Sections 31.157(b) and (c), Natural Resources Code, are amended to read as follows:

(b)  The draft report shall be submitted to the Texas Facilities [~~Building and Procurement~~] Commission, which shall further evaluate the potential use of the real property by another state agency. The land office shall submit a draft report to each agency that owns or holds in trust property that is the subject of the draft report. The Texas Facilities [~~Building and Procurement~~] Commission may make additional recommendations regarding the use of the real property. The state agency that owns or controls real property named in the report may comment on any findings or recommendations made by the commissioner. The Texas Facilities [~~Building and Procurement~~] Commission and any state agency that owns or controls real property named in the report shall complete a review of the draft report within 60 days of the receipt of the report and forward all recommendations and comments to the commissioner.

(c)  The commissioner shall prepare and issue a final evaluation report that incorporates any recommendations of the Texas Facilities [~~Building and Procurement~~] Commission regarding the potential use of the real property by another state agency and any comments from any state agency that owns or controls property named in the report.

SECTION 126.  The following provisions of the Government Code are repealed:

(1)  Section 2170.0011;

(2)  Section 2170.0012; and

(3)  Section 2262.001(1-a).

SECTION 127.  This Act takes effect September 1, 2019.

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    President of the Senate Speaker of the House

I certify that H.B. No. 1524 was passed by the House on May 3, 2019, by the following vote:  Yeas 140, Nays 0, 2 present, not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chief Clerk of the House

I certify that H.B. No. 1524 was passed by the Senate on May 22, 2019, by the following vote:  Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Secretary of the Senate

APPROVED:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                    Date

           \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                  Governor