

By: Capriglione

H.B. No. 2459

A BILL TO BE ENTITLED

AN ACT

relating to oversight of and requirements applicable to information resources technology procurement by state agencies.

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

SECTION 1. Section 2054.003(10), Government Code, is amended to read as follows:

(10) "Major information resources project" means:

(A) any information resources technology project identified in a state agency's biennial operating plan whose development costs exceed \$5 [~~\$1~~] million and that:

(i) requires one year or longer to reach operations status;

(ii) involves more than one state agency;

or

(iii) substantially alters work methods of state agency personnel or the delivery of services to clients; and

(B) any information resources technology project designated by the legislature in the General Appropriations Act as a major information resources project.

SECTION 2. Section 2054.055(b), Government Code, is amended to read as follows:

(b) The report must:

(1) assess the progress made toward meeting the goals and objectives of the state strategic plan for information

1 resources management;

2 (2) describe major accomplishments of the state or a
3 specific state agency in information resources management;

4 (3) describe major problems in information resources
5 management confronting the state or a specific state agency;

6 (4) provide a summary of the total expenditures for
7 information resources and information resources technologies by
8 the state;

9 (5) make recommendations for improving the
10 effectiveness and cost-efficiency of the state's use of information
11 resources;

12 (6) describe the status, progress, benefits, and
13 efficiency gains of the state electronic Internet portal project,
14 including any significant issues regarding contract performance;

15 (7) provide a financial summary of the state
16 electronic Internet portal project, including project costs and
17 revenues;

18 (8) provide a summary of the amount and use of
19 Internet-based training conducted by each state agency and
20 institution of higher education;

21 (9) provide a summary of agency and statewide results
22 in providing access to electronic and information resources to
23 individuals with disabilities as required by Subchapter M;

24 (10) assess the progress made toward accomplishing the
25 goals of the plan for a state telecommunications network and
26 developing a system of telecommunications services as provided by
27 Subchapter H; and

1 (11) identify proposed major information resources
2 projects for the next state fiscal biennium, including project
3 costs through stages of the project and across state fiscal years
4 from project initiation to implementation[+

5 ~~[(12) examine major information resources projects
6 completed in the previous state fiscal biennium to determine the
7 performance of the implementing state agency, cost and value
8 effectiveness, timeliness, and other performance criteria
9 necessary to assess the quality and value of the investment, and~~

10 ~~[(13) examine major information resources projects
11 after the second anniversary of the project's completion to
12 determine progress toward meeting performance goals and operating
13 budget savings].~~

14 SECTION 3. Section [2054.1181](#), Government Code, is amended
15 by amending Subsection (b) and adding Subsection (j) to read as
16 follows:

17 (b) In performing its duties under this section, the
18 department shall:

19 (1) develop policies for the additional oversight of
20 projects required by Subsection (a);

21 (2) implement project management standards;

22 (3) use effective risk management strategies;

23 (4) establish standards that promote the ability of
24 information resources systems to operate with each other; and

25 (5) use industry best practices and process
26 reengineering when feasible.

27 (j) A state agency may not amend a contract subject to

1 review under Section 2054.158(b)(4) if the contract is at least 10
2 percent over budget or the associated major information resources
3 project is at least 10 percent behind schedule unless the agency:

4 (1) conducts a cost-benefit analysis with respect to
5 canceling or continuing the project; and

6 (2) submits the analysis described by Subdivision (1)
7 to the quality assurance team.

8 SECTION 4. Section 2054.158, Government Code, is amended by
9 amending Subsection (b) and adding Subsections (d) and (e) to read
10 as follows:

11 (b) The quality assurance team shall:

12 (1) develop and recommend policies and procedures to
13 improve the development, implementation, and return on investment
14 for state agency information resources technology projects;

15 (2) except as provided by Subsection (e), review a
16 state agency's business case prepared for a major information
17 resources project under Section 2054.303 and make recommendations
18 [develop and recommend procedures] to improve the implementation of
19 the project [state agency information resources technology
20 projects by including considerations for best value and return on
21 investment]; [and]

22 (3) provide annual training for state agency
23 procurement and contract management staff on best practices and
24 methodologies for information technology contracts;

25 (4) review and provide recommendations on the final
26 negotiated terms of a contract for the development or
27 implementation of a major information resources project with a

1 value of at least \$10 million; and

2 (5) provide a report to the governor, lieutenant
3 governor, speaker of the house of representatives, and presiding
4 officer of the standing committee of each house of the legislature
5 with primary jurisdiction over appropriations by December 1 of each
6 even-numbered year that includes:

7 (A) the performance indicator report required by
8 Section 2054.159(a);

9 (B) a summary of any major issues identified in
10 state agency reports submitted under Section 2054.159(f);

11 (C) an appendix containing any justifications
12 submitted to the quality assurance team under Section 2054.160(d);
13 and

14 (D) any additional information considered
15 appropriate by the quality assurance team.

16 (d) The comptroller by rule shall develop guidelines for the
17 additional or reduced monitoring of major information resources
18 projects and associated contracts of state agencies based on the
19 risk criteria developed under Section 2155.091(f).

20 (e) The quality assurance team may waive the review
21 authorized by Subsection (b)(2) for a project that the team
22 determines to be low risk.

23 SECTION 5. Section 2054.159, Government Code, is amended by
24 amending Subsection (b) and adding Subsections (f) and (g) to read
25 as follows:

26 (b) The department by rule shall develop the performance
27 indicators the quality assurance team is required to monitor under

1 Subsection (a) and obtain the approval of each member of the quality
2 assurance team for the performance indicators. In adopting rules
3 under this subsection, the department shall consider applicable
4 information technology industry standards.

5 (f) For each major information resources project, a state
6 agency shall provide the quality assurance team any verification
7 and validation report or quality assurance report related to the
8 project not later than the 10th day after the date the agency
9 receives a request for the report.

10 (g) The quality assurance team may request any information
11 necessary to determine a major information resources project's
12 potential risk.

13 SECTION 6. Subchapter G, Chapter 2054, Government Code, is
14 amended by adding Section 2054.160 to read as follows:

15 Sec. 2054.160. REVIEW OF CONTRACT FOR MAJOR INFORMATION
16 RESOURCES PROJECT. (a) For each contract for the development or
17 implementation of a major information resources project with a
18 value of at least \$10 million, a state agency shall:

19 (1) submit the proposed terms of the contract to the
20 quality assurance team before the start of negotiations; and

21 (2) submit the final negotiated unsigned contract to
22 the quality assurance team for review under Section 2054.158(b)(4).

23 (b) After the quality assurance team makes a recommendation
24 under Section 2054.158(b)(4), a state agency shall:

25 (1) comply with the recommendation; or

26 (2) submit to the quality assurance team a written
27 explanation regarding why the recommendation is not applicable to

1 the contract under review.

2 (c) Before amending a contract related to a major
3 information resources project, a state agency must notify the
4 governor, lieutenant governor, speaker of the house of
5 representatives, presiding officer of the standing committee of
6 each house of the legislature with primary jurisdiction over
7 appropriations, and quality assurance team if:

8 (1) the total value of the amended contract exceeds or
9 will exceed the initial contract value by 25 percent or more; or

10 (2) the amendment requires the contractor to provide
11 consultative services, technical expertise, or other assistance in
12 defining project scope or deliverables.

13 (d) A state agency shall provide to the quality assurance
14 team a justification for an amendment subject to Subsection (c).

15 SECTION 7. Section 2054.301, Government Code, is amended to
16 read as follows:

17 Sec. 2054.301. APPLICABILITY[~~, DEFINITION~~]. [~~(a)~~] This
18 subchapter applies only to[+]

19 [~~(1)~~] a major information resources project[~~, and~~

20 [~~(2)~~ a major contract].

21 [~~(b) In this subchapter, "major contract" means a major~~
22 ~~contract as defined by Section 2262.001(4) under which a vendor~~
23 ~~will perform or manage an outsourced function or process.]~~

24 SECTION 8. Section 2054.302, Government Code, is amended by
25 amending Subsection (b) and adding Subsection (d) to read as
26 follows:

27 (b) The department[~~, in consultation with the Legislative~~

1 ~~Budget Board and state auditor's office,~~] shall develop and provide
2 guidelines and forms for the documents required by this subchapter.

3 (d) The guidelines and forms developed under Subsection (b)
4 must be approved by each member of the quality assurance team.

5 SECTION 9. Section 2054.303, Government Code, is amended by
6 amending Subsections (a) and (c) and adding Subsection (d) to read
7 as follows:

8 (a) For each proposed major information resources project
9 ~~[or major contract]~~, a state agency must prepare:

10 (1) a business case providing the initial
11 justification for the project ~~[or contract, including the~~
12 ~~anticipated return on investment in terms of cost savings and~~
13 ~~efficiency for the project or contract]~~; and

14 (2) if the state agency meets the low risk criteria
15 developed under Section 2155.091(f):

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

20 (B) ~~[(3) in consultation with the department,~~] a
21 technical architectural assessment of the project, if requested by
22 the quality assurance team ~~[or contract]~~.

23 (c) The department shall use the analysis to ensure that the
24 proposed project ~~[or major contract]~~ does not unnecessarily
25 duplicate existing statewide information resources technology.

26 (d) After the quality assurance team makes a recommendation
27 relating to a business case under Section 2054.158(b)(2), a state

1 agency shall:

2 (1) comply with the recommendation; or

3 (2) submit to the quality assurance team a written
4 explanation regarding why the recommendation is not applicable to
5 the project under review.

6 SECTION 10. Sections [2054.304](#)(a) and (b), Government Code,
7 are amended to read as follows:

8 (a) A state agency shall develop a project plan for each
9 major information resources project [~~or major contract~~].

10 (b) The [~~Except as provided by Subsection (c), the~~] state
11 agency must file the project plan with the quality assurance team
12 and the department before the agency[~~+~~

13 [~~(1)~~] spends more than 10 percent of allocated funds
14 for the project [~~or major contract; or~~

15 [~~(2) first issues a vendor solicitation for the~~
16 ~~project or contract~~].

17 SECTION 11. Section [2054.305](#), Government Code, is amended
18 to read as follows:

19 Sec. 2054.305. PROCUREMENT PLAN AND METHOD FOR MONITORING
20 CONTRACTS. Before issuing a [~~vendor~~] solicitation for a [~~project~~
21 ~~or major~~] contract subject to review under Section [2054.158](#)(b)(4),
22 the state agency must develop, consistent with any acquisition plan
23 provided in the guide developed under Section [2262.051](#) [~~department~~
24 ~~guidelines]~~:

25 (1) a procurement plan with anticipated service levels
26 and performance standards for each contractor [~~vendor~~]; and

27 (2) a method to monitor changes to the scope of each

1 contract.

2 SECTION 12. Section 2054.307, Government Code, is amended
3 to read as follows:

4 Sec. 2054.307. APPROVAL OF DOCUMENTS AND CONTRACT CHANGES.

5 (a) A state agency's executive director, or the executive
6 director's designee, [~~information resources manager, designated~~
7 ~~project manager, and the agency employee in charge of information~~
8 ~~security for the agency~~] must approve [~~and sign~~]:

9 (1) each document required by this subchapter; and

10 (2) if the department requires the approval [~~and~~
11 ~~signatures~~], any other document related to this subchapter.

12 (b) The state agency's executive director must approve a
13 proposed contract amendment or change order for a major information
14 resources project if the amendment or change order:

15 (1) changes the monetary value of the contract by more
16 than 25 [~~10~~] percent; or

17 (2) significantly changes the completion date of the
18 contract.

19 SECTION 13. Section 2155.091, Government Code, is amended
20 by adding Subsection (f) to read as follows:

21 (f) The chief procurement officer, in coordination with the
22 Contract Advisory Team created under Section 2262.101 and the
23 quality assurance team created under Section 2054.158,
24 shall develop criteria for the assessment of a state agency as
25 "high risk," "standard risk," or "low risk" in relation to major
26 information resources projects and associated contracts. In this
27 subsection, "major information resources project" has the meaning

1 assigned by Section 2054.003.

2 SECTION 14. The following provisions of the Government Code
3 are repealed:

- 4 (1) Section 2054.1181(f);
- 5 (2) Sections 2054.1183 and 2054.1184;
- 6 (3) Sections 2054.159(c) and (d); and
- 7 (4) Section 2054.304(c).

8 SECTION 15. As soon as practicable after the effective date
9 of this Act, the comptroller of public accounts, the Department of
10 Information Resources, and each affected state agency as necessary,
11 shall adopt the rules, processes, and procedures and take the
12 actions necessary to implement the changes in law made by this Act.

13 SECTION 16. This Act applies only in relation to a contract:

- 14 (1) for which a state agency first advertises or
15 otherwise solicits bids, proposals, offers, or qualifications on or
16 after the effective date of this Act;
- 17 (2) that is extended or modified on or after the
18 effective date of this Act; or
- 19 (3) for which a change order is submitted on or after
20 the effective date of this Act.

21 SECTION 17. This Act takes effect September 1, 2019.