

By: Nelson, et al.

S.B. No. 65

A BILL TO BE ENTITLED

AN ACT

relating to oversight of and requirements applicable to state agency contracting and procurement.

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

SECTION 1. Section 441.1855, Government Code, is amended to read as follows:

Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS BY STATE AGENCIES. (a) Notwithstanding Section 441.185 or 441.187, a state agency:

(1) shall retain in its records each contract entered into by the state agency and all contract solicitation documents related to the contract; and

(2) may destroy the contract and documents only after the seventh anniversary of the date:

(A) the contract is completed or expires; or

(B) all issues that arise from any litigation, claim, negotiation, audit, open records request, administrative review, or other action involving the contract or documents are resolved.

(b) A contract solicitation document that is an electronic document must be retained under Subsection (a) in the document's electronic form. A state agency may print and retain the document in paper form only if the agency provides for the preservation, examination, and use of the electronic form of the document in

1 accordance with Subsection (a), including any formatting or  
2 formulas that are part of the electronic format of the document.

3 (c) In this section:

4 (1) "Contract solicitation document" includes any  
5 document, whether in paper form or electronic form, that is used by  
6 a state agency to evaluate responses to a competitive solicitation  
7 for a contract issued by the agency.

8 (2) "Electronic document" means:

9 (A) information that is created, generated,  
10 sent, communicated, received, or stored by electronic means; or

11 (B) the output of a word processing, spreadsheet,  
12 presentation, or business productivity application.

13 SECTION 2. Section 2054.003(10), Government Code, is  
14 amended to read as follows:

15 (10) "Major information resources project" means:

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

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

21 (ii) involves more than one state agency;

22 or

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

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

1           SECTION 3. Section 2054.055(b), Government Code, is amended  
2 to read as follows:

3           (b) The report must:

4                 (1) assess the progress made toward meeting the goals  
5 and objectives of the state strategic plan for information  
6 resources management;

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

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

11                (4) provide a summary of the total expenditures for  
12 information resources and information resources technologies by  
13 the state;

14                (5) make recommendations for improving the  
15 effectiveness and cost-efficiency of the state's use of information  
16 resources;

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

20                (7) provide a financial summary of the state  
21 electronic Internet portal project, including project costs and  
22 revenues;

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

26                (9) provide a summary of agency and statewide results  
27 in providing access to electronic and information resources to

1 individuals with disabilities as required by Subchapter M;

2 (10) assess the progress made toward accomplishing the  
3 goals of the plan for a state telecommunications network and  
4 developing a system of telecommunications services as provided by  
5 Subchapter H; and

6 (11) identify proposed major information resources  
7 projects for the next state fiscal biennium, including project  
8 costs through stages of the project and across state fiscal years  
9 from project initiation to implementation[+

10 [~~(12) examine major information resources projects  
11 completed in the previous state fiscal biennium to determine the  
12 performance of the implementing state agency, cost and value  
13 effectiveness, timeliness, and other performance criteria  
14 necessary to assess the quality and value of the investment, and~~

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

19 SECTION 4. Section [2054.1181](#), Government Code, is amended  
20 by amending Subsection (b) and adding Subsection (j) to read as  
21 follows:

22 (b) In performing its duties under this section, the  
23 department shall:

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

26 (2) implement project management standards;

27 (3) use effective risk management strategies;

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

3 (5) use industry best practices and process  
4 reengineering when feasible.

5 (j) A state agency may not amend a contract subject to  
6 review under Section 2054.158(b)(4) if the contract is at least 10  
7 percent over budget or the associated major information resources  
8 project is at least 10 percent behind schedule unless the agency:

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

11 (2) submits the analysis described by Subdivision (1)  
12 to the quality assurance team.

13 SECTION 5. Subchapter F, Chapter 2054, Government Code, is  
14 amended by adding Section 2054.137 to read as follows:

15 Sec. 2054.137. APPROVAL REQUIRED FOR ASSIGNMENT OF CERTAIN  
16 CONTRACTS. (a) In this section, "sensitive personal information"  
17 has the meaning assigned by Section 521.002, Business & Commerce  
18 Code.

19 (b) This section applies only to a contract awarded by a  
20 state agency:

21 (1) for a major information resources project; or

22 (2) involving sensitive personal information.

23 (c) A vendor may not assign the vendor's rights under a  
24 contract to which this section applies to a third party unless the  
25 assignment is approved by the quality assurance team.

26 (d) A state agency that receives notice that a vendor  
27 proposes to make an assignment subject to approval under Subsection

1 (c) shall notify the Legislative Budget Board and the quality  
2 assurance team of the proposed assignment.

3 SECTION 6. Section 2054.158, Government Code, is amended by  
4 amending Subsection (b) and adding Subsections (d) and (e) to read  
5 as follows:

6 (b) The quality assurance team shall:

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

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

17 (3) provide annual training for state agency  
18 procurement and contract management staff on best practices and  
19 methodologies for information technology contracts;

20 (4) review and provide recommendations on the final  
21 negotiated terms of a contract for the development or  
22 implementation of a major information resources project with a  
23 value of at least \$10 million; and

24 (5) provide a report to the governor, lieutenant  
25 governor, speaker of the house of representatives, and presiding  
26 officer of the standing committee of each house of the legislature  
27 with primary jurisdiction over appropriations by December 1 of each

1 even-numbered year that includes:

2 (A) the performance indicator report required by  
3 Section 2054.159(a);

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

6 (C) an appendix containing any justifications  
7 submitted to the quality assurance team under Section 2054.160(d);  
8 and

9 (D) any additional information considered  
10 appropriate by the quality assurance team.

11 (d) The comptroller by rule shall develop guidelines for the  
12 additional or reduced monitoring of major information resources  
13 projects and associated contracts of state agencies during the  
14 periods described by Sections 2261.258(c)(2)(A), (B), and (C).

15 (e) The quality assurance team may waive the review  
16 authorized by Subsection (b)(2) for any project for which the team  
17 determines that a waiver of the review is appropriate because of the  
18 project's associated risk.

19 SECTION 7. Section 2054.159, Government Code, is amended by  
20 amending Subsection (b) and adding Subsections (f) and (g) to read  
21 as follows:

22 (b) The department by rule shall develop the performance  
23 indicators the quality assurance team is required to monitor under  
24 Subsection (a) and obtain the approval of each member of the quality  
25 assurance team for the performance indicators. In adopting rules  
26 under this subsection, the department shall consider applicable  
27 information technology industry standards.

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

6 (g) The quality assurance team may request any information  
7 necessary to determine a major information resources project's  
8 potential risk.

9 SECTION 8. Subchapter G, Chapter 2054, Government Code, is  
10 amended by adding Section 2054.160 to read as follows:

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

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

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

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

21 (1) comply with the recommendation; or

22 (2) submit to the quality assurance team a written  
23 explanation regarding why the recommendation is not applicable to  
24 the contract under review.

25 (c) Before amending a contract related to a major  
26 information resources project, a state agency must notify the  
27 governor, lieutenant governor, speaker of the house of



1 representatives, presiding officer of the standing committee of  
2 each house of the legislature with primary jurisdiction over  
3 appropriations, and quality assurance team if:

4 (1) the total value of the amended contract exceeds or  
5 will exceed the initial contract value by 10 percent or more; or

6 (2) the amendment requires the contractor to provide  
7 consultative services, technical expertise, or other assistance in  
8 defining project scope or deliverables.

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

11 SECTION 9. Section 2054.301, Government Code, is amended to  
12 read as follows:

13 Sec. 2054.301. APPLICABILITY[ ~~DEFINITION~~]. [~~(a)~~] This  
14 subchapter applies only to[+]

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

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

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

20 SECTION 10. Section 2054.302, Government Code, is amended  
21 by amending Subsection (b) and adding Subsection (d) to read as  
22 follows:

23 (b) The department[ ~~in consultation with the Legislative~~  
24 ~~Budget Board and state auditor's office,~~] shall develop and provide  
25 guidelines and forms for the documents required by this subchapter.

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

1 SECTION 11. Section 2054.303, Government Code, is amended  
2 by amending Subsections (a) and (c) and adding Subsection (d) to  
3 read as follows:

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

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

10 (2) if the state agency has been assigned the rating  
11 under Section 2261.258(a)(1):

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

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

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

22 (d) After the quality assurance team makes a recommendation  
23 relating to a business case under Section 2054.158(b)(2), a state  
24 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 project under review.

2 SECTION 12. Sections 2054.304(a) and (b), Government Code,  
3 are amended to read as follows:

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

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

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

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

13 SECTION 13. Section 2054.305, Government Code, is amended  
14 to read as follows:

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

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

23 (2) a method to monitor changes to the scope of each  
24 contract.

25 SECTION 14. Section 2054.307(a), Government Code, is  
26 amended to read as follows:

27 (a) A state agency's executive director, or the executive

1 director's designee, [~~information resources manager, designated~~  
2 ~~project manager, and the agency employee in charge of information~~  
3 ~~security for the agency~~] must approve [~~and sign~~]:

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

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

7 SECTION 15. Section 2102.005, Government Code, is amended  
8 to read as follows:

9 Sec. 2102.005. INTERNAL AUDITING REQUIRED. (a) A state  
10 agency shall conduct a program of internal auditing that includes:

11 (1) an annual audit plan that is prepared using risk  
12 assessment techniques and that identifies the individual audits to  
13 be conducted during the year; and

14 (2) periodic audits of the agency's major systems and  
15 controls, including:

16 (A) accounting systems and controls;

17 (B) administrative systems and controls; and

18 (C) electronic data processing systems and  
19 controls.

20 (b) In conducting the internal auditing program under  
21 Subsection (a), a state agency shall consider methods for ensuring  
22 compliance with contract processes and controls and for monitoring  
23 agency contracts.

24 SECTION 16. Section 2155.089, Government Code, is amended  
25 to read as follows:

26 Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) After a  
27 contract is completed or otherwise terminated, each state agency

1 shall review the vendor's performance under the contract. If the  
2 value of the contract exceeds \$5 million, the state agency shall  
3 review the vendor's performance:

4 (1) at least once each year during the term of the  
5 contract; and

6 (2) at each key milestone identified for the contract.

7 (b) The state agency shall report to the comptroller, using  
8 the tracking system established by Section 2262.055, on the results  
9 of each ~~[the]~~ review conducted under Subsection (a) regarding a  
10 vendor's performance under a contract.

11 (b-1) A state agency may not extend a vendor's contract  
12 until after the agency reports the results of each review of the  
13 vendor conducted under Subsection (a)(1) or (2), as applicable, in  
14 the manner prescribed by Subsection (b).

15 (c) This section does not apply to:

16 (1) an enrollment contract described by 1 T.A.C.  
17 Section 391.183 as that section existed on September 1, 2015; ~~[or]~~

18 (2) a contract of the Employees Retirement System of  
19 Texas ~~[or the Teacher Retirement System of Texas]~~ except for a  
20 contract with a nongovernmental entity for claims administration of  
21 a group health benefit plan under Subtitle H, Title 8, Insurance  
22 Code; or

23 (3) a contract entered into by:

24 (A) the comptroller under Section 2155.061; or

25 (B) the Department of Information Resources  
26 under Section 2157.068.

27 SECTION 17. Section 2155.144, Government Code, is amended

1 by adding Subsection (b-2) to read as follows:

2 (b-2) The Health and Human Services Commission is delegated  
3 the authority to procure goods and services related to a contract  
4 for:

5 (1) a project to construct or expand a state hospital  
6 operated by a health and human services agency or a state supported  
7 living center as defined by Section 531.002, Health and Safety  
8 Code; or

9 (2) a deferred maintenance project for a health  
10 facility described by Subdivision (1).

11 SECTION 18. Section 2254.024(a), Government Code, is  
12 amended to read as follows:

13 (a) This subchapter does not apply to or discourage the use  
14 of consulting services provided by:

15 (1) practitioners of professional services described  
16 in Subchapter A;

17 (2) private legal counsel;

18 (3) investment counselors;

19 (4) actuaries;

20 (5) medical or dental services providers; or

21 (6) other consultants whose services are determined by  
22 the governing board of a retirement system trust fund to be  
23 necessary for the governing board to perform its constitutional  
24 fiduciary duties[~~, except that the governing board shall comply~~  
25 ~~with Section 2254.030].~~

26 SECTION 19. The heading to Section 2254.029, Government  
27 Code, is amended to read as follows:

1           Sec. 2254.029. PUBLICATION IN STATE BUSINESS DAILY [~~TEXAS~~  
2 ~~REGISTER~~] BEFORE ENTERING INTO MAJOR CONSULTING SERVICES CONTRACT.

3           SECTION 20. Section 2254.029(a), Government Code, is  
4 amended to read as follows:

5           (a) Not later than the 30th day before the date it enters  
6 into a major consulting services contract, a state agency must post  
7 in the state business daily under Section 2155.083 [~~shall file with~~  
8 ~~the secretary of state for publication in the Texas Register~~]:

9           (1) an invitation for consultants to provide offers of  
10 consulting services;

11           (2) the name of the individual who should be contacted  
12 by a consultant that intends to make an offer;

13           (3) the closing date for the receipt of offers; and

14           (4) the procedure by which the state agency will award  
15 the contract.

16           SECTION 21. Section 2254.031(a), Government Code, is  
17 amended to read as follows:

18           (a) A state agency that intends to renew, amend, or extend a  
19 major consulting services contract shall[+]

20           [~~(1) file with the secretary of state for publication~~  
21 ~~in the Texas Register the information required by Section 2254.030~~  
22 ~~not later than the 20th day after the date the contract is renewed~~  
23 ~~if the renewal contract is not a major consulting services~~  
24 ~~contract, or~~

25           [~~(2)~~] comply with Sections 2254.028 and 2254.029 if  
26 the contract after the renewal, amendment, or extension [~~contract~~]  
27 is a major consulting services contract.

1 SECTION 22. Subchapter B, Chapter 2261, Government Code, is  
2 amended by adding Sections 2261.0525 and 2261.054 to read as  
3 follows:

4 Sec. 2261.0525. CERTIFICATION OF VENDOR ASSESSMENT  
5 PROCESS. (a) Before a state agency may award a contract to a  
6 vendor, the agency's procurement director must review the process  
7 and all documents used by the agency to assess each vendor who  
8 responded to the solicitation. The procurement director must  
9 certify in writing that:

10 (1) the agency assessed each vendor's response to the  
11 solicitation using the evaluation criteria published in the  
12 solicitation or, if applicable, the written evaluation criteria  
13 established by the agency; and

14 (2) the final calculation of scoring of responses was  
15 accurate.

16 (b) A state agency shall justify in writing any change in  
17 the scoring of a vendor that occurs following the initial  
18 assessment and scoring of responses. The written justification  
19 must be reviewed by the agency's procurement director. The  
20 procurement director shall certify in writing that the change in  
21 scoring was appropriate.

22 (c) A state agency's procurement director may delegate to a  
23 person whose position in the agency's procurement office is at  
24 least equal to the position of contract manager the certification  
25 authority under this section if the agency has met the conditions  
26 prescribed by the comptroller under Section 2262.053(h).

27 (d) A written certification or justification required by



1 this section must be placed in the contract file.

2 Sec. 2261.054. STATEMENT REGARDING VENDOR SELECTION  
3 REQUIRED FOR CERTAIN CONTRACT AWARDS. If a state agency awards a  
4 contract to a vendor who did not receive the highest score in an  
5 assessment process certified under Section 2261.0525, the agency  
6 shall state in writing in the contract file the reasons for making  
7 the award.

8 SECTION 23. The heading to Subchapter E, Chapter 2261,  
9 Government Code, is amended to read as follows:

10 SUBCHAPTER E. CONTRACTOR OVERSIGHT AND LIABILITY

11 SECTION 24. Subchapter E, Chapter 2261, Government Code, is  
12 amended by adding Section 2261.204 to read as follows:

13 Sec. 2261.204. LIABILITY PROVISIONS. (a) Each state  
14 agency shall include in the contract file for each of its contracts  
15 for goods or services subject to this chapter a written explanation  
16 of the agency's decision to include or not include in the contract a  
17 provision for liquidated damages or another form of liability for  
18 damages caused by the contractor.

19 (b) A contract file must also include, if applicable, a  
20 written justification for any provision in the contract that limits  
21 the liability of a contractor for damages.

22 (c) If an extension of a state agency's contract described  
23 by Subsection (a) modifies a provision for liquidated damages or  
24 another provision relating to a contractor's liability for damages,  
25 the agency must amend the written explanation or justification  
26 required by this section to include a justification for the  
27 modification.

1 SECTION 25. Section 2261.251(b), Government Code, is  
2 amended to read as follows:

3 (b) This subchapter does not apply to a contract of the  
4 Employees Retirement System of Texas [~~or the Teacher Retirement~~  
5 ~~System of Texas~~] except for a contract with a nongovernmental  
6 entity for claims administration of a group health benefit plan  
7 under Subtitle H, Title 8, Insurance Code.

8 SECTION 26. Section 2261.254(d), Government Code, is  
9 amended to read as follows:

10 (d) The governing body or governing official of a state  
11 agency, as appropriate, may delegate to the executive director or a  
12 deputy executive director of the agency the approval and signature  
13 authority under Subsection (c).

14 SECTION 27. Subchapter F, Chapter 2261, Government Code, is  
15 amended by adding Sections 2261.258 and 2261.259 to read as  
16 follows:

17 Sec. 2261.258. MONITORING ASSESSMENT BY STATE AUDITOR.

18 (a) Before July 1 of each year, the state auditor shall assign one  
19 of the following ratings to each of the 25 largest state agencies in  
20 that state fiscal year as determined by the Legislative Budget  
21 Board:

- 22 (1) additional monitoring warranted;  
23 (2) no additional monitoring warranted; or  
24 (3) reduced monitoring warranted.

25 (b) In assigning a rating to a state agency as required  
26 under Subsection (a), the state auditor shall consider the  
27 following information, as applicable:

- 1           (1) results of an audit of:
- 2                   (A) the agency conducted by the state auditor  
3 under Chapter 321; or
- 4                   (B) the agency's contracts and contract  
5 processes and controls conducted by the agency's internal auditors  
6 or by the state auditor;
- 7           (2) results of a purchase audit conducted by the  
8 comptroller under Section 2155.325;
- 9           (3) information reported by the quality assurance team  
10 established under Section 2054.158 relating to the agency's major  
11 information resources projects;
- 12           (4) information from the Contract Advisory Team  
13 established under Subchapter C, Chapter 2262, relating to reviews  
14 of the agency's contracts and contract solicitation documents;
- 15           (5) information relating to agency findings from a  
16 review of the agency conducted by:
- 17                   (A) the Legislative Budget Board; and
- 18                   (B) the Sunset Advisory Commission under Chapter  
19 325 (Texas Sunset Act);
- 20           (6) the agency's self-reported improvements to the  
21 agency's contracting processes; and
- 22           (7) any additional internal analysis provided by the  
23 agency.
- 24           (c) On or before September 1 of each year, the state auditor  
25 shall submit to the comptroller a report that:
- 26                   (1) lists each state agency that was assigned a rating  
27 under Subsection (a); and

1           (2) for a state agency that was assigned a rating under  
2 Subsection (a)(1) or (3), specifies that additional or reduced  
3 monitoring, as applicable, is required during one or more of the  
4 following periods:

5                   (A) contract solicitation development;

6                   (B) contract formation and award; or

7                   (C) contract management and termination.

8           (d) The comptroller by rule shall develop guidelines for the  
9 additional or reduced monitoring of a state agency during the  
10 periods described by Subsections (c)(2)(A), (B), and (C) for a  
11 contract that falls under the monetary thresholds for review or  
12 monitoring by the Contract Advisory Team or the quality assurance  
13 team.

14           (e) The state auditor may request any information necessary  
15 from a state agency, the Contract Advisory Team, or the quality  
16 assurance team to comply with the requirements of this section, and  
17 the agency or team, as applicable, shall provide the requested  
18 information.

19           (f) The state auditor and the comptroller shall share  
20 information as necessary to fulfill their respective duties under  
21 this section.

22           (g) The state auditor's duties under this section must be  
23 included in the audit plan and approved by the legislative audit  
24 committee under Section [321.013](#).

25           Sec. 2261.259. ELECTRONIC COMPLIANCE SUBMISSIONS. A state  
26 agency that uses the centralized accounting and payroll system  
27 authorized under Sections [2101.035](#) and [2101.036](#) or an alternative

1 computer software system for compliance requirements related to the  
2 procurement of goods or services may electronically submit to the  
3 comptroller using that computer software system a written  
4 justification, verification, notification, or acknowledgement  
5 required under this chapter or Subchapter B, Chapter 2155.

6 SECTION 28. Subchapter B, Chapter 2262, Government Code, is  
7 amended by adding Section 2262.053 to read as follows:

8 Sec. 2262.053. CONTRACT FILE CHECKLIST; CERTIFICATION OF  
9 AGENCY COMPLIANCE. (a) Each state agency shall include in the  
10 contract file for each of its contracts a checklist to ensure the  
11 agency's compliance with state laws and rules relating to the  
12 acquisition of goods and services by the agency.

13 (b) The comptroller shall develop and periodically update a  
14 model contract file checklist and make the checklist available for  
15 use by state agencies. The comptroller shall periodically update  
16 the checklist.

17 (c) The comptroller may adopt rules necessary to develop or  
18 update the model contract file checklist.

19 (d) The model contract file checklist must address each  
20 stage of the procurement process and must include, at a minimum, a  
21 description of:

22 (1) the documents that are required to be maintained  
23 during each stage of the procurement process in accordance with  
24 applicable state laws and comptroller rules; and

25 (2) the procedures and documents that are required to  
26 be completed during the following stages of the procurement  
27 process:

1           (A) contract solicitation development;

2           (B) contract formation and award; and

3           (C) contract management.

4           (e) A state agency may develop its own contract file  
5 checklist based on the procurement and contracting needs of that  
6 agency, provided that the checklist developed by the agency is  
7 consistent with the comptroller's model contract file checklist and  
8 meets any requirements established by comptroller rule under  
9 Subsection (c).

10          (f) Before a state agency awards a contract to a vendor for  
11 the purchase of goods or services, the agency's contract manager or  
12 procurement director must:

13           (1) review the contents of the contract file for the  
14 contract, including the checklist, to ensure that all documents  
15 required by state law or applicable agency rules are complete and  
16 present in the file; and

17           (2) certify in a written document to be included in the  
18 contract file that the review required under Subdivision (1) was  
19 completed.

20          (g) A state agency's contract manager or procurement  
21 director may delegate to a person in the agency's procurement  
22 office the certification authority under this section.

23          (h) The comptroller by rule shall prescribe the conditions  
24 under which a state agency's contract manager or procurement  
25 director:

26           (1) must make the certification required by Subsection  
27 (f); and

1           (2) may delegate the certification authority under  
2 this section.

3           SECTION 29. The following provisions of the Government Code  
4 are repealed:

- 5           (1) Section 2054.1181(f);
- 6           (2) Section 2054.1184;
- 7           (3) Sections 2054.159(c) and (d);
- 8           (4) Section 2054.304(c);
- 9           (5) Section 2254.030;
- 10          (6) Section 2254.031(c); and
- 11          (7) Section 2254.033(b).

12          SECTION 30. As soon as practicable after the effective date  
13 of this Act, the comptroller of public accounts, the Department of  
14 Information Resources, and each affected state agency as necessary,  
15 shall adopt the rules, processes, and procedures and take the  
16 actions necessary to implement the changes in law made by this Act.

17          SECTION 31. (a) Except as provided by Subsections (b) and  
18 (c), this Act applies only in relation to a contract:

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

26          (b) Section 2054.137, Government Code, as added by this Act,  
27 applies only to a contract entered into or renewed on or after the

1 effective date of this Act.

2           (c) The changes in law made by this Act that apply to a major  
3 consulting services contract apply only to a major consulting  
4 services contract entered into or amended, modified, renewed, or  
5 extended on or after the effective date of this Act. A major  
6 consulting services contract entered into or amended, modified,  
7 renewed, or extended before the effective date of this Act is  
8 governed by the law in effect on the date the contract was entered  
9 into or amended, modified, renewed, or extended, and the former law  
10 is continued in effect for that purpose.

11           SECTION 32. Notwithstanding Section 2261.258, Government  
12 Code, as added by this Act, the first report required under that  
13 section is due on or before September 1, 2020.

14           SECTION 33. This Act takes effect September 1, 2019.