

1-1 By: Nelson, Hall S.B. No. 65
 1-2 (In the Senate - Filed November 12, 2018; February 1, 2019,
 1-3 read first time and referred to Committee on Finance;
 1-4 March 14, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 14, Nays 0; March 14, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

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

1-24 COMMITTEE SUBSTITUTE FOR S.B. No. 65 By: Nelson

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

1-27 relating to oversight of and requirements applicable to state
 1-28 agency contracting and procurement.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 441.1855, Government Code, is amended to
 1-31 read as follows:

1-32 Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS
 1-33 BY STATE AGENCIES. (a) Notwithstanding Section 441.185 or
 1-34 441.187, a state agency:

1-35 (1) shall retain in its records each contract entered
 1-36 into by the state agency and all contract solicitation documents
 1-37 related to the contract; and

1-38 (2) may destroy the contract and documents only after
 1-39 the seventh anniversary of the date:

1-40 (A) the contract is completed or expires; or

1-41 (B) all issues that arise from any litigation,
 1-42 claim, negotiation, audit, open records request, administrative
 1-43 review, or other action involving the contract or documents are
 1-44 resolved.

1-45 (b) A contract solicitation document that is an electronic
 1-46 document must be retained under Subsection (a) in the document's
 1-47 electronic form. A state agency may print and retain the document
 1-48 in paper form only if the agency provides for the preservation,
 1-49 examination, and use of the electronic form of the document in
 1-50 accordance with Subsection (a), including any formatting or
 1-51 formulas that are part of the electronic format of the document.

1-52 (c) In this section:

1-53 (1) "Contract solicitation document" includes any
 1-54 document, whether in paper form or electronic form, that is used by
 1-55 a state agency to evaluate responses to a competitive solicitation
 1-56 for a contract issued by the agency.

1-57 (2) "Electronic document" means:

1-58 (A) information that is created, generated,
 1-59 sent, communicated, received, or stored by electronic means; or

1-60 (B) the output of a word processing, spreadsheet,

2-1 presentation, or business productivity application.

2-2 SECTION 2. Section 2054.003(10), Government Code, is
2-3 amended to read as follows:

2-4 (10) "Major information resources project" means:

2-5 (A) any information resources technology project
2-6 identified in a state agency's biennial operating plan whose
2-7 development costs exceed \$5 [~~\$1~~] million and that:

2-8 (i) requires one year or longer to reach
2-9 operations status;

2-10 (ii) involves more than one state agency;
2-11 or

2-12 (iii) substantially alters work methods of
2-13 state agency personnel or the delivery of services to clients; and

2-14 (B) any information resources technology project
2-15 designated by the legislature in the General Appropriations Act as
2-16 a major information resources project.

2-17 SECTION 3. Section 2054.055(b), Government Code, is amended
2-18 to read as follows:

2-19 (b) The report must:

2-20 (1) assess the progress made toward meeting the goals
2-21 and objectives of the state strategic plan for information
2-22 resources management;

2-23 (2) describe major accomplishments of the state or a
2-24 specific state agency in information resources management;

2-25 (3) describe major problems in information resources
2-26 management confronting the state or a specific state agency;

2-27 (4) provide a summary of the total expenditures for
2-28 information resources and information resources technologies by
2-29 the state;

2-30 (5) make recommendations for improving the
2-31 effectiveness and cost-efficiency of the state's use of information
2-32 resources;

2-33 (6) describe the status, progress, benefits, and
2-34 efficiency gains of the state electronic Internet portal project,
2-35 including any significant issues regarding contract performance;

2-36 (7) provide a financial summary of the state
2-37 electronic Internet portal project, including project costs and
2-38 revenues;

2-39 (8) provide a summary of the amount and use of
2-40 Internet-based training conducted by each state agency and
2-41 institution of higher education;

2-42 (9) provide a summary of agency and statewide results
2-43 in providing access to electronic and information resources to
2-44 individuals with disabilities as required by Subchapter M;

2-45 (10) assess the progress made toward accomplishing the
2-46 goals of the plan for a state telecommunications network and
2-47 developing a system of telecommunications services as provided by
2-48 Subchapter H; and

2-49 (11) identify proposed major information resources
2-50 projects for the next state fiscal biennium, including project
2-51 costs through stages of the project and across state fiscal years
2-52 from project initiation to implementation[+]

2-53 [~~(12) examine major information resources projects
2-54 completed in the previous state fiscal biennium to determine the
2-55 performance of the implementing state agency, cost and value
2-56 effectiveness, timeliness, and other performance criteria
2-57 necessary to assess the quality and value of the investment, and~~

2-58 [~~(13) examine major information resources projects
2-59 after the second anniversary of the project's completion to
2-60 determine progress toward meeting performance goals and operating
2-61 budget savings].~~

2-62 SECTION 4. Section 2054.1181, Government Code, is amended
2-63 by amending Subsection (b) and adding Subsection (j) to read as
2-64 follows:

2-65 (b) In performing its duties under this section, the
2-66 department shall:

2-67 (1) develop policies for the additional oversight of
2-68 projects required by Subsection (a);

2-69 (2) implement project management standards;

3-1 (3) use effective risk management strategies;
 3-2 (4) establish standards that promote the ability of
 3-3 information resources systems to operate with each other; and
 3-4 (5) use industry best practices and process
 3-5 reengineering when feasible.
 3-6 (j) A state agency may not amend a contract subject to
 3-7 review under Section 2054.158(b)(4) if the contract is at least 10
 3-8 percent over budget or the associated major information resources
 3-9 project is at least 10 percent behind schedule unless the agency:
 3-10 (1) conducts a cost-benefit analysis with respect to
 3-11 canceling or continuing the project; and
 3-12 (2) submits the analysis described by Subdivision (1)
 3-13 to the quality assurance team.
 3-14 SECTION 5. Subchapter F, Chapter 2054, Government Code, is
 3-15 amended by adding Section 2054.137 to read as follows:
 3-16 Sec. 2054.137. APPROVAL REQUIRED FOR ASSIGNMENT OF CERTAIN
 3-17 CONTRACTS. (a) In this section, "sensitive personal information"
 3-18 has the meaning assigned by Section 521.002, Business & Commerce
 3-19 Code.
 3-20 (b) This section applies only to a contract awarded by a
 3-21 state agency:
 3-22 (1) for a major information resources project; or
 3-23 (2) involving sensitive personal information.
 3-24 (c) A vendor may not assign the vendor's rights under a
 3-25 contract to which this section applies to a third party unless the
 3-26 assignment is approved by the quality assurance team.
 3-27 (d) A state agency that receives notice that a vendor
 3-28 proposes to make an assignment subject to approval under Subsection
 3-29 (c) shall notify the Legislative Budget Board and the quality
 3-30 assurance team of the proposed assignment.
 3-31 SECTION 6. Section 2054.158, Government Code, is amended by
 3-32 amending Subsection (b) and adding Subsections (d) and (e) to read
 3-33 as follows:
 3-34 (b) The quality assurance team shall:
 3-35 (1) develop and recommend policies and procedures to
 3-36 improve the development, implementation, and return on investment
 3-37 for state agency information resources technology projects;
 3-38 (2) except as provided by Subsection (e), review a
 3-39 state agency's business case prepared for a major information
 3-40 resources project under Section 2054.303 and make recommendations
 3-41 [develop and recommend procedures] to improve the implementation of
 3-42 the project [state agency information resources technology
 3-43 projects by including considerations for best value and return on
 3-44 investment]; [and]
 3-45 (3) provide annual training for state agency
 3-46 procurement and contract management staff on best practices and
 3-47 methodologies for information technology contracts;
 3-48 (4) review and provide recommendations on the final
 3-49 negotiated terms of a contract for the development or
 3-50 implementation of a major information resources project with a
 3-51 value of at least \$10 million; and
 3-52 (5) provide a report to the governor, lieutenant
 3-53 governor, speaker of the house of representatives, and presiding
 3-54 officer of the standing committee of each house of the legislature
 3-55 with primary jurisdiction over appropriations by December 1 of each
 3-56 even-numbered year that includes:
 3-57 (A) the performance indicator report required by
 3-58 Section 2054.159(a);
 3-59 (B) a summary of any major issues identified in
 3-60 state agency reports submitted under Section 2054.159(f);
 3-61 (C) an appendix containing any justifications
 3-62 submitted to the quality assurance team under Section 2054.160(d);
 3-63 and
 3-64 (D) any additional information considered
 3-65 appropriate by the quality assurance team.
 3-66 (d) The comptroller by rule shall develop guidelines for the
 3-67 additional or reduced monitoring of major information resources
 3-68 projects and associated contracts of state agencies during the
 3-69 periods described by Sections 2261.258(c)(2)(A), (B), and (C).

4-1 (e) The quality assurance team may waive the review
4-2 authorized by Subsection (b)(2) for any project for which the team
4-3 determines that a waiver of the review is appropriate because of the
4-4 project's associated risk.

4-5 SECTION 7. Section 2054.159, Government Code, is amended by
4-6 amending Subsection (b) and adding Subsections (f) and (g) to read
4-7 as follows:

4-8 (b) The department by rule shall develop the performance
4-9 indicators the quality assurance team is required to monitor under
4-10 Subsection (a) and obtain the approval of each member of the quality
4-11 assurance team for the performance indicators. In adopting rules
4-12 under this subsection, the department shall consider applicable
4-13 information technology industry standards.

4-14 (f) For each major information resources project, a state
4-15 agency shall provide the quality assurance team any verification
4-16 and validation report or quality assurance report related to the
4-17 project not later than the 10th day after the date the agency
4-18 receives a request for the report.

4-19 (g) The quality assurance team may request any information
4-20 necessary to determine a major information resources project's
4-21 potential risk.

4-22 SECTION 8. Subchapter G, Chapter 2054, Government Code, is
4-23 amended by adding Section 2054.160 to read as follows:

4-24 Sec. 2054.160. REVIEW OF CONTRACT FOR MAJOR INFORMATION
4-25 RESOURCES PROJECT. (a) For each contract for the development or
4-26 implementation of a major information resources project with a
4-27 value of at least \$10 million, a state agency shall:

4-28 (1) submit the proposed terms of the contract to the
4-29 quality assurance team before the start of negotiations; and

4-30 (2) submit the final negotiated unsigned contract to
4-31 the quality assurance team for review under Section 2054.158(b)(4).

4-32 (b) After the quality assurance team makes a recommendation
4-33 under Section 2054.158(b)(4), a state agency shall:

4-34 (1) comply with the recommendation; or

4-35 (2) submit to the quality assurance team a written
4-36 explanation regarding why the recommendation is not applicable to
4-37 the contract under review.

4-38 (c) Before amending a contract related to a major
4-39 information resources project, a state agency must notify the
4-40 governor, lieutenant governor, speaker of the house of
4-41 representatives, presiding officer of the standing committee of
4-42 each house of the legislature with primary jurisdiction over
4-43 appropriations, and quality assurance team if:

4-44 (1) the total value of the amended contract exceeds or
4-45 will exceed the initial contract value by 10 percent or more; or

4-46 (2) the amendment requires the contractor to provide
4-47 consultative services, technical expertise, or other assistance in
4-48 defining project scope or deliverables.

4-49 (d) A state agency shall provide to the quality assurance
4-50 team a justification for an amendment subject to Subsection (c).

4-51 SECTION 9. Section 2054.301, Government Code, is amended to
4-52 read as follows:

4-53 Sec. 2054.301. APPLICABILITY[~~, DEFINITION~~]. [~~(a)~~] This
4-54 subchapter applies only to[~~+~~

4-55 [~~(1)~~] a major information resources project[~~, and~~

4-56 [~~(2)~~] a major contract].

4-57 [~~(b)~~ In this subchapter, "major contract" means a major
4-58 contract as defined by Section 2262.001(4) under which a vendor
4-59 will perform or manage an outsourced function or process.]

4-60 SECTION 10. Section 2054.302, Government Code, is amended
4-61 by amending Subsection (b) and adding Subsection (d) to read as
4-62 follows:

4-63 (b) The department[~~, in consultation with the Legislative~~
4-64 ~~Budget Board and state auditor's office,~~] shall develop and provide
4-65 guidelines and forms for the documents required by this subchapter.

4-66 (d) The guidelines and forms developed under Subsection (b)
4-67 must be approved by each member of the quality assurance team.

4-68 SECTION 11. Section 2054.303, Government Code, is amended
4-69 by amending Subsections (a) and (c) and adding Subsection (d) to

5-1 read as follows:

5-2 (a) For each proposed major information resources project
5-3 [~~or major contract~~], a state agency must prepare:

5-4 (1) a business case providing the initial
5-5 justification for the project [~~or contract, including the~~
5-6 ~~anticipated return on investment in terms of cost savings and~~
5-7 ~~efficiency for the project or contract~~]; and

5-8 (2) if the state agency has been assigned the rating
5-9 under Section 2261.258(a)(1):

5-10 (A) a statewide impact analysis of the project's
5-11 [~~or contract's~~] effect on the state's common information resources
5-12 infrastructure [~~, including the possibility of reusing code or other~~
5-13 ~~resources~~]; and

5-14 (B) [~~(3) in consultation with the department,~~] a
5-15 technical architectural assessment of the project, if requested by
5-16 the quality assurance team [~~or contract~~].

5-17 (c) The department shall use the analysis to ensure that the
5-18 proposed project [~~or major contract~~] does not unnecessarily
5-19 duplicate existing statewide information resources technology.

5-20 (d) After the quality assurance team makes a recommendation
5-21 relating to a business case under Section 2054.158(b)(2), a state
5-22 agency shall:

5-23 (1) comply with the recommendation; or

5-24 (2) submit to the quality assurance team a written
5-25 explanation regarding why the recommendation is not applicable to
5-26 the project under review.

5-27 SECTION 12. Sections 2054.304(a) and (b), Government Code,
5-28 are amended to read as follows:

5-29 (a) A state agency shall develop a project plan for each
5-30 major information resources project [~~or major contract~~].

5-31 (b) The [~~Except as provided by Subsection (c), the~~] state
5-32 agency must file the project plan with the quality assurance team
5-33 and the department before the agency [~~+~~

5-34 [~~(1)~~] spends more than 10 percent of allocated funds
5-35 for the project [~~or major contract; or~~

5-36 [~~(2) first issues a vendor solicitation for the~~
5-37 ~~project or contract~~].

5-38 SECTION 13. Section 2054.305, Government Code, is amended
5-39 to read as follows:

5-40 Sec. 2054.305. PROCUREMENT PLAN AND METHOD FOR MONITORING
5-41 CONTRACTS. Before issuing a [~~vendor~~] solicitation for a [~~project~~
5-42 ~~or major~~] contract subject to review under Section 2054.158(b)(4),
5-43 the state agency must develop, consistent with any acquisition plan
5-44 provided in the guide developed under Section 2262.051 [~~department~~
5-45 ~~guidelines~~]:

5-46 (1) a procurement plan with anticipated service levels
5-47 and performance standards for each contractor [~~vendor~~]; and

5-48 (2) a method to monitor changes to the scope of each
5-49 contract.

5-50 SECTION 14. Section 2054.307(a), Government Code, is
5-51 amended to read as follows:

5-52 (a) A state agency's executive director, or the executive
5-53 director's designee, [~~information resources manager, designated~~
5-54 ~~project manager, and the agency employee in charge of information~~
5-55 ~~security for the agency~~] must approve [~~and sign~~]:

5-56 (1) each document required by this subchapter; and

5-57 (2) if the department requires the approval [~~and~~
5-58 ~~signatures~~], any other document related to this subchapter.

5-59 SECTION 15. Section 2102.005, Government Code, is amended
5-60 to read as follows:

5-61 Sec. 2102.005. INTERNAL AUDITING REQUIRED. (a) A state
5-62 agency shall conduct a program of internal auditing that includes:

5-63 (1) an annual audit plan that is prepared using risk
5-64 assessment techniques and that identifies the individual audits to
5-65 be conducted during the year; and

5-66 (2) periodic audits of the agency's major systems and
5-67 controls, including:

5-68 (A) accounting systems and controls;

5-69 (B) administrative systems and controls; and

6-1 (C) electronic data processing systems and
6-2 controls.

6-3 (b) In conducting the internal auditing program under
6-4 Subsection (a), a state agency shall consider methods for ensuring
6-5 compliance with contract processes and controls and for monitoring
6-6 agency contracts.

6-7 SECTION 16. Section 2155.089, Government Code, is amended
6-8 to read as follows:

6-9 Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) After a
6-10 contract is completed or otherwise terminated, each state agency
6-11 shall review the vendor's performance under the contract. If the
6-12 value of the contract exceeds \$5 million, the state agency shall
6-13 review the vendor's performance:

6-14 (1) at least once each year during the term of the
6-15 contract; and

6-16 (2) at each key milestone identified for the contract.

6-17 (b) The state agency shall report to the comptroller, using
6-18 the tracking system established by Section 2262.055, on the results
6-19 of each [the] review conducted under Subsection (a) regarding a
6-20 vendor's performance under a contract.

6-21 (b-1) A state agency may not extend a vendor's contract
6-22 until after the agency reports the results of each review of the
6-23 vendor conducted under Subsection (a)(1) or (2), as applicable, in
6-24 the manner prescribed by Subsection (b).

6-25 (c) This section does not apply to:

6-26 (1) an enrollment contract described by 1 T.A.C.
6-27 Section 391.183 as that section existed on September 1, 2015; ~~or~~

6-28 (2) a contract of the Employees Retirement System of
6-29 Texas ~~[or the Teacher Retirement System of Texas]~~ except for a
6-30 contract with a nongovernmental entity for claims administration of
6-31 a group health benefit plan under Subtitle H, Title 8, Insurance
6-32 Code; or

6-33 (3) a contract entered into by:

6-34 (A) the comptroller under Section 2155.061; or

6-35 (B) the Department of Information Resources
6-36 under Section 2157.068.

6-37 SECTION 17. Section 2155.144, Government Code, is amended
6-38 by adding Subsection (b-2) to read as follows:

6-39 (b-2) The Health and Human Services Commission is delegated
6-40 the authority to procure goods and services related to a contract
6-41 for:

6-42 (1) a project to construct or expand a state hospital
6-43 operated by a health and human services agency or a state supported
6-44 living center as defined by Section 531.002, Health and Safety
6-45 Code; or

6-46 (2) a deferred maintenance project for a health
6-47 facility described by Subdivision (1).

6-48 SECTION 18. Section 2254.024(a), Government Code, is
6-49 amended to read as follows:

6-50 (a) This subchapter does not apply to or discourage the use
6-51 of consulting services provided by:

6-52 (1) practitioners of professional services described
6-53 in Subchapter A;

6-54 (2) private legal counsel;

6-55 (3) investment counselors;

6-56 (4) actuaries;

6-57 (5) medical or dental services providers; or

6-58 (6) other consultants whose services are determined by
6-59 the governing board of a retirement system trust fund to be
6-60 necessary for the governing board to perform its constitutional
6-61 fiduciary duties~~[, except that the governing board shall comply~~
6-62 ~~with Section 2254.030].~~

6-63 SECTION 19. The heading to Section 2254.029, Government
6-64 Code, is amended to read as follows:

6-65 Sec. 2254.029. PUBLICATION IN STATE BUSINESS DAILY [TEXAS
6-66 REGISTER] BEFORE ENTERING INTO MAJOR CONSULTING SERVICES CONTRACT.

6-67 SECTION 20. Section 2254.029(a), Government Code, is
6-68 amended to read as follows:

6-69 (a) Not later than the 30th day before the date it enters

7-1 into a major consulting services contract, a state agency must post
7-2 in the state business daily under Section 2155.083 [~~shall file with~~
7-3 ~~the secretary of state for publication in the Texas Register~~]:

- 7-4 (1) an invitation for consultants to provide offers of
- 7-5 consulting services;
- 7-6 (2) the name of the individual who should be contacted
- 7-7 by a consultant that intends to make an offer;
- 7-8 (3) the closing date for the receipt of offers; and
- 7-9 (4) the procedure by which the state agency will award
- 7-10 the contract.

7-11 SECTION 21. Section 2254.031(a), Government Code, is
7-12 amended to read as follows:

7-13 (a) A state agency that intends to renew, amend, or extend a
7-14 major consulting services contract shall[+]

7-15 [~~(1) file with the secretary of state for publication~~
7-16 ~~in the Texas Register the information required by Section 2254.030~~
7-17 ~~not later than the 20th day after the date the contract is renewed~~
7-18 ~~if the renewal contract is not a major consulting services~~
7-19 ~~contract; or~~

7-20 [~~(2)~~] comply with Sections 2254.028 and 2254.029 if
7-21 the contract after the renewal, amendment, or extension [~~contract~~]
7-22 is a major consulting services contract.

7-23 SECTION 22. Subchapter B, Chapter 2261, Government Code, is
7-24 amended by adding Sections 2261.0525 and 2261.054 to read as
7-25 follows:

7-26 Sec. 2261.0525. CERTIFICATION OF VENDOR ASSESSMENT
7-27 PROCESS. (a) Before a state agency may award a contract to a

7-28 vendor, the agency's procurement director must review the process
7-29 and all documents used by the agency to assess each vendor who
7-30 responded to the solicitation. The procurement director must
7-31 certify in writing that:

7-32 (1) the agency assessed each vendor's response to the
7-33 solicitation using the evaluation criteria published in the
7-34 solicitation or, if applicable, the written evaluation criteria
7-35 established by the agency; and

7-36 (2) the final calculation of scoring of responses was
7-37 accurate.

7-38 (b) A state agency shall justify in writing any change in
7-39 the scoring of a vendor that occurs following the initial
7-40 assessment and scoring of responses. The written justification
7-41 must be reviewed by the agency's procurement director. The
7-42 procurement director shall certify in writing that the change in
7-43 scoring was appropriate.

7-44 (c) A state agency's procurement director may delegate to a
7-45 person whose position in the agency's procurement office is at
7-46 least equal to the position of contract manager the certification
7-47 authority under this section if the agency has met the conditions
7-48 prescribed by the comptroller under Section 2262.053(h).

7-49 (d) A written certification or justification required by
7-50 this section must be placed in the contract file.

7-51 Sec. 2261.054. STATEMENT REGARDING VENDOR SELECTION
7-52 REQUIRED FOR CERTAIN CONTRACT AWARDS. If a state agency awards a
7-53 contract to a vendor who did not receive the highest score in an
7-54 assessment process certified under Section 2261.0525, the agency
7-55 shall state in writing in the contract file the reasons for making
7-56 the award.

7-57 SECTION 23. The heading to Subchapter E, Chapter 2261,
7-58 Government Code, is amended to read as follows:

7-59 SUBCHAPTER E. CONTRACTOR OVERSIGHT AND LIABILITY

7-60 SECTION 24. Subchapter E, Chapter 2261, Government Code, is
7-61 amended by adding Section 2261.204 to read as follows:

7-62 Sec. 2261.204. LIABILITY PROVISIONS. (a) Each state
7-63 agency shall include in the contract file for each of its contracts
7-64 for goods or services subject to this chapter a written explanation
7-65 of the agency's decision to include or not include in the contract a
7-66 provision for liquidated damages or another form of liability for
7-67 damages caused by the contractor.

7-68 (b) A contract file must also include, if applicable, a
7-69 written justification for any provision in the contract that limits

8-1 the liability of a contractor for damages.

8-2 (c) If an extension of a state agency's contract described
 8-3 by Subsection (a) modifies a provision for liquidated damages or
 8-4 another provision relating to a contractor's liability for damages,
 8-5 the agency must amend the written explanation or justification
 8-6 required by this section to include a justification for the
 8-7 modification.

8-8 SECTION 25. Section [2261.251\(b\)](#), Government Code, is
 8-9 amended to read as follows:

8-10 (b) This subchapter does not apply to a contract of the
 8-11 Employees Retirement System of Texas [~~or the Teacher Retirement~~
 8-12 ~~System of Texas~~] except for a contract with a nongovernmental
 8-13 entity for claims administration of a group health benefit plan
 8-14 under Subtitle H, Title 8, Insurance Code.

8-15 SECTION 26. Section [2261.254\(d\)](#), Government Code, is
 8-16 amended to read as follows:

8-17 (d) The governing body or governing official of a state
 8-18 agency, as appropriate, may delegate to the executive director or a
 8-19 deputy executive director of the agency the approval and signature
 8-20 authority under Subsection (c).

8-21 SECTION 27. Subchapter F, Chapter [2261](#), Government Code, is
 8-22 amended by adding Sections [2261.258](#) and [2261.259](#) to read as
 8-23 follows:

8-24 Sec. 2261.258. MONITORING ASSESSMENT BY STATE AUDITOR.

8-25 (a) Before July 1 of each year, the state auditor shall assign one
 8-26 of the following ratings to each of the 25 largest state agencies in
 8-27 that state fiscal year as determined by the Legislative Budget
 8-28 Board:

- 8-29 (1) additional monitoring warranted;
 8-30 (2) no additional monitoring warranted; or
 8-31 (3) reduced monitoring warranted.

8-32 (b) In assigning a rating to a state agency as required
 8-33 under Subsection (a), the state auditor shall consider the
 8-34 following information, as applicable:

- 8-35 (1) results of an audit of:
 8-36 (A) the agency conducted by the state auditor
 8-37 under Chapter [321](#); or
 8-38 (B) the agency's contracts and contract
 8-39 processes and controls conducted by the agency's internal auditors
 8-40 or by the state auditor;
 8-41 (2) results of a purchase audit conducted by the
 8-42 comptroller under Section [2155.325](#);
 8-43 (3) information reported by the quality assurance team
 8-44 established under Section [2054.158](#) relating to the agency's major
 8-45 information resources projects;
 8-46 (4) information from the Contract Advisory Team
 8-47 established under Subchapter C, Chapter [2262](#), relating to reviews
 8-48 of the agency's contracts and contract solicitation documents;
 8-49 (5) information relating to agency findings from a
 8-50 review of the agency conducted by:
 8-51 (A) the Legislative Budget Board; and
 8-52 (B) the Sunset Advisory Commission under Chapter
 8-53 [325](#) (Texas Sunset Act);
 8-54 (6) the agency's self-reported improvements to the
 8-55 agency's contracting processes; and
 8-56 (7) any additional internal analysis provided by the
 8-57 agency.

8-58 (c) On or before September 1 of each year, the state auditor
 8-59 shall submit to the comptroller a report that:

- 8-60 (1) lists each state agency that was assigned a rating
 8-61 under Subsection (a); and
 8-62 (2) for a state agency that was assigned a rating under
 8-63 Subsection (a)(1) or (3), specifies that additional or reduced
 8-64 monitoring, as applicable, is required during one or more of the
 8-65 following periods:

- 8-66 (A) contract solicitation development;
 8-67 (B) contract formation and award; or
 8-68 (C) contract management and termination.

8-69 (d) The comptroller by rule shall develop guidelines for the

9-1 additional or reduced monitoring of a state agency during the
 9-2 periods described by Subsections (c)(2)(A), (B), and (C) for a
 9-3 contract that falls under the monetary thresholds for review or
 9-4 monitoring by the Contract Advisory Team or the quality assurance
 9-5 team.

9-6 (e) The state auditor may request any information necessary
 9-7 from a state agency, the Contract Advisory Team, or the quality
 9-8 assurance team to comply with the requirements of this section, and
 9-9 the agency or team, as applicable, shall provide the requested
 9-10 information.

9-11 (f) The state auditor and the comptroller shall share
 9-12 information as necessary to fulfill their respective duties under
 9-13 this section.

9-14 (g) The state auditor's duties under this section must be
 9-15 included in the audit plan and approved by the legislative audit
 9-16 committee under Section 321.013.

9-17 Sec. 2261.259. ELECTRONIC COMPLIANCE SUBMISSIONS. A state
 9-18 agency that uses the centralized accounting and payroll system
 9-19 authorized under Sections 2101.035 and 2101.036 or an alternative
 9-20 computer software system for compliance requirements related to the
 9-21 procurement of goods or services may electronically submit to the
 9-22 comptroller using that computer software system a written
 9-23 justification, verification, notification, or acknowledgement
 9-24 required under this chapter or Subchapter B, Chapter 2155.

9-25 SECTION 28. Subchapter B, Chapter 2262, Government Code, is
 9-26 amended by adding Section 2262.053 to read as follows:

9-27 Sec. 2262.053. CONTRACT FILE CHECKLIST; CERTIFICATION OF
 9-28 AGENCY COMPLIANCE. (a) Each state agency shall include in the
 9-29 contract file for each of its contracts a checklist to ensure the
 9-30 agency's compliance with state laws and rules relating to the
 9-31 acquisition of goods and services by the agency.

9-32 (b) The comptroller shall develop and periodically update a
 9-33 model contract file checklist and make the checklist available for
 9-34 use by state agencies. The comptroller shall periodically update
 9-35 the checklist.

9-36 (c) The comptroller may adopt rules necessary to develop or
 9-37 update the model contract file checklist.

9-38 (d) The model contract file checklist must address each
 9-39 stage of the procurement process and must include, at a minimum, a
 9-40 description of:

9-41 (1) the documents that are required to be maintained
 9-42 during each stage of the procurement process in accordance with
 9-43 applicable state laws and comptroller rules; and

9-44 (2) the procedures and documents that are required to
 9-45 be completed during the following stages of the procurement
 9-46 process:

9-47 (A) contract solicitation development;

9-48 (B) contract formation and award; and

9-49 (C) contract management.

9-50 (e) A state agency may develop its own contract file
 9-51 checklist based on the procurement and contracting needs of that
 9-52 agency, provided that the checklist developed by the agency is
 9-53 consistent with the comptroller's model contract file checklist and
 9-54 meets any requirements established by comptroller rule under
 9-55 Subsection (c).

9-56 (f) Before a state agency awards a contract to a vendor for
 9-57 the purchase of goods or services, the agency's contract manager or
 9-58 procurement director must:

9-59 (1) review the contents of the contract file for the
 9-60 contract, including the checklist, to ensure that all documents
 9-61 required by state law or applicable agency rules are complete and
 9-62 present in the file; and

9-63 (2) certify in a written document to be included in the
 9-64 contract file that the review required under Subdivision (1) was
 9-65 completed.

9-66 (g) A state agency's contract manager or procurement
 9-67 director may delegate to a person in the agency's procurement
 9-68 office the certification authority under this section.

9-69 (h) The comptroller by rule shall prescribe the conditions

10-1 under which a state agency's contract manager or procurement
10-2 director:

10-3 (1) must make the certification required by Subsection
10-4 (f); and

10-5 (2) may delegate the certification authority under
10-6 this section.

10-7 SECTION 29. The following provisions of the Government Code
10-8 are repealed:

- 10-9 (1) Section 2054.1181(f);
- 10-10 (2) Section 2054.1184;
- 10-11 (3) Sections 2054.159(c) and (d);
- 10-12 (4) Section 2054.304(c);
- 10-13 (5) Section 2254.030;
- 10-14 (6) Section 2254.031(c); and
- 10-15 (7) Section 2254.033(b).

10-16 SECTION 30. As soon as practicable after the effective date
10-17 of this Act, the comptroller of public accounts, the Department of
10-18 Information Resources, and each affected state agency as necessary,
10-19 shall adopt the rules, processes, and procedures and take the
10-20 actions necessary to implement the changes in law made by this Act.

10-21 SECTION 31. (a) Except as provided by Subsections (b) and
10-22 (c), this Act applies only in relation to a contract:

10-23 (1) for which a state agency first advertises or
10-24 otherwise solicits bids, proposals, offers, or qualifications on or
10-25 after the effective date of this Act;

10-26 (2) that is extended or modified on or after the
10-27 effective date of this Act; or

10-28 (3) for which a change order is submitted on or after
10-29 the effective date of this Act.

10-30 (b) Section 2054.137, Government Code, as added by this Act,
10-31 applies only to a contract entered into or renewed on or after the
10-32 effective date of this Act.

10-33 (c) The changes in law made by this Act that apply to a major
10-34 consulting services contract apply only to a major consulting
10-35 services contract entered into or amended, modified, renewed, or
10-36 extended on or after the effective date of this Act. A major
10-37 consulting services contract entered into or amended, modified,
10-38 renewed, or extended before the effective date of this Act is
10-39 governed by the law in effect on the date the contract was entered
10-40 into or amended, modified, renewed, or extended, and the former law
10-41 is continued in effect for that purpose.

10-42 SECTION 32. Notwithstanding Section 2261.258, Government
10-43 Code, as added by this Act, the first report required under that
10-44 section is due on or before September 1, 2020.

10-45 SECTION 33. This Act takes effect September 1, 2019.

10-46 * * * * *