

Chapter 953

S.B. No. 65

AN ACT

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

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

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

6 Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS
7 BY STATE AGENCIES. (a) Notwithstanding Section 441.185 or
8 441.187, a state agency:

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

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

14 (A) the contract is completed or expires; or

15 (B) all issues that arise from any litigation,
16 claim, negotiation, audit, open records request, administrative
17 review, or other action involving the contract or documents are
18 resolved.
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20 (b) A contract solicitation document that is an electronic
21 document must be retained under Subsection (a) in the document's
22 electronic form. A state agency may print and retain the document
23 in paper form only if the agency provides for the preservation,
24 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.

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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

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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. Section 2054.158, Government Code, is amended by
14 amending Subsection (b) and adding Subsections (d) and (e) to read
15 as follows:

16 (b) The quality assurance team shall:

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

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

27 (3) provide annual training for state agency

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1 procurement and contract management staff on best practices and
2 methodologies for information technology contracts;

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

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

12 (A) the performance indicator report required by
13 Section 2054.159(a);

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

16 (C) an appendix containing any justifications
17 submitted to the quality assurance team under Section 2054.160(d);
18 and

19 (D) any additional information considered
20 appropriate by the quality assurance team.

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

25 (e) The quality assurance team may waive the review
26 authorized by Subsection (b)(2) for any project for which the team
27 determines that a waiver of the review is appropriate because of the

1 project's associated risk.

2 SECTION 6. Section 2054.159, Government Code, is amended by
3 adding Subsections (f) and (g) to read as follows:

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

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

12 SECTION 7. Subchapter G, Chapter 2054, Government Code, is
13 amended by adding Section 2054.160 to read as follows:

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

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

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

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

24 (1) comply with the recommendation; or

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

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

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

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

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

14 SECTION 8. Section 2054.301, Government Code, is amended to
15 read as follows:

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

18 [~~(1)~~] a major information resources project [~~and~~
19 [~~(2)~~ a major contract].

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

23 SECTION 9. Section 2054.302(b), Government Code, is amended
24 to read as follows:

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

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1 SECTION 10. 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

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1 the project under review.

2 SECTION 11. 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 12. 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 13. Section 2054.307(a), Government Code, is
26 amended to read as follows:

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

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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 14. 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 15. 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 16. 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 17. Section 2252.908(b), Government Code, is
12 amended to read as follows:

13 (b) This section applies only to a contract of a
14 governmental entity or state agency that:

15 (1) requires an action or vote by the governing body of
16 the entity or agency before the contract may be signed; [~~or~~]

17 (2) has a value of at least \$1 million; or

18 (3) is for services that would require a person to
19 register as a lobbyist under Chapter 305.

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

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

24 (1) practitioners of professional services described
25 in Subchapter A;

26 (2) private legal counsel;

27 (3) investment counselors;

- 1 (4) actuaries;
- 2 (5) medical or dental services providers; or
- 3 (6) other consultants whose services are determined by
- 4 the governing board of a retirement system trust fund to be
- 5 necessary for the governing board to perform its constitutional
- 6 fiduciary duties[~~, except that the governing board shall comply~~
- 7 ~~with Section 2254.030].~~

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

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

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

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

- 18 (1) an invitation for consultants to provide offers of
- 19 consulting services;
- 20 (2) the name of the individual who should be contacted
- 21 by a consultant that intends to make an offer;
- 22 (3) the closing date for the receipt of offers; and
- 23 (4) the procedure by which the state agency will award
- 24 the contract.

25 SECTION 21. (a) Section 2254.030, Government Code, is
26 amended to read as follows:

27 Sec. 2254.030. REQUIRED DISCLOSURE AND ITEMIZATION OF

1 CERTAIN EXPENDITURES RELATING TO LOBBYING ACTIVITIES [~~PUBLICATION~~
2 ~~IN TEXAS REGISTER~~] AFTER ENTERING INTO A [~~MAJOR~~] CONSULTING
3 SERVICES CONTRACT. (a) A political subdivision that enters or has
4 entered into a contract for consulting services with a state
5 agency, regardless of whether the term of the contract has expired,
6 shall prominently display on the political subdivision's Internet
7 website the following regarding contracts for services that would
8 require a person to register as a lobbyist under Chapter 305:

9 (1) the execution dates;

10 (2) the contract duration terms, including any
11 extension options;

12 (3) the effective dates;

13 (4) the final amount of money the political
14 subdivision paid in the previous fiscal year; and

15 (5) a list of all legislation advocated for, on, or
16 against by all parties and subcontractors to the contract,
17 including the position taken on each piece of legislation in the
18 prior fiscal year.

19 (b) In lieu of displaying the items described by Subsections
20 (a)(1)-(5) regarding a contract for services that would require a
21 person to register as a lobbyist under Chapter 305, a political
22 subdivision may post on the political subdivision's Internet
23 website the contract for those services.

24 (c) Information required to be displayed on a political
25 subdivision's Internet website under this section is public
26 information subject to disclosure under Chapter 552.

27 (d) The proposed budget of a political subdivision

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1 described by Subsection (a) must include, in a manner allowing for
2 as clear a comparison as practicable between those expenditures in
3 the proposed budget and actual expenditures for the same purpose in
4 the preceding year, a line item indicating expenditures for
5 directly or indirectly influencing or attempting to influence the
6 outcome of legislation or administrative action, as those terms are
7 defined in Section 305.002 [~~Not later than the 20th day after the~~
8 ~~date of entering into a major consulting services contract, the~~
9 ~~contracting state agency shall file with the secretary of state for~~
10 ~~publication in the Texas Register.~~

11 [~~(1) a description of the activities that the~~
12 ~~consultant will conduct,~~

13 [~~(2) the name and business address of the consultant,~~

14 [~~(3) the total value and the beginning and ending~~
15 ~~dates of the contract, and~~

16 [~~(4) the dates on which documents, films, recordings,~~
17 ~~or reports that the consultant is required to present to the agency~~
18 ~~are due].~~

19 (b) Section 2254.030, Government Code, as amended by this
20 section, applies to a consulting services contract entered into by
21 a political subdivision before, on, or after the effective date of
22 this Act.

23 SECTION 22. Section 2254.031(a), Government Code, is
24 amended to read as follows:

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

27 [~~(1) file with the secretary of state for publication~~

1 ~~in the Texas Register the information required by Section 2254.030~~
2 ~~not later than the 20th day after the date the contract is renewed~~
3 ~~if the renewal contract is not a major consulting services~~
4 ~~contract, or~~

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

8 SECTION 23. Subchapter B, Chapter 2261, Government Code, is
9 amended by adding Sections 2261.0525 and 2261.054 to read as
10 follows:

11 Sec. 2261.0525. CERTIFICATION OF VENDOR ASSESSMENT
12 PROCESS. (a) Before a state agency may award a contract to a
13 vendor, the agency's procurement director must review the process
14 and all documents used by the agency to assess each vendor who
15 responded to the solicitation. The procurement director must
16 certify in writing that:

17 (1) the agency assessed each vendor's response to the
18 solicitation using the evaluation criteria published in the
19 solicitation or, if applicable, the written evaluation criteria
20 established by the agency; and

21 (2) the final calculation of scoring of responses was
22 accurate.

23 (b) A state agency shall justify in writing any change in
24 the scoring of a vendor that occurs following the initial
25 assessment and scoring of responses. The written justification
26 must be reviewed by the agency's procurement director. The
27 procurement director shall certify in writing that the change in

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1 scoring was appropriate.

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

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

9 Sec. 2261.054. STATEMENT REGARDING VENDOR SELECTION
10 REQUIRED FOR CERTAIN CONTRACT AWARDS. If a state agency awards a
11 contract to a vendor who did not receive the highest score in an
12 assessment process certified under Section 2261.0525, the agency
13 shall state in writing in the contract file the reasons for making
14 the award.

15 SECTION 24. The heading to Subchapter E, Chapter 2261,
16 Government Code, is amended to read as follows:

17 SUBCHAPTER E. CONTRACTOR OVERSIGHT AND LIABILITY

18 SECTION 25. Subchapter E, Chapter 2261, Government Code, is
19 amended by adding Section 2261.204 to read as follows:

20 Sec. 2261.204. LIABILITY PROVISIONS. (a) Each state
21 agency shall include in the contract file for each of its contracts
22 for goods or services subject to this chapter a written explanation
23 of the agency's decision to include or not include in the contract a
24 provision for liquidated damages or another form of liability for
25 damages caused by the contractor.

26 (b) A contract file must also include, if applicable, a
27 written justification for any provision in the contract that limits

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1 the liability of a contractor for damages.

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

8 SECTION 26. Section 2261.251(b), Government Code, is
9 amended to read as follows:

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

15 SECTION 27. Section 2261.254(d), Government Code, is
16 amended to read as follows:

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

21 SECTION 28. Subchapter F, Chapter 2261, Government Code, is
22 amended by adding Sections 2261.258 and 2261.259 to read as
23 follows:

24 Sec. 2261.258. MONITORING ASSESSMENT BY STATE AUDITOR.

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

1 Board:

2 (1) additional monitoring warranted;

3 (2) no additional monitoring warranted; or

4 (3) reduced monitoring warranted.

5 (b) In assigning a rating to a state agency as required
6 under Subsection (a), the state auditor shall consider the
7 following information, as applicable:

8 (1) results of an audit of:

9 (A) the agency conducted by the state auditor
10 under Chapter 321; or

11 (B) the agency's contracts and contract
12 processes and controls conducted by the agency's internal auditors
13 or by the state auditor;

14 (2) results of a purchase audit conducted by the
15 comptroller under Section 2155.325;

16 (3) information reported by the quality assurance team
17 established under Section 2054.158 relating to the agency's major
18 information resources projects;

19 (4) information from the Contract Advisory Team
20 established under Subchapter C, Chapter 2262, relating to reviews
21 of the agency's contracts and contract solicitation documents;

22 (5) information relating to agency findings from a
23 review of the agency conducted by:

24 (A) the Legislative Budget Board; and

25 (B) the Sunset Advisory Commission under Chapter
26 325 (Texas Sunset Act);

27 (6) the agency's self-reported improvements to the

1 agency's contracting processes; and

2 (7) any additional internal analysis provided by the
3 agency.

4 (c) On or before September 1 of each year, the state auditor
5 shall submit to the comptroller and the Department of Information
6 Resources a report that:

7 (1) lists each state agency that was assigned a rating
8 under Subsection (a); and

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

13 (A) contract solicitation development;

14 (B) contract formation and award; or

15 (C) contract management and termination.

16 (d) In consultation with the Contract Advisory Team
17 established under Subchapter C, Chapter 2262, the comptroller by
18 rule shall develop guidelines for the additional or reduced
19 monitoring of a state agency during the periods described by
20 Subsections (c)(2)(A), (B), and (C) for a contract that falls under
21 the monetary thresholds for review or monitoring by the Contract
22 Advisory Team.

23 (e) In consultation with the quality assurance team
24 established under Section 2054.158, the Department of Information
25 Resources by rule shall develop guidelines for the additional or
26 reduced monitoring of a state agency during the periods described
27 by Subsections (c)(2)(A), (B), and (C) for a contract that falls

1 under the monetary thresholds for review or monitoring by the
2 quality assurance team.

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

8 (g) The state auditor, comptroller, and Department of
9 Information Resources shall share information as necessary to
10 fulfill their respective duties under this section.

11 (h) The state auditor's duties under this section must be
12 included in the audit plan and approved by the legislative audit
13 committee under Section 321.013.

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

22 SECTION 29. Subchapter B, Chapter 2262, Government Code, is
23 amended by adding Sections 2262.053 and 2262.056 to read as
24 follows:

25 Sec. 2262.053. CONTRACT FILE CHECKLIST; CERTIFICATION OF
26 AGENCY COMPLIANCE. (a) Each state agency shall include in the
27 contract file for each of its contracts a checklist to ensure the

1 agency's compliance with state laws and rules relating to the
 2 acquisition of goods and services by the agency.

3 (b) The comptroller shall develop and periodically update a
 4 model contract file checklist and make the checklist available for
 5 use by state agencies. The comptroller shall periodically update
 6 the checklist.

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

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

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

15 (2) the procedures and documents that are required to
 16 be completed during the following stages of the procurement
 17 process:

18 (A) contract solicitation development;

19 (B) contract formation and award; and

20 (C) contract management.

21 (e) A state agency may develop its own contract file
 22 checklist based on the procurement and contracting needs of that
 23 agency, provided that the checklist developed by the agency is
 24 consistent with the comptroller's model contract file checklist and
 25 meets any requirements established by comptroller rule under
 26 Subsection (c).

27 (f) Before a state agency awards a contract to a vendor for

1 the purchase of goods or services, the agency's contract manager or
2 procurement director must:

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

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

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

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

16 (1) must make the certification required by Subsection
17 (f); and

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

20 Sec. 2262.056. APPROVAL REQUIRED FOR ASSIGNMENT OF SERVICES
21 CONTRACTS. (a) In this section:

22 (1) "Major information resources project" has the
23 meaning assigned by Section 2054.003.

24 (2) "Sensitive personal information" has the meaning
25 assigned by Section 521.002, Business & Commerce Code.

26 (b) A vendor awarded a services contract by a state agency
27 may not assign the vendor's rights under the contract to a third

1 party unless the assignment is approved by the state agency.

2 (c) At least 14 days before a state agency rejects or
3 approves a vendor's proposed assignment under Subsection (b), the
4 state agency shall notify the Legislative Budget Board of the
5 proposed assignment if the contract subject to the assignment:

- 6 (1) is for a major information resources project; or
- 7 (2) involves storing, receiving, processing,
- 8 transmitting, disposing of, or accessing sensitive personal
- 9 information in a foreign country.

10 SECTION 30. The following provisions of the Government Code
11 are repealed:

- 12 (1) Section 825.103(g);
- 13 (2) Section 2054.1181(f);
- 14 (3) Section 2054.1184;
- 15 (4) Sections 2054.159(c) and (d);
- 16 (5) Section 2054.304(c);
- 17 (6) Section 2254.031(c); and
- 18 (7) Section 2254.033(b).

19 SECTION 31. As soon as practicable after the effective date
20 of this Act, the comptroller of public accounts, the Department of
21 Information Resources, and each affected state agency as necessary,
22 shall adopt the rules, processes, and procedures and take the
23 actions necessary to implement the changes in law made by this Act.

24 SECTION 32. (a) Except as provided by Subsections (b) and
25 (c) of this section, this Act applies only in relation to a
26 contract:

- 27 (1) for which a state agency first advertises or

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1 otherwise solicits bids, proposals, offers, or qualifications on or
2 after the effective date of this Act;

3 (2) that is extended or modified on or after the
4 effective date of this Act; or

5 (3) for which a change order is submitted on or after
6 the effective date of this Act.

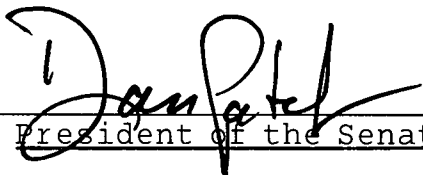
7 (b) Section 2262.056, Government Code, as added by this Act,
8 applies only to a contract entered into or renewed on or after the
9 effective date of this Act.

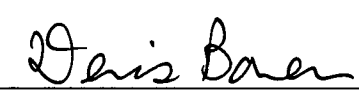
10 (c) The changes in law made by this Act that apply to a major
11 consulting services contract apply only to a major consulting
12 services contract entered into or amended, modified, renewed, or
13 extended on or after the effective date of this Act. A major
14 consulting services contract entered into or amended, modified,
15 renewed, or extended before the effective date of this Act is
16 governed by the law in effect on the date the contract was entered
17 into or amended, modified, renewed, or extended, and the former law
18 is continued in effect for that purpose.

19 SECTION 33. Notwithstanding Section 2261.258, Government
20 Code, as added by this Act, the first report required under that
21 section is due on or before September 1, 2020.

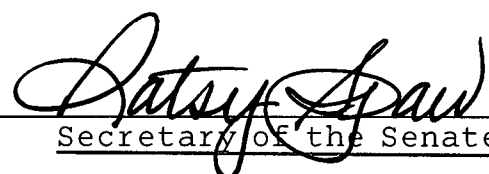
22 SECTION 34. This Act takes effect September 1, 2019.

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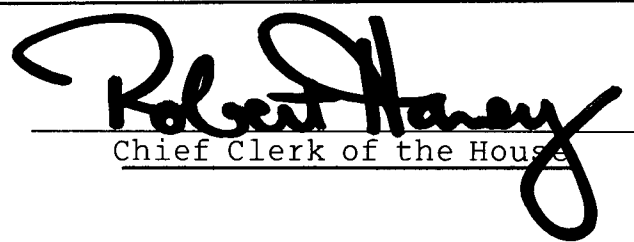

President of the Senate


Speaker of the House

I hereby certify that S.B. No. 65 passed the Senate on March 20, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 24, 2019, by the following vote: Yeas 31, Nays 0.


Secretary of the Senate

I hereby certify that S.B. No. 65 passed the House, with amendments, on May 22, 2019, by the following vote: Yeas 143, Nays 0, two present not voting.

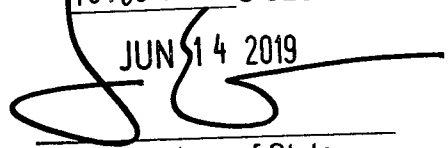

Chief Clerk of the House

Approved:

6-10-2019
Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00 am O'CLOCK


Secretary of State