(2) "Visual materials" has the meaning assigned by Section 306.005.

SECTION 4. The change in law made by this Act applies only to an offense or other violation of the law amended by this Act committed on or after the effective date of this Act. An offense or other violation of that law committed before the effective date of this Act is governed by the law in effect when the offense or violation was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense or other violation was committed before the effective date of this Act if any element of the offense or violation was committed before that date.

SECTION 5. This Act takes effect September 1, 2013.

Passed by the House on April 3, 2013: Yeas 145, Nays 2, 2 present, not voting; passed by the Senate on May 2, 2013: Yeas 31, Nays 0.

Approved May 16, 2013.
Effective September 1, 2013.

CHAPTER 48

H.B. No. 2472

AN ACT
relating to the continuation and functions of the Department of Information Resources and certain procurement functions of the comptroller of public accounts.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2054.005(a), Government Code, is amended to read as follows:
(a) The Department of Information Resources is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2021.

SECTION 2. Section 2054.021(g), Government Code, is amended to read as follows:
(g) The training program must provide information to the person regarding:
(1) this chapter and the board [the enabling legislation that created the department and its policymaking body] to which the person is appointed to serve;
(2) the programs operated by the department;
(3) the role and functions of the department;
(4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
(5) the current budget for the department;
(6) the results of the most recent formal audit of the department;
(7) the requirements of the:
(A) open meetings law, Chapter 551;
(B) open records law, Chapter 552; and
(C) administrative procedure law, Chapter 2001;
(8) the requirements of the conflict of interest laws and other laws relating to public officials; and
(9) any applicable ethics policies adopted by the department or the Texas Ethics Commission; and
(10) contract management training.

SECTION 3. Section 2054.022(c), Government Code, is amended to read as follows:
(c) An employee of the department, other than the executive director,;
[(A) the employee receives more than five percent of the employee's income from any likely bidder on the contract; or

[(B) the employee's spouse is employed by any likely bidder on the contract; and

[(2)] may not:

(1) [(A)] be a person required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, a substantial interest in the information resources technologies industry; or

(2) [(B)] be employed by a state agency as a consultant on information resources technologies.

SECTION 4. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.0331 to read as follows:

Sec. 2054.0331. CUSTOMER ADVISORY COMMITTEE. (a) The board shall appoint a customer advisory committee under Section 2054.033.

(b) The advisory committee is composed of representatives of customers who receive services from each of the department's key programs, including state agencies with fewer than 100 employees, and the public.

(c) In making appointments to the advisory committee, the board shall, to the extent practicable, ensure that the committee is composed of a cross-section of the department's customers, including institutions of higher education, and the public.

(d) The advisory committee shall report to and advise the board on the status of the department's delivery of critical statewide services.

SECTION 5. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.0345 and 2054.0346 to read as follows:

Sec. 2054.0345. DETERMINATION OF ADMINISTRATIVE FEES. (a) The department shall adopt a process to determine the amount of the administrative fee the department charges to administer any of its programs, including fees charged for programs under Sections 2054.380 and 2170.057.

(b) The process must require that the amount of a fee directly relate to the amount necessary for the department to recover the cost of its operations, as determined by the department's annual budget process.

(c) The department shall develop clear procedures directing staff for each department program and the department's financial staff to work together to determine the amount of administrative fees. The procedures must require review and approval of all administrative fees by the board, the executive director, and the department's chief financial officer.

Sec. 2054.0346. REPORTING OF ADMINISTRATIVE FEES. (a) The department shall report to the Legislative Budget Board all administrative fees that the department sets under Section 2054.0345 each fiscal year. The report must include:

(1) the underlying analysis and methodology used to determine the fee amounts; and

(2) the cost allocation charged to customers.

(b) The department shall post on the department's Internet website information about each administrative fee the department charges, including a description of how the fee is determined. The department must update this information when a contract amendment or other action results in a major change to the costs incurred or the price paid by the department or a customer of the department.

SECTION 6. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.037 to read as follows:

Sec. 2054.037. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the department's jurisdiction.
(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall:
   (1) coordinate the implementation of the policy adopted under Subsection (a);
   (2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
   (3) collect data concerning the effectiveness of those procedures.

SECTION 7. Subchapter B, Chapter 2054, Government Code, is amended by adding Sections 2054.038, 2054.039, and 2054.040 to read as follows:

Sec. 2054.038. INTERNAL AUDITOR; POWERS AND DUTIES. (a) The board shall:
   (1) appoint an internal auditor who reports directly to the board and serves at the will of the board; and
   (2) provide staff and other resources to the internal auditor as appropriate.

(b) The internal auditor shall prepare an annual audit plan using risk assessment techniques to rank high-risk functions in the department. The internal auditor shall submit the annual audit plan to the board for consideration and approval. The board may change the plan as necessary or advisable.

(c) The internal auditor may bring before the board an issue outside of the annual audit plan that requires the immediate attention of the board.

(d) The internal auditor may not be assigned any operational or management responsibilities that impair the ability of the internal auditor to make an independent examination of the department's operations. The internal auditor may provide guidance or other advice before an operational or management decision is made but may not make the decision, approve the decision, or otherwise violate this subsection.

(e) The department shall give the internal auditor unrestricted access to the activities and records of the department unless restricted by other law.

Sec. 2054.039. OPEN MEETINGS EXCEPTION FOR INTERNAL AUDITOR. A meeting between the board and the department's internal auditor to discuss issues related to fraud, waste, or abuse is not required to be an open meeting under Chapter 551.

Sec. 2054.040. AUDIT SUBCOMMITTEE. (a) The board shall maintain an audit subcommittee of the board. The subcommittee shall oversee the department's internal auditor and any other audit issues that the board considers appropriate.

(b) The subcommittee shall evaluate whether the internal auditor has sufficient resources to perform the auditor's duties and ensure that sufficient resources are available.

SECTION 8. Subchapter B, Chapter 2054, Government Code, is amended by adding Section 2054.041 to read as follows:

Sec. 2054.041. ADDITIONAL BOARD OVERSIGHT. (a) The board shall adopt a policy describing the board's role in setting a strategic direction for the department. The policy must address the board's role in developing new initiatives for and service offerings by the department, including requiring the board to evaluate and approve new initiatives for, or categories of, services offered by the department under the department's various programs.

(b) The board shall regularly evaluate the extent to which the department fulfills the department's information resources technology mission by providing cost-effective services and meeting customer needs.

(c) The board shall regularly evaluate department operations, including an evaluation of analytical data and information regarding trends in department revenue and expenses, as well as performance information.

SECTION 9. Subchapter C, Chapter 2054, Government Code, is amended by adding Section 2054.061 to read as follows:

Sec. 2054.061. USE OF CONSULTANTS AND OUTSIDE STAFF. (a) The department shall develop clear criteria for the appropriate use of consultants and outside staff by the department to temporarily augment the department's existing staff.
(b) The department shall annually analyze:
(1) the department’s staffing needs;
(2) the need for and cost-effectiveness of contracting for consultants and outside staff;
(3) whether the department could use department staff to accomplish tasks proposed for
the consultants and outside staff; and
(4) whether and what type of training or additional resources are necessary for the
department to use the department’s own staff to accomplish tasks proposed for the
consultants or outside staff.

c) In conjunction with the budget process, the department shall provide the analysis to
the board for approval. The department may not hire or train any consultants or outside
staff unless it has been approved during this budget process.

SECTION 10. Subchapter C, Chapter 2054, Government Code, is amended by adding
Sections 2054.062 and 2054.065 to read as follows:

Sec. 2054.062. INFORMATION RESOURCES TECHNOLOGIES CONSOLIDATION.
(a) The department shall develop a consistent and clear method of measuring the costs and
progress of an information resources technology consolidation initiative, including a consol-
didation under Subchapter L.

(b) The department shall work with any entity involved in an information resources
technology consolidation to develop an agreed on methodology for collecting and validating
data to determine a baseline assessment of costs. The department shall use the data both in
the department’s initial cost projections and in any later cost comparison. The department
shall coordinate with the internal auditor for guidance, subject to Section 2054.038(d), on
developing a methodology that provides an objective assessment of costs and project status.

(c) Using the methodology agreed on under Subsection (b), the department shall evaluate
actual costs and cost savings related to the consolidation. The department shall also
evaluate the progress of the department’s information resources consolidation projects
compared to the initially projected timelines for implementation. The evaluation results
must break out the information on both statewide and individual entity levels.

(d) The department shall annually report the evaluation results to:
(1) the board;
(2) the Legislative Budget Board; and
(3) customers involved in the consolidation.

Sec. 2054.065. REVIEW OF CERTAIN CONTRACT SOLICITATIONS. (a) In this
section:
(1) “Major contract” means a contract that has a value of at least $1 million.
(2) “Team” means the Contract Advisory Team established under Subchapter C, Chap-
ter 2262.

(b) For any solicitation of a major contract the department is required to submit for
review by the team, the department shall:
(1) implement any recommendations made by the team regarding the solicitation; or
(2) provide a written explanation of why the team’s recommendations cannot be
implemented.

SECTION 11. Sections 2054.260(a) and (b), Government Code, are amended to read as
follows:

(a) Not later than November 15 [September 1] of each even-numbered year, the depart-
ment shall report on the status, progress, benefits, and efficiency gains of the project. The
department shall provide the report to:
(1) the presiding officer of each house of the legislature;
(2) the chair of each committee in the legislature that has primary jurisdiction over the
department;

(3) the governor; and
(4) each state agency or local government participating in the project.

(b) Not later than November 15 [September 1] of each even-numbered year, the department shall report on financial matters, including project costs and revenues, and on any significant issues regarding contract performance on the project.

SECTION 12. Subchapter L, Chapter 2054, Government Code, is amended by adding Section 2054.392 to read as follows:

Sec. 2054.392. STATEWIDE TECHNOLOGY ACCOUNT. The comptroller shall establish in the state treasury the statewide technology account. The account is a revolving fund account for the administration of this subchapter. The account is the depository for all money received from entities served under this subchapter. Money in the account may be used only for the operation and management of a statewide technology center or for any other purpose specified by the legislature.

SECTION 13. Chapter 2054, Government Code, is amended by adding Subchapters O and P to read as follows:

SUBCHAPTER O. MAJOR OUTSOURCED CONTRACTS

Sec. 2054.521. MAJOR OUTSOURCED CONTRACT DEFINED; RULE. The board by rule shall define what constitutes a major outsourced contract with regard to contracts the department executes with entities other than this state or a political subdivision of this state. The definition must include as a major outsourced contract:

(1) outsourced contracts entered into under Subchapter I and Subchapter L of this chapter or Chapter 2170; and
(2) contracts that exceed a monetary threshold, other than those described by Subdivision (1).

Sec. 2054.522. BOARD APPROVAL AND OVERSIGHT OF MAJOR OUTSOURCED CONTRACTS. (a) The department must receive approval from the board before:

(1) entering into a major outsourced contract; or
(2) amending any major outsourced contract, if the amendment has significant statewide impact.

(b) The board shall establish one or more subcommittees to monitor the department's major outsourced contracts.

Sec. 2054.523. MANAGEMENT PLANS FOR MAJOR OUTSOURCED CONTRACTS. (a) The department shall specify procedures for administering, monitoring, and overseeing each major outsourced contract by creating a management plan for each contract. In each management plan, the department shall specify the department's approach to managing and mitigating the risks inherent in each contract.

(b) Department staff who perform contract administration and program duties shall jointly develop the management plans with input from executive management and the board. Each management plan must be approved by the executive director.

(c) Each management plan must establish clear lines of accountability and coordination of contract activities. The plan must provide details about implementing the program that is the subject of the contract as well as procedures for monitoring contractor performance, identifying and mitigating risks related to the contract, and involving and communicating with customers who will be served by any programs implemented through the contract. As appropriate, the plan must define an approach for transitioning from one major outsourced contract to another major outsourced contract.

(d) The department shall revise each management plan:

(1) as necessary to keep current during the contracting process; and
(2) when the department renews, amends, or resolicits a major outsourced contract to ensure the plan remains updated and incorporates any changes resulting from a new contract.
Sec. 2054.524. CUSTOMER INVOLVEMENT IN MAJOR OUTSOURCED CONTRACTS. The department shall establish formal procedures to ensure customer involvement in decision making regarding each of the department's major outsourced contracts, including initial analysis, solicitation development, and contract award and implementation, that affect those customers.

SUBCHAPTER P. ADDITIONAL PROVISIONS ON CONTRACTING

Sec. 2054.551. DEFINITION. In this subchapter, “contract management guide” means the guide developed under this subchapter.

Sec. 2054.552. CONFLICT OF INTEREST IN CONTRACTING. (a) A department employee may not:

1. have an interest in, or in any manner be connected with, a contract or bid for a purchase of goods or services by the department; or

2. in any manner, including by rebate or gift, directly or indirectly accept or receive from a person to whom a contract may be awarded anything of value or a promise, obligation, or contract for future reward or compensation.

(b) A department employee who violates Subsection (a)(2) is subject to dismissal.

(c) The board shall adopt rules to implement this section.

(d) The department shall train staff in the requirements of this section and Section 572.054 and incorporate the requirements into the contract management guide and the department's internal policies, including employee manuals.

Sec. 2054.553. CONTRACT MANAGEMENT TRAINING POLICY. (a) The department shall develop a policy for training department staff in contract management.

(b) The policy must establish contract management training requirements for all staff involved in contract management, including contract managers, program staff, and executive management.

(c) The policy must specify the department's overall approach to procuring and managing contracts, as well as contract-specific procedures developed in the contract management guide and under Subchapter O.

Sec. 2054.554. CONTRACT MANAGEMENT GUIDE; RULES. (a) The department shall develop and periodically update a contract management guide to provide an overall, consistent approach on procurement and management of major outsourced contracts under Subchapter O and other contracts. In updating the guide, the department shall make changes based on contract experiences and account for changing conditions to guide the updates.

(b) The department shall coordinate with the department's internal auditor, subject to Section 2054.038(d), as needed for assistance and guidance in developing procedures in the contract management guide for monitoring contracts and individual contractors.

(c) The board may adopt rules necessary to develop or update the contract management guide.

(d) The contract management guide must provide information regarding the department's:

1. general approach to business case analysis, procurement planning, contract solicitation, contract execution, and contract monitoring and oversight;

2. ethics standards and policies, including those required by Section 2054.552; and

3. approach to changing a program's internal structure or model for delivering services to customers.

(e) The contract management guide must:

1. establish clear lines of accountability, staff roles and responsibilities, and decision-making authority for program staff, contract management staff, executive management, customers, and the board;
(2) include the procedures established under Section 2054.524 regarding customer involvement; and

(3) establish the department’s process for evaluating and managing risk during each stage of contract procurement, implementation, and management.

(f) The contract management guide must describe the expectations and standards for obtaining and using customer input during all contract management phases.

SECTION 14. Section 2151.0041(a), Government Code, is amended to read as follows:

(a) The comptroller’s authority to perform any act under this title that relates to state purchasing [transfer of powers and duties to the comptroller under Section 2151.004(d) and under House Bill 3550, Acts of the 80th Legislature, Regular Session, 2007,] is subject to Chapter 325 (Texas Sunset Act). Notwithstanding any other law, that authority expires September 1, 2021, unless continued in existence as provided by Chapter 325.

SECTION 15. Chapter 2151, Government Code, is amended by adding Section 2151.0042 to read as follows:

Sec. 2151.0042. SUNSET EVALUATION. (a) The Sunset Advisory Commission shall evaluate the state’s overall procurement system, including the provisions of this subtitle and Chapter 2054. The evaluation may include any provision in state law that relates to procurement and contracting for goods and services. The commission shall present not later than January 1, 2021, a report to the legislature on its evaluation and recommendations in relation to the report’s findings.

(b) In conducting the evaluation required under Subsection (a), the commission may request the assistance of the Legislative Budget Board, the state auditor, and each standing committee of the senate and house of representatives having primary jurisdiction over matters relating to state procurement.

SECTION 16. Subchapter A, Chapter 2155, Government Code, is amended by adding Section 2155.007 to read as follows:

Sec. 2155.007. PROCUREMENT COORDINATION COMMITTEE. (a) In this section, “department” means the Department of Information Resources.

(b) The department and the comptroller shall establish a committee composed of essential personnel of the department and the comptroller to:

(1) identify:

(A) areas of overlap in the procurement functions of the department and the comptroller and methods to avoid duplication of services;

(B) mutually beneficial contracting and procurement methodologies, data collection and management techniques, and customer relations management;

(C) opportunities for collaboration on procurement functions that would benefit the state or other customers; and

(D) opportunities for consolidation of administrative or other functions to improve customer service and reduce operating costs; and

(2) develop:

(A) a standardized method for the department and the comptroller to:

(i) collect and analyze spending data relating to procurement contracts; and

(ii) benchmark and quantitatively measure cost savings and increased administrative efficiency resulting from collaboration and cooperative purchasing; and

(B) strategies that encourage coordination between the department and the comptroller relating to procurement functions.

(c) The committee may appoint advisory members as appropriate to assist the committee.

(c-1) The committee shall report to the Sunset Advisory Commission the committee’s findings under Subsection (b). The committee shall file a first report on September 1, 2015, that covers the two-year period preceding that date. The committee shall file a second report on September 1, 2017, that covers the two-year period preceding that date.
The department and the comptroller shall publish the reports required under Subsection (c-1) on the department's and the comptroller's Internet websites.

In addition to the reports required under Subsection (c-1), the department and the comptroller shall include the analysis prescribed by Subsection (b) in a report filed under Section 325.007. For purposes of this subsection, the comptroller shall file a report as required by Section 325.007, but only to the extent required by Section 2151.0041(a).

This subsection and Subsections (c-1), (c-2), and (c-3) expire October 1, 2019.

SECTION 17. Section 2157.068(b), Government Code, is amended to read as follows:

(b) The department shall negotiate with vendors to obtain the best value for the state in the purchase of commodity items. When negotiating with a vendor, the department shall use information related to the state's historical spending levels on particular commodity items to secure the best value for the state. The department may consider strategic sourcing and other methodologies to select the vendor offering the best value on commodity items. The terms and conditions of a license agreement between a vendor and the department under this section may not be less favorable to the state than the terms of similar license agreements between the vendor and retail distributors. The department shall, to the greatest extent practicable, negotiate a specific price for commonly purchased commodity items. If the department selects a vendor based on the vendor's offer of a percentage discount from the list price of commodity items, the department shall document in writing how that arrangement obtains the best value for the state.

SECTION 18. Subchapter B, Chapter 2157, Government Code, is amended by adding Section 2157.069 to read as follows:

Sec. 2157.069. CLEARING FUND ACCOUNT. The comptroller shall establish in the state treasury the clearing fund account. The account is a revolving fund account for the administration of Section 2157.068. The account is the depository for all money received from entities served under that section. Money in the account may be used only to administer that section or for any other purpose specified by the legislature.

SECTION 19. Section 2161.121(d), Government Code, is amended to read as follows:

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

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

(2) on November 15 of each year, a report on the preceding fiscal year to the joint committee charged with monitoring the implementation of the historically underutilized business goals.

SECTION 20. Section 2161.126, Government Code, is amended to read as follows:

Sec. 2161.126. EDUCATION AND OUTREACH BY COMMISSION. Before September 1 of each year, the commission shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the education and training efforts that the commission has made toward historically underutilized businesses. The report must include the following as related to historically underutilized businesses:

(1) the commission's vision, mission, and philosophy;

(2) marketing materials and other educational materials distributed by the commission;

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

(4) goals that the commission has attained during the fiscal year;

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

(6) the commission's planned future initiatives on education and outreach.

SECTION 21. Chapter 122, Human Resources Code, is amended by adding Section 122.0012 to read as follows:

Sec. 122.0012. SUNSET PROVISION. The comptroller's authority to perform any act under this chapter that relates to state purchasing is subject to Chapter 325, Government Code (Texas Sunset Act). Notwithstanding any other law, that authority expires September 1, 2021, unless continued in existence as provided by Chapter 325, Government Code.
SECTION 22. The following provisions of the Government Code are repealed:
(1) Section 497.030;
(2) Section 2054.005(b);
(3) Sections 2151.0041(b) and (c); and
(4) Section 2161.121(e).

SECTION 23. Sections 2054.260 and 2161.121, Government Code, as amended by this Act, apply only to a report due under those sections on or after September 1, 2013. A report due before September 1, 2013, is governed by the law in effect on the date the report was due, and the former law is continued in effect for that purpose.

SECTION 24. Not later than March 1, 2014, the Department of Information Resources and the comptroller of public accounts shall enter into a memorandum of understanding to facilitate the implementation of Section 2155.007, Government Code, as added by this Act.

SECTION 25. Sections 2054.522 and 2054.552, Government Code, as added by this Act, and Section 2157.068(b), Government Code, as amended by this Act, apply only to a contract for which a solicitation of bids or proposals or similar expressions of interest is published on or after September 1, 2013. A contract for which a solicitation of bids or proposals or similar expressions of interest is published before September 1, 2013, is governed by the law in effect on the date the state agency first publishes the solicitation of bids or proposals or similar expressions of interest, and the former law is continued in effect for that purpose.

SECTION 26. This Act takes effect September 1, 2013.

Passed by the House on April 3, 2013: Yeas 146, Nays 1, 2 present, not voting; passed by the Senate on May 2, 2013: Yeas 31, Nays 0.

Approved May 16, 2013.

Effective September 1, 2013.

CHAPTER 49
S.B. No. 1611
AN ACT
relating to discovery in a criminal case.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. This Act shall be known as the Michael Morton Act.

SECTION 2. Article 39.14, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (c) through (n) to read as follows:

(a) Subject to the restrictions provided by Section 264.408, Family Code, and Article 39.15 of this code, as soon as practicable after receiving a timely request from the defendant the state shall [upon motion of the defendant showing good cause therefor and upon notice to the other parties, except as provided by Article 39.15, the court in which an action is pending shall order the state before or during trial of a criminal action therein pending or on trial to] produce and permit the inspection and the electronic duplication, copying, and [or] photographing, by or on behalf of the defendant, of any offense reports, any designated documents, papers, written or recorded statements [statement] of the defendant or a witness, including witness statements of law enforcement officers but not including, (except written statements of witnesses and except] the work product of counsel for the state in the case and their investigators and their notes or report[ ], or any designated books, accounts, letters, photographs, or objects or other tangible things not otherwise privileged that[which] constitute or contain evidence material to any matter involved in the action and that [which] are in the possession, custody, or control of the state or any person under contract with the state [State or any of its agencies]. The state may provide to the defendant electronic duplicates of any documents or other information described by this article. The [order shall specify the time, place and manner of making the inspection and taking the copies and