

BILL ANALYSIS

Senate Research Center

C.S.S.B. 533
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Finance
3/27/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 84th Legislature, Regular Session, 2015, passed S.B. 20, a sweeping reform of state contracting spurred by allegations of impropriety at a state agency during the procurement of a major information resources project. The lieutenant governor subsequently charged the Senate Committee on Finance to monitor implementation of the legislation during the interim. From that review, state agencies and the private sector offered recommendations to clarify and strengthen the provisions of S.B. 20. S.B. 533 is a product of that review. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 533 amends current law relating to state agency contracting and procurement.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas comptroller of public accounts in SECTION 13 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2054.1181(a), Government Code, as follows:

(a) Requires the Department of Information Resources (DIR), at the direction of the governor, lieutenant governor, or speaker of the house of representatives, to provide additional oversight services for major information resources projects, including risk management, quality assurance services, independent project monitoring, and project management, rather than authorizes the quality assurance team, in coordination with the governor, to recommend major information resources projects to DIR for oversight and, as part of this oversight, require DIR to provide risk management, quality assurance services, independent project monitoring, and project management. Authorizes DIR to contract with a vendor to provide the necessary oversight at DIR's direction.

SECTION 2. Amends Section 2054.158, Government Code, as follows:

Sec. 2054.158. QUALITY ASSURANCE TEAM; DUTIES. (a) Includes the Texas comptroller of public accounts (comptroller) among certain entities to which this subsection applies and includes the creation of an automated project review system in the list of duties required of those entities.

(b) Includes provision of annual training for state agency procurement and contract management staff on best practices and methodologies for information technology contracts in the list of required duties of the quality assurance team.

(c) Provides that the state auditor serves on the quality assurance team as an advisor.

SECTION 3. Amends Section 2054.303(a), Government Code, to require a state agency, for each proposed major information resources project or major contract, to prepare, among certain other analyses, in consultation with DIR, a technical architectural assessment of the project or contract.

SECTION 4. Amends Section 2054.304, Government Code, by adding Subsection (d) and (e), as follows:

(d) Requires the state agency, in each project plan for a major information resources project, to consider incorporating into the project the applicable best practices recommended in the quality assurance team's annual report.

(e) Requires a state agency contract for a major information resources project to comply with the requirements in the comptroller's contract management guide developed under Section 2262.051.

SECTION 5. Amends Subchapter B, Chapter 2155, Government Code, by adding Section 2155.090 and 2155.091, as follows:

Sec. 2155.090. **VENDOR AND EMPLOYEE INTERACTION AND COMMUNICATION POLICY.** Requires the comptroller to update a contract management guide to include policies on the interactions and communication between employees of the state agency and a vendor that contracts with the state agency or seeks to conduct business with the state agency.

(b) Provides that this subtitle (State Purchasing and General Services) does not prohibit the exchange of information between a state agency and a vendor related to future solicitations or as necessary to monitor an existing contract.

Sec. 2155.091. **CHIEF PROCUREMENT OFFICER: POWERS AND DUTIES.** (a) Requires the comptroller to employ a chief procurement officer to serve as the chief procurement officer for this state.

(b) Provides that the chief procurement officer has certain authority over state agency procurement.

(c) Requires a state agency to comply with any request for information from the chief procurement officer necessary to conduct the analysis authorized by Subsection (b)(1).

(d) Requires the chief procurement officer to coordinate with DIR and the quality assurance team to conduct a contract solicitation review required by Subsection (a)(4) and make appropriate recommendations to the comptroller and legislature based on the review. Provides that this section grants the chief procurement officer authority only to review a contract solicitation. Provides that DIR or the appropriate state agency retains the authority to award a statewide information resources contract as authorized by law.

(e) Requires the chief procurement officer to coordinate with the Contract Advisory Team to conduct the review required by Section 2262.101. Requires a state agency to comply with any request for information by the chief procurement officer that is necessary to conduct the review.

SECTION 6. Amends Subchapter D, Chapter 2155, Government Code, by adding Section 2155.205, as follows:

Sec. 2155.205. **INTERSTATE PURCHASING.** (a) Authorizes the comptroller, notwithstanding Section 2156.181 or other law, to enter into agreements to authorize state agencies and political subdivisions of other states to purchase goods or services through comptroller contracts.

(b) Authorizes the comptroller to charge a reasonable administrative fee to state agencies and political subdivisions of other states that purchase a good or service under this section.

SECTION 7. Amends Sections 2157.068(e-1) and (e-2), Government Code, as follows:

(e-1) Requires a state agency contracting to purchase a commodity item to use the required list as follows:

(1) makes no changes to this subdivision;

(2) for a contract with a value of more than \$50,000 but not more than \$1 million, rather than not more than \$150,000, the agency is required to submit a request for pricing to at least three vendors on the list in the category to which the contract relates; and

(3) for a contract with a value of more than \$1 million but not more than \$5 million, rather than for a contract with a value of more than \$150,000 but not more than \$1 million, the agency is required to submit a request for pricing to a certain number of vendors.

(e-2) Prohibits a state agency from entering into a contract to purchase a commodity item if the value of the contract exceeds \$5 million, rather than \$1 million.

SECTION 8. Amends Section 2261.252, Government Code, by adding Subsections (a-1) and (e), as follows:

(a-1) Provides that a state agency employee or official is required to disclose under Subsection (a) any potential conflict of interest specified by state law or agency policy that is known by the employee or official at a certain time.

(e) Provides that this section applies only to a contract for the purchase of goods or services solicited through a purchase order if the amount of the purchase order exceeds \$25,000.

SECTION 9. Amends Section 2261.253, Government Code, by amending Subsection (b) and adding Subsection (e), as follows:

(b) Provides that Subsection (a) does not apply to a contract posted on the major contracts database established under Section 322.020. Deletes existing text authorizing a state agency to post certain contracts.

(e) Requires a state agency that posts a contract on its Internet website as required under this section to redact from the posted contract certain information.

SECTION 10. Amends Section 2262.101(a), Government Code, to provide that the Contract Advisory Team is created to assist state agencies in improving contract management practices by, among certain other activities, reviewing and making recommendations on certain documents for contracts of state agencies that have a value of at least \$5 million, rather than \$10 million.

SECTION 11. Amends Section 2252.102, Government Code, by adding Subsection (a-1), as follows:

(a-1) Authorizes the chief procurement officer described by Section 2155.091 to add members to the team by designating members from state agencies that agree to participate on the team. Authorizes a state agency to decline a request to participate on the team under this subsection by submitting a written statement declining the request to the chief procurement officer.

SECTION 12. Amends Subchapter A, Chapter 8, Education Code, by adding Section 8.012, as follows:

Sec. 8.012. CONTRACT MANAGEMENT GUIDE. Requires the agency to comply with the comptroller's contract management guide developed under Section 2262.051,

Government Code, in each contract between the agency and a regional education service center established under this chapter.

SECTION 13. (a) Requires the comptroller, not later than January 1, 2018, to employ a chief procurement officer as required by Section 2155.091, Government Code, as added by this Act, modify the contract management guide as required by Section 2262.051(i), Government Code, as added by this Act, and adopt rules necessary to implement the changes in law made by this Act.

(b) Requires each state agency, not later than January 1, 2018, to adopt a vendor and employee interaction and communication policy as required by Section 2155.090, Government Code, as added by this Act.

(c) Makes application of this Act prospective.

SECTION 14. Effective date: September 1, 2017.