

- SUBJECT:** Revising contracting procedures for governmental entities
- COMMITTEE:** State Affairs — committee substitute recommended
- VOTE:** 11 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Shaheen, Slawson, Smithee
- 0 nays
- 2 absent — Lucio, Raymond
- SENATE VOTE:** On final passage, April 19 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — (*Registered, but did not testify:* Hope Osborn, Texas 2036)
- Against — None
- On — Robert Wood, Comptroller of Public Accounts; (*Registered, but did not testify:* Amy Comeaux Rubin and Gordon Raitt, Health and Human Services Commission; Andreana Ledesma, HHSC Office of Inspector General; Tom Niland, Department of Information Resources)
- BACKGROUND:** Interested parties contend that reforms to procurement processes for state agencies are needed to standardize procurement thresholds, provide greater group purchasing power to state agencies, clarify project oversight responsibilities, increase the ability of a state hospital to contract with medical providers in certain circumstances, and improve guidance and training in the procurement and contract management guide.
- DIGEST:** CSSB 799 would revise provisions regarding contracting procedures and requirements for governmental entities.
- Health and Human Services Commission.** CSSB 799 would provide that, if the Health and Human Services Commission (HHSC) did not receive any responsive bids on a competitive solicitation for the services of a qualified expert to review investigative findings of the HHSC Office

of Inspector General (OIG) based on medical necessity or the quality of medical or dental care and the number of contracts to be awarded was not otherwise limited, HHSC could negotiate with and award a contract for the services to a qualified expert on the basis of:

- the contractor's agreement to a set fee, either as a range or lump-sum amount; and
- the contractor's affirmation and OIG's verification that the contractor possessed the necessary occupational licenses and experience.

If HHSC did not receive any responsive bids on a competitive solicitation for goods or services for a state hospital or a state supported living center, HHSC could, after making a written determination that competition was not available, negotiate with and award the contract to any qualified vendor who met the requirements of the original solicitation at a price consistent with the current market value of the goods or services and for a maximum term of five years.

Major IT projects. CSSB 799 would include among the projects classified as a major information resources project any information resources technology project of a state agency designated for additional monitoring by the state auditor if the development costs for the project exceeded \$5 million. The bill would require the Department of Information Resources (DIR) to provide additional oversight services for those projects.

The bill would extend the deadline for a state agency to provide written notice to the Legislative Budget Board (LBB) for a contract for a major information system from the 10th day to the 30th day after the date the agency entered into the contract.

CSSB 799 would make the following changes to state agency contracts to purchase information technology commodity items:

- increase the cap on the value of such a contract that a state agency

- could enter into from \$5 million to \$10 million; and
- authorize an agency entering into a contract with a value of more than \$5 million but not more than \$10 million to purchase a commodity item using a purchasing method designated by the comptroller to obtain the best value for the state, including a request for offers method.

Purchasing. The bill would increase certain values and value thresholds of certain purchases made and contracts entered into by a state agency.

Contract notification. The bill would provide that, if a governmental entity was procuring services provided in connection with the professional employment or practice of a physician, optometrist, or registered nurse and the number of contracts to be awarded was not otherwise limited, the entity could make the selection and award on the basis of the provider's agreement to payment of a set fee and the provider's affirmation and the entity's verification that the provider had the necessary occupational licenses and experiences. Such contracts would be exempted from competitive advertising and proposal evaluation requirements.

Agency guide. The contract management guide for state agencies would have to be updated to include information as specified in the bill. For certain procurements that exceeded \$20 million, the guide would have to require a state agency to notify interested parties at least two months before the agency issued the solicitation for the procurement.

DIR would have to adopt rules necessary to implement the bill's changes.

The bill would take effect September 1, 2021.