

BILL ANALYSIS

Senate Research Center

S.B. 20
By: Nelson et al.
Finance
8/17/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to reform state agency contracting by clarifying accountability, increasing transparency, and ensuring a fair competitive process.

S.B. 20 amends current law relating to state agency contracting.

[**Note:** While the statutory reference in this bill is to the Texas Building and Procurement Commission (TBPC), the following amendments affect the comptroller of public accounts of the State of Texas, as the successor agency to TBPC for purchasing functions.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 9 (Section 2101.041, Government Code) and SECTION 21 (Section 2262.055, Government Code) of this bill.

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas is modified in SECTION 21 (Section 2262.055, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Building and Procurement Commission is modified in SECTION 12 (Section 2155.078, Government Code) of this bill.

Rulemaking authority is expressly granted to the Department of Information Resources in SECTION 16 (Section 2157.0685, Government Code) of this bill.

Rulemaking authority is expressly granted to state agencies in SECTION 18 (Section 2261.253, Government Code) of this bill.

Rulemaking authority is expressly granted to the board of regents of an institution of higher education in SECTION 23 (Section 51.9337, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 321.013, Government Code, by adding Subsections (k) and (l), as follows:

(k) Requires the State Auditor, in devising the audit plan under Subsection (c), to consider the performance of audits on contracts entered into by the Health and Human Services Commission (HHSC) that exceed \$100 million in annual value, including a contract between HHSC and a managed care organization. Requires the State Auditor to collaborate with the financial managers in the Medicaid/CHIP Division of HHSC in performing an audit described by this subsection. Provides that an audit described under this subsection:

(1) may be limited in scope to target an area of the contract that the State Auditor determines poses the highest financial risk to the state; and

(2) is required to determine whether the entity contracting with HHSC has spent state money in accordance with the purposes authorized in the contract.

(l) Authorizes the State Auditor to contract with a private auditor to audit a contract under Subsection (k).

SECTION 2. Amends Subchapter B, Chapter 403, Government Code, by adding Section 403.03057, as follows:

Sec. 403.03057. CENTRALIZED STATE PURCHASING STUDY. (a) Requires the comptroller of public accounts of the State of Texas (comptroller), in cooperation with the governor's budget and policy staff, to conduct a study examining the feasibility and practicality of consolidating state purchasing functions into fewer state agencies or one state agency. Requires that the study examine the cost savings to this state that may be achieved through:

(1) abolishing offices or departments of state agencies that have a dedicated office or department for purchasing; and

(2) consolidating or reducing the number of vendors authorized to contract with this state to allow this state to better leverage its purchasing power.

(b) Requires the comptroller to prepare and deliver to the governor, the lieutenant governor, and each member of the legislature a report on the findings of the study conducted under Subsection (a), including:

(1) a detailed projection of expected savings or costs to this state in consolidating state purchasing;

(2) a report on the process for the legislature or the executive branch to implement the consolidation of state purchasing;

(3) a list of state agencies, including dedicated offices or departments in those agencies, with purchasing responsibilities; and

(4) the total cost to this state of the purchasing responsibilities for each state agency, including the dedicated office or department in the agency with purchasing responsibility.

(c) Requires the comptroller to prepare, deliver, and post on the comptroller's Internet website the report required by this section not later than December 31, 2016.

(d) Authorizes the comptroller to contract with a public or private entity to conduct the study required by this section.

(e) Provides that this section expires January 1, 2018.

SECTION 3. Amends Subchapter L, Chapter 441, Government Code, by adding Section 441.1855, as follows:

Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS BY STATE AGENCIES. Provides that, notwithstanding Section 441.185 (Record Retention Schedules) or 441.187 (Destruction of State Records), a state agency:

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

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

(A) the contract is completed or expires; or

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

SECTION 4. Amends Subchapter C, Chapter 572, Government Code, by adding Section 572.069, as follows:

Sec. 572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. Prohibits a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person from accepting employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.

SECTION 5. Amends Subchapter C, Chapter 2054, Government Code, by adding Section 2054.067, as follows:

Sec. 2054.067. POSTING OF CERTAIN DOCUMENTS RELATING TO CONTRACT SOLICITATIONS. (a) Requires the Texas Department of Information Resources (DIR) to post all solicitation documents related to a contract of DIR, including contracts under Chapter 2157 (Purchasing: Purchase of Automated Information Systems), to the centralized accounting and payroll system authorized under Sections 2101.035 (Administration of Usas) and 2101.036 (State Agency Internal Accounting Systems), or any successor system used to implement the enterprise resource planning component of the uniform statewide accounting project.

(b) Requires that the documents posted under Subsection (a) include documents showing the criteria by which DIR evaluated each vendor responding to the contract solicitation and, if applicable, an explanation of why the vendor was selected by DIR under Section 2157.068(b) (requiring DIR to negotiate with vendors to obtain the best value for the state in the purchase of commodity items).

SECTION 6. Amends Section 2101.001(1), Government Code, to redefine "enterprise resource planning."

SECTION 7. Amends Section 2101.035, Government Code, by adding Subsection (i), to require state agencies to report contract and purchasing information in the uniform manner required by the comptroller.

SECTION 8. Amends Section 2101.036, Government Code, by adding Subsection (e), to authorize a state agency in the legislative branch, notwithstanding Subsection (d), to elect to participate in the enterprise resource planning system developed under this section.

SECTION 9. Amends Subchapter C, Chapter 2101, Government Code, by adding Section 2101.041, as follows:

Sec. 2101.041. STATE AGENCY REPORTING OF CONTRACTING INFORMATION. (a) Requires the comptroller by rule to determine the contracting information that state agencies must report or provide using the centralized accounting and payroll system, or any successor system used to implement the enterprise resource planning component of the uniform statewide accounting project, developed under Sections 2101.035 and 2101.036.

(b) Requires the comptroller, in making the determination required by this section, to consider requiring a state agency to report or provide:

- (1) a brief summary of each contract that is quickly and easily searchable, including the contract's purpose, timeline, and deliverables;
- (2) contract planning and solicitation documents;
- (3) the criteria used to determine the vendor awarded the contract;
- (4) if the contract was awarded based on best value to the state:
 - (A) a list of the factors considered in determining best value with the weight given each factor; and
 - (B) a statement regarding how the vendor awarded the contract provides the best value to the state in relation to other vendors who bid or otherwise responded to the contract solicitation;
- (5) any statements of work and work orders prepared for or under the contract;
- (6) the proposed budget for the contract;
- (7) any conflict of interest documents signed by state agency purchasing personnel participating in the planning, soliciting, or monitoring of the contract;
- (8) criteria used or to be used by the state agency in monitoring the contract and vendor performance under the contract;
- (9) a justification for each change order, contract amendment, contract renewal or extension, or other proposed action that would result in an increase in the monetary value of a contract with an initial value exceeding \$10 million; and
- (10) additional supporting documentation and justification for a change order, contract amendment, contract renewal or extension, or other proposed action of a contract described by Subdivision (9) that would result in an increase in the contract's monetary value by more than 20 percent.

SECTION 10. Amends Subchapter B, Chapter 2155, Government Code, by adding Section 2155.0755, as follows:

Sec. 2155.0755. VERIFICATION OF USE OF BEST VALUE STANDARD. (a) Requires the contract manager or procurement director of each state agency to:

- (1) approve each state agency contract for which the agency is required to purchase goods or services using the best value standard;
- (2) ensure that, for each contract, the agency documents the best value standard used for the contract; and
- (3) acknowledge in writing that the agency complied with the agency's and comptroller's contract management guide in the purchase.

(b) Requires the comptroller, for each purchase of goods or services for which a state agency is required to use the best value standard, to ensure that the agency includes in the vendor performance tracking system established under Section 2262.055 (Vendor Performance Tracking System) information on whether the vendor satisfied that standard.

SECTION 11. Amends Section 2155.077, Government Code, by amending Subsections (a) and (b) and adding Subsection (a-2), as follows:

(a) Authorizes the Texas Facilities Commission (TFC) to bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, for:

(1) and (2) Makes no change to these subdivisions;

(3) and (4) Makes nonsubstantive changes;

(5) repeated unfavorable performance reviews under Section 2155.089 or repeated unfavorable classifications received by the vendor under Section 2262.055 after considering the following factors:

(A) the severity of the substandard performance by the vendor;

(B) the impact to the state of the substandard performance;

(C) any recommendations by a contracting state agency that provides an unfavorable performance review;

(D) whether debarment of the vendor is in the best interest of the state; and

(E) any other factor that the comptroller considers relevant, as specified by comptroller rule.

(a-2) Authorizes the comptroller to bar a vendor from participating in state contracts that are subject to this subtitle, including contracts for which purchasing authority is delegated to a state agency, if more than two contracts between the vendor and the state have been terminated by the state for unsatisfactory vendor performance during the preceding three years.

(b) Adds a reference to Subsection (a-2) and makes no further change to this subdivision.

SECTION 12. Amends Section 2155.078, Government Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Requires the Texas Building and Procurement Commission (TBPC) to establish and administer a system of training, continuing education, and certification for state agency purchasing personnel. Requires that the training and continuing education for state agency purchasing personnel include ethics training. Authorizes TBPC to establish and offer appropriate training to vendors on a cost recovery basis. Authorizes TBPC to adopt rules to administer this section, including rules relating to monitoring a certified purchaser's compliance with the continuing education requirements of this section.

(a-1) Requires that the training, continuing education, and certification required under Subsection (a) include:

(1) training on the selection of an appropriate procurement method by project type; and

(2) training conducted by the Department of Information Resources on purchasing technologies.

(b) Requires all state agency purchasing personnel, including agencies exempted from the purchasing authority of TBPC, notwithstanding Subsection (n), rather than except as provided by Subsection (n), to receive the training and continuing education to the extent

required by rule of TBPC. Requires that the training and continuing education include ethics training. Makes no further change to this subsection.

SECTION 13. Amends Subchapter B, Chapter 2155, Government Code, by adding Section 2155.089, as follows:

Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) Requires each state agency, after a contract is completed or otherwise terminated, to review the vendor's performance under the contract.

(b) Requires the state agency to report to the comptroller, using the tracking system established by Section 2262.055, on the results of the review regarding a vendor's performance under a contract.

(c) Provides that this section does not apply to:

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

(2) a contract of the Employees Retirement System of Texas or the Teacher Retirement System of Texas except for a contract with a nongovernmental entity for claims administration of a group health benefit plan under Subtitle H (Health Benefits and Other Coverages for Governmental Employees), Title 8, Insurance Code.

SECTION 14. Amends Section 2156.181(a), Government Code, to authorize TFC to enter into one or more compacts, interagency agreements, or cooperative purchasing agreements directly with one or more state governments, agencies of other states, or other governmental entities or may participate in, sponsor, or administer a cooperative purchasing agreement through an entity that facilitates those agreements for the purchase of goods or services if TFC determines that the agreement, rather than if TFC determines that entering into an agreement, would be in the best interest of the state.

SECTION 15. Amends Section 2157.068, Government Code, by adding Subsections (e-1) and (e-2), as follows:

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

(1) for a contract with a value of \$50,000 or less, the agency is authorized to directly award the contract to a vendor included on the list without submission of a request for pricing to other vendors on the list;

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

(3) 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 at least six vendors included on the list in the category to which the contract relates or all vendors on the schedule if the category has fewer than six vendors.

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

SECTION 16. Amends Subchapter B, Chapter 2157, Government Code, by adding Section 2157.0685, as follows:

Sec. 2157.0685. CONTRACT REQUIREMENTS FOR CERTAIN SERVICES. (a) Defines "statement of work" in this section.

(b) Requires a state agency, for a contract awarded by the Department of Information Resources (DIR) under Section 2157.068 (Purchase of Information Technology Commodity Items) that requires a state agency to develop and execute a statement of work to initiate services under the contract, to:

(1) consult with DIR before submission of the statement of work to a vendor; and

(2) post each statement of work entered into by the agency on the agency's Internet website in the manner required by DIR rule.

(c) Provides that a statement of work executed by a state agency under a contract awarded by DIR under Section 2157.068 is not valid and money may not be paid to the vendor under the terms of the statement of work unless DIR first signs the statement of work.

SECTION 17. Amends Section 2261.001(a), Government Code, to provide that this chapter, other than Subchapter F, applies only to each procurement of goods or services made by a state agency that is neither made by the comptroller nor made under purchasing authority delegated to the agency by or under Section 51.9335 (Acquisition of Goods and Services) or 73.115 (Acquisition of Goods and Services), Education Code, or Section 2155.131 (Delegation of Authority to State Agencies) or 2155.132 (Purchases Less Than Specified Monetary Amount).

SECTION 18. Amends Chapter 2261, Government Code, by adding Subchapter F, as follows:

SUBCHAPTER F. ETHICS, REPORTING, AND APPROVAL REQUIREMENTS FOR CERTAIN CONTRACTS

Sec. 2261.251. APPLICABILITY OF SUBCHAPTER. Provides that, notwithstanding Section 2261.001 (Applicability), this subchapter applies to the Texas Department of Transportation and to an institution of higher education acquiring goods or services under Section 51.9335 or 73.115, Education Code.

(b) Provides that this subchapter does not apply to a contract of the Employees Retirement System of Texas or the Teacher Retirement System of Texas except for a contract with a nongovernmental entity for claims administration of a group health benefit plan under Subtitle H, Title 8, Insurance Code.

Sec. 2261.252. DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST; CERTAIN CONTRACTS PROHIBITED. (a) Requires each state agency employee or official who is involved in procurement or in contract management for a state agency to disclose to the agency any potential conflict of interest specified by state law or agency policy that is known by the employee or official with respect to any contract with a private vendor or bid for the purchase of goods or services from a private vendor by the agency.

(b) Prohibits a state agency from entering into a contract for the purchase of goods or services with a private vendor with whom any of the following agency employees or officials have a financial interest:

(1) a member of the agency's governing body;

(2) the governing official, executive director, general counsel, chief procurement officer, or procurement director of the agency; or

(3) a family member related to an employee or official described by Subdivision (1) or (2) within the second degree by affinity or consanguinity.

(c) Provides that a state agency employee or official has a financial interest in a person if the employee or official:

(1) owns or controls, directly or indirectly, an ownership interest of at least one percent in the person, including the right to share in profits, proceeds, or capital gains; or

(2) could reasonably foresee that a contract with the person could result in a financial benefit to the employee or official.

(d) Provides that a financial interest prohibited by this section does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

Sec. 2261.253. REQUIRED POSTING OF CERTAIN CONTRACTS; ENHANCED CONTRACT AND PERFORMANCE MONITORING. (a) Requires each state agency, for each contract for the purchase of goods or services from a private vendor, to post on its Internet website:

(1) each contract the agency enters into, including contracts entered into without inviting, advertising for, or otherwise requiring competitive bidding before selection of the contractor, until the contract expires or is completed;

(2) the statutory or other authority under which a contract that is not competitively bid under Subdivision (1) is entered into without compliance with competitive bidding procedures; and

(3) the request for proposals related to a competitively bid contract included under Subdivision (1) until the contract expires or is completed.

(b) Authorizes a state agency monthly to post contracts described by Subsection (a) that are valued at less than \$15,000.

(c) Requires each state agency by rule to establish a procedure to identify each contract that requires enhanced contract or performance monitoring and submit information on the contract to the agency's governing body or, if the agency is not governed by a multimember governing body, the officer who governs the agency. Requires the agency's contract management office or procurement director to immediately notify the agency's governing body or governing official, as appropriate, of any serious issue or risk that is identified with respect to a contract monitored under this subsection.

(d) Provides that this section does not apply to a memorandum of understanding, interagency contract, interlocal agreement, or contract for which there is not a cost.

Sec. 2261.254. CONTRACTS WITH VALUE EXCEEDING \$1 MILLION. (a) Requires a state agency, for each contract for the purchase of goods or services that has a value exceeding \$1 million, to develop and implement contract reporting requirements that provide information on:

(1) compliance with financial provisions and delivery schedules under the contract;

(2) corrective action plans required under the contract and the status of any active corrective action plan; and

(3) any liquidated damages assessed or collected under the contract.

(b) Requires each state agency to verify:

(1) the accuracy of any information reported under Subsection (a) that is based on information provided by a contractor; and

(2) the delivery time of goods or services scheduled for delivery under the contract.

(c) Authorizes a state agency, except as provided by Subsection (d), to enter into a contract for the purchase of goods or services that has a value exceeding \$1 million only if:

(1) the governing body of the state agency approves the contract and the approved contract is signed by the presiding officer of the governing body; or

(2) for a state agency that is not governed by a multimember governing body, the officer who governs the agency approves and signs the contract.

(d) Authorizes the governing body or governing official of a state agency, as appropriate, to delegate to the executive director of the agency the approval and signature authority under Subsection (c).

(e) Provides that a highway construction, engineering services, or maintenance contract that is in compliance with all applicable laws related to procuring engineering services or construction bidding and that is awarded by the Texas Department of Transportation (TxDOT) under Subchapter A (Competitive Bids), Chapter 223 (Bids and Contracts for Highway Projects), Transportation Code, is not required to be signed by a member of the Texas Transportation Commission (TTC) or the executive director of TxDOT. Provides that this exception does not apply to expedited highway improvement contracts under Subchapter C (Expedited Highway Improvement Contracts), Chapter 223, Transportation Code, a comprehensive development agreement entered into under Subchapter E (Comprehensive Development Agreements), Chapter 223, Transportation Code, a design-build contract entered into under Subchapter F (Design-Build Contracts), Chapter 223, Transportation Code, or any other contract entered into by TxDOT.

Sec. 2261.255. **CONTRACTS WITH VALUE EXCEEDING \$5 MILLION.** Requires the contract management office or procurement director of the agency, for each state agency contract for the purchase of goods or services that has a value exceeding \$5 million, to:

(1) verify in writing that the solicitation and purchasing methods and contractor selection process comply with state law and agency policy; and

(2) submit to the governing body of the agency, or governing official of the agency if the agency is not governed by a multimember governing body, information on any potential issue that may arise in the solicitation, purchasing, or contractor selection process.

Sec. 2261.256. **ACCOUNTABILITY AND RISK ANALYSIS PROCEDURE; CONTRACT MANAGEMENT HANDBOOK.** (a) Requires each state agency to develop and comply with a purchasing accountability and risk analysis procedure. Requires that the procedure provide for:

(1) assessing the risk of fraud, abuse, or waste in the contractor selection process, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which the agency contracts;

(2) identifying contracts that require enhanced contract monitoring or the immediate attention of contract management staff; and

(3) establishing clear levels of purchasing accountability and staff responsibilities related to purchasing.

(b) Requires each state agency to publish a contract management handbook that establishes consistent contracting policies and practices to be followed by the agency and that is consistent with the comptroller's contract management guide. Authorizes the agency's handbook to include standard contract provisions and formats for the agency to incorporate in contracts.

(c) Requires each state agency to post on the agency's Internet website the procedures described by Subsections (a)(2) and (3) and submit to the comptroller a link to the web page that includes the procedures. Requires the comptroller to post on the comptroller's Internet website the web page link submitted by each state agency.

Sec. 2261.257. CONTRACT DATABASE. (a) Requires each state agency that becomes a participant in the centralized accounting and payroll systems as authorized by Sections 2101.035 (Administration of USAS) and 2101.036 (State Agency Internal Accounting Systems) to use the system to identify and record each contract entered into by the agency as specified by the rules, policies, or procedures developed by the comptroller.

(b) Requires the comptroller to provide as necessary information and state agency contract data contained in the centralized accounting and payroll systems to other state agencies with oversight duties, including the Legislative Budget Board (LBB), the state auditor's office, and DIR.

SECTION 19. Amends Section 2262.053(d), Government Code, to require the comptroller to administer training under this section and authorizes the comptroller to assess a fee for the training in an amount sufficient to recover the comptroller's costs under this section.

SECTION 20. Amends Section 2262.0535, Government Code, by adding Subsection (c) to authorize the comptroller to assess a fee for the training provided under this section in an amount sufficient to recover the comptroller's costs under this section.

SECTION 21. Amends Section 2262.055, Government Code, by amending Subsections (a) and (b) and adding Subsections (d) and (e), as follows:

(a) Requires the comptroller to evaluate the vendor's performance based on information reported by state agencies under Section 2155.089 and criteria established by the comptroller.

(b) Requires the comptroller by rule to establish an evaluation process that:

(1) rates vendors on an A through F scale, with A being the highest grade; and

(2) allows vendors who receive a grade lower than a C, rather than an unfavorable performance review, to protest any classification given by the comptroller.

(d) Requires a state agency to use the vendor performance tracking system to determine whether to award a contract to a vendor reviewed in the tracking system. Requires the comptroller by rule to establish the manner in which the rating scale established under Subsection (b) affects a vendor's eligibility for state contracts and the grades on the scale that disqualify a vendor from state contracting.

(e) Requires the comptroller to make the vendor performance tracking system accessible to the public on the comptroller's Internet website.

SECTION 22. Amends Section 51.9335(d), Education Code, to provide that, subject to Section 51.9337, Subtitle D (State Purchasing and General Services), Title 10 (General Government), Government Code, and Subchapter B (Consulting Services), Chapter 2254, Government Code, do not apply to the acquisition of goods and services under this section, except that an institution of higher education must comply with any provision of those laws, or a rule adopted under a provision of those laws, relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities. Makes no further change to this subsection.

SECTION 23. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.9337, as follows:

Sec. 51.9337. PURCHASING AUTHORITY CONDITIONAL; REQUIRED STANDARDS. (a) Prohibits an institution of higher education from exercising the acquisition authority granted by Section 51.9335 or 73.115 unless the institution complies with this section. Provides that an institution that is determined under Subsection (j) to not be in compliance with this section is subject to the laws governing acquisition of goods and services by state agencies, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code.

(b) Requires the board of regents of an institution of higher education by rule to establish for each institution under the management and control of the board:

(1) a code of ethics for the institution's officers and employees, including provisions governing officers and employees authorized to execute contracts for the institution or to exercise discretion in awarding contracts, subject to Subsection (c);

(2) policies for the internal investigation of suspected defalcation, misappropriation, and other fiscal irregularities and an institutional or systemwide compliance program designed to promote ethical behavior and ensure compliance with all applicable policies, laws, and rules governing higher education, including research and health care to the extent applicable;

(3) a contract management handbook that provides consistent contracting policies and practices and contract review procedures, including a risk analysis procedure, subject to Subsection (d);

(4) contracting delegation guidelines, subject to Subsections (e) and (f);

(5) training for officers and employees authorized to execute contracts for the institution or to exercise discretion in awarding contracts, including training in ethics, selection of appropriate procurement methods, and information resources purchasing technologies; and

(6) internal audit protocols, subject to Subsection (g).

(c) Requires that the code of ethics governing an institution of higher education include:

(1) general standards of conduct and a statement that each officer or employee is expected to obey all federal, state, and local laws and is subject to disciplinary action for a violation of those laws;

(2) policies governing conflicts of interest, conflicts of commitment, and outside activities, ensuring that the primary responsibility of officers and employees is to accomplish the duties and responsibilities assigned to that position;

(3) a conflict of interest policy that prohibits employees from having a direct or indirect financial or other interest, engaging in a business transaction or professional activity, or incurring any obligation that is in substantial conflict with the proper discharge of the employee's duties related to the public interest;

(4) a conflict of commitment policy that prohibits an employee's activities outside the institution from interfering with the employee's duties and responsibilities to the institution;

(5) a policy governing an officer's or employee's outside activities, including compensated employment and board service, that clearly delineates the nature and amount of permissible outside activities and that includes processes for disclosing the outside activities and for obtaining and documenting institutional approval to perform the activities;

(6) a policy that prohibits an officer or employee from acting as an agent for another person in the negotiation of the terms of an agreement relating to the provision of money, services, or property to the institution;

(7) a policy governing the use of institutional resources; and

(8) a policy providing for the regular training of officers and employees on the policies described by this subsection.

(d) Requires an institution of higher education to establish contract review procedures and a contract review checklist that must be reviewed and approved by the institution's legal counsel before implementation. Requires that the review procedures and checklist include:

(1) a description of each step of the procedure that an institution must use to evaluate and process contracts;

(2) a checklist that describes each process that must be completed before contract execution; and

(3) a value threshold that initiates the required review by the institution's legal counsel unless the contract is a standard contract previously approved by the counsel.

(e) Requires that an institution of higher education's policies governing contracting authority clearly specify the types and values of contracts that must be approved by the board of regents and the types and values of contracts for which contracting authority is delegated by the board to the chief executive officer and by the chief executive officer to other officers and employees of the institution. Prohibits an officer or employee from executing a document for the board unless the officer or employee has authority to act for the board and the authority is exercised in compliance with applicable conditions and restrictions.

(f) Prohibits an institution of higher education from entering into a contract with a value of more than \$1 million, including any amendment, extension, or renewal of the contract that increases the value of the original contract to more than \$1 million, unless the institution's board of regents approves the contract, expressly delegates authority to exceed that amount, or expressly adopts an exception for that contract. Requires the board to approve any amendment, extension, or renewal of a contract with a value that exceeds 25 percent of the value of the original contract approved by the board unless the authority to exceed the approved amount is expressly delegated by the board or an exception is expressly adopted by the board for the contract.

(g) Requires the board of regents of an institution of higher education to adopt standards for internal audits conducted by the institution to provide a systematic, disciplined approach to evaluate and improve the effectiveness of the institution's risk management, control, and governance processes related to contracts and to require risk-based testing of contract administration. Requires the internal auditor to have full and unrestricted access to all institutional property, personnel, and records. Requires an internal auditor to report directly to the board of regents in accordance with Chapter 2102 (Internal Auditing), Government Code.

(h) Requires the chief auditor of an institution of higher education to annually assess whether the institution has adopted the rules and policies required by this section and requires the chief auditor of the institution to submit a report of findings to the state auditor. Requires the state auditor, in auditing the purchase of goods and services by the institution, to determine whether an institution has adopted the required rules and policies.

(i) Requires the state auditor, if the auditor determines that an institution of higher education has failed to adopt the required rules and policies, to report that failure to the legislature and to the institution's board of regents and requires the state auditor to, in consultation with the institution, adopt a remediation plan to bring the institution into compliance. Requires the state auditor, if the institution fails to comply within the time established by the state auditor, to find the institution to be in noncompliance and report that finding to the legislature and comptroller.

(j) Provides that, in accordance with a schedule adopted by the state auditor in consultation with the comptroller, the authority of an institution of higher education to acquire goods and services as provided by Section 51.9335 or 73.115 is suspended if the institution fails to comply with the remediation plan under Subsection (i) within the time established by the state auditor. Requires that, as a result of the suspension, the laws governing acquisition of goods and services by state agencies from which the institution is otherwise exempt, including Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code, apply to the institution's acquisition of goods and services.

SECTION 24. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.954, as follows:

Sec. 51.954. DISCLOSURE OF SPONSORS OF CONTRACTED RESEARCH IN PUBLIC COMMUNICATIONS. (a) Requires a faculty member or other employee or appointee of an institution of higher education who conducted or participated in conducting the research, in any public communication the content of which is based on the results of sponsored research, to conspicuously disclose the identity of each sponsor of the research.

(b) Defines "institution of higher education," "public communication," "sponsor," and "sponsored research."

SECTION 25. Amends Sections 73.115(e) and (f), Education Code, as follows:

(e) Provides that, to the extent of any conflict, this section prevails over any other law relating to the purchasing of goods and services other than Section 51.9337 and, rather than except, a law relating to contracting with historically underutilized businesses.

(f) Provides that, except as otherwise provided by this section and Section 51.9337, Subtitle D, Title 10, Government Code, and Chapter 2254, Government Code, do not apply to purchases of goods and services made under this section.

SECTION 26. Repealer: Section 2155.502(d) (defining "telecommunications"), Government Code.

SECTION 27. Provides that Section 572.069, Government Code, as added by this Act, applies only to a state officer or employee whose service or employment with a state agency ceases on or after the effective date of this Act.

SECTION 28. Requires the comptroller of public accounts, and each affected state agency as necessary, as soon as is practicable after the effective date of this Act, to adopt the rules, processes, and procedures and take the actions necessary to implement the changes in law made by this Act.

SECTION 29. Provides that Section 2262.055(d), Government Code, as added by this Act, applies only in relation to a contract for which the request for bids or proposals or other applicable expression of interest is made public on or after October 1, 2015.

SECTION 30. Provides that the changes in law made by this Act apply only to a contract entered into on or after the effective date of this Act. Makes application of this Act prospective.

SECTION 31. Effective date: September 1, 2015.