

## **BILL ANALYSIS**

Senate Research Center  
87R6652 MWC-F

S.B. 799  
By: Nelson  
Finance  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The past three legislative sessions, the legislature has passed major reforms to the procurement processes at our state agencies. S.B. 799 standardizes procurement thresholds to improve training and compliance, provides greater group purchasing power to agencies, clarifies project oversight responsibilities, and increases our state hospital's ability to contract with medical providers in limited circumstances.

As proposed, S.B. 799 amends current law relating to contracting procedures and requirements for governmental entities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Department of Information Resources in SECTION 12 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2054.003(10), Government Code, as follows:

(10) Redefines "major information resources project" for purposes of Chapter 2054 (Information Resources) as:

(A) and (B) makes nonsubstantive changes; and

(C) any information resources technology project of a state agency designated for additional monitoring under Section 2261.258(a)(1) (relating to an additional monitoring warranted rating assigned by the state auditor to certain state agencies).

SECTION 2. Amends Section 2054.008(b), Government Code, to require that the notice of a contract for a major information system be on a form prescribed by the Legislative Budget Board (LBB) and filed not later than the 30th day, rather than the 10th day, after the date the agency enters into the contract.

SECTION 3. Amends Section 2054.1181(a), Government Code, as follows:

(a) Requires the Department of Information Resources (DIR) to provide additional oversight services, including risk management, quality assurance services, independent project monitoring, and project management, for major information resources projects described by Section 2054.003(10)(C) and for other major information resources projects selected for oversight by the governor, lieutenant governor, or speaker of the house of representatives. Requires a state agency with a project subject to, rather than selected for, oversight to pay for oversight by DIR and the quality assurance team based on a funding model developed by DIR. Deletes existing text requiring 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.

SECTION 4. Amends Sections 2155.132(a), (b), and (e), Government Code, as follows:

(a) Provides that a state agency is delegated the authority to purchase goods and services if the purchase does not exceed \$50,000, rather than \$15,000.

(b) Authorizes the Comptroller of Public Accounts of the State of Texas (comptroller) by rule to delegate to a state agency the authority to purchase goods and services if the purchase exceeds \$50,000, rather than \$15,000.

(e) Provides that competitive bidding, whether formal or informal, is required for a purchase by a state agency if the purchase exceeds \$10,000, rather than \$5,000.

SECTION 5. Amends Section 2155.144, Government Code, by adding Subsection (o), as follows:

(o) Authorizes the Health and Human Services Commission (HHSC), after making a written determination that competition is not available, if HHSC does not receive any responsive bids on a competitive solicitation for goods or services for a state hospital operated by a health and human services agency or a state supported living center as defined by Section 531.002 (Definitions), Health and Safety Code, to negotiate with and award the contract to any qualified vendor who meets the requirements of the original solicitation:

(1) at a price consistent with the current market value of the goods or services;  
and

(2) for a term not to exceed five years.

SECTION 6. Amends Section 2155.264, Government Code, as follows:

Sec. 2155.264. New heading: AGENCY SOLICITATION OF BIDS OR PROPOSALS FOR ACQUISITION OVER \$10,000. Requires a state agency that proposes to make a purchase or other acquisition that will cost more than \$10,000, rather than \$15,000, to solicit bids or proposals from each eligible vendor on the master bidders list that serves the agency's geographic region.

SECTION 7. Amends Section 2157.068, Government Code, by amending Subsections (e-1) and (e-2) and adding Subsection (e-4), as follows:

(e-1) Requires a state agency contracting to purchase a commodity item, except as provided by Subsection (e-4), to use the list maintained as required by Subsection (e) (relating to a list of certain commodity items) in certain ways, including, for a contract with a value of more than \$1 million but not more than \$10 million, rather than \$5 million, the agency is required to submit a request for pricing to certain vendors. Makes a nonsubstantive change.

(e-2) Prohibits a state agency from entering into a contract to purchase a commodity item if the value of the contract exceeds \$10 million, rather than \$5 million.

(e-4) Authorizes a state agency, for 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 under Section 2157.006(a)(2) (relating to a purchasing method designated by the comptroller to obtain the best value for the state).

SECTION 8. Amends Section 2166.2551, Government Code, as follows:

Sec. 2166.2551. CONTRACT NOTIFICATION. Requires HHSC or an agency whose project is exempted from all or part of Chapter 2166 (Building Construction and Acquisition and Disposition of Real Property) under Section 2166.003 (Exceptions) to provide written notice to the LBB of a contract for a construction project if the amount of the contract, including an amendment, modification, renewal, or extension of the

contract, exceeds \$50,000, rather than \$14,000. Requires that the notice be on a form prescribed by the LBB and filed not later than the 30th day, rather than the 10th day, after the date the agency enters into the contract.

SECTION 9. Amends Section 2254.006, Government Code, as follows:

Sec. 2254.006. CONTRACT NOTIFICATION. Requires a state agency, including an institution of higher education defined by Section 61.003 (Definitions), Education Code, to provide written notice to the LBB of a contract for professional services, other than a contract for physician or optometric services, if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$50,000, rather than \$14,000. Requires that the notice be on a form prescribed by the LBB and filed not later than the 30th day, rather than the 10th day, after the date the agency enters into the contract.

SECTION 10. Amends Subchapter A, Chapter 2254, Government Code, by adding Section 2254.008, as follows:

Sec. 2254.008. CONTRACT FOR PROFESSIONAL SERVICES OF PHYSICIANS, OPTOMETRISTS, AND REGISTERED NURSES. (a) Authorizes a governmental entity, notwithstanding Section 2254.003 (Selection of Provider; Fees), if the governmental entity is procuring services provided in connection with the professional employment or practice of a professional described by Section 2254.002(2)(B)(v), (vi), or (ix) (relating to certain licensed or registered professionals) and the number of contracts to be awarded under this section is not otherwise limited, to make the selection and award on the basis of:

(1) the provider's agreement to payment of a set fee, as a range or lump sum amount; and

(2) the provider's affirmation and the governmental entity's verification that the provider has the necessary occupational licenses and experience.

(b) Provides that, notwithstanding Sections 2155.083 (State Business Daily; Notice Regarding Procurements Exceeding \$25,000) and 2261.051 (Competitive Contractor Selection Procedures), a contract awarded under this section is not subject to competitive advertising and proposal evaluation requirements.

SECTION 11. Amends Section 2254.0301(a), Government Code, as follows:

(a) Requires a state agency to provide written notice to the LBB of a contract for consulting services if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, exceeds \$50,000, rather than \$14,000. Requires that the notice be on a form prescribed by the LBB and filed not later than the 30th day, rather than the 10th day, after the date the entity enters into the contract.

SECTION 12. Requires the DIR, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 13. Provides that the changes in law made by this Act apply only to a contract for which a governmental entity first advertises or otherwise requests offers, bids, proposals, qualifications, or other applicable expressions of interest on or after the effective date of this Act. Provides that a contract for which a governmental entity first advertises or otherwise requests offers, bids, proposals, qualifications, or other applicable expressions of interest before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 15. Effective date: September 1, 2021.