

AN ACT

relating to contracts with and training for governmental entities and vendors, including purchasing and contract management training; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 656.047, Government Code, is amended by adding Subsection (c) to read as follows:

(c) A state agency that spends more than \$5,000 in a state fiscal year for a training or education program for any individual administrator or employee shall, not later than August 31 of that year, submit to the Legislative Budget Board a report including:

(1) a list of the administrators and employees participating in a training or education program;

(2) the amount spent on each administrator or employee; and

(3) the certification earned by each administrator or employee through the training or education program.

SECTION 2. Subchapter C, Chapter 656, Government Code, is amended by adding Sections 656.054 and 656.055 to read as follows:

Sec. 656.054. PURCHASING AND CONTRACT MANAGEMENT TRAINING BY COMPTROLLER. (a) The comptroller shall develop training programs provided by the comptroller under this subchapter to meet the needs of state agencies.

(b) Each year a state agency shall estimate the number of

1 employees requiring purchasing or contract management training and
2 report the anticipated training needs of the state agency to the
3 comptroller in the manner and form prescribed by the comptroller.

4 (c) On an annual basis the comptroller shall assess the
5 number of employees requiring purchasing or contract management
6 training and shall maintain a regular schedule of classes to
7 accommodate that number.

8 (d) The comptroller may use staff or contract with private
9 or public entities, including state agencies, to conduct the
10 training.

11 (e) The comptroller may assess a fee for a training program,
12 including continuing education and certification, in an amount
13 sufficient to recover the costs incurred by the comptroller to
14 provide the training program under this subchapter.

15 Sec. 656.055. PURCHASING AND CONTRACT MANAGEMENT TRAINING
16 BY AGENCY. (a) A state agency, in consultation with the
17 comptroller, may develop agency-specific purchasing and contract
18 management training programs to be administered by the agency to
19 the agency's employees instead of or as a supplement to training
20 programs developed by the comptroller under this subchapter.

21 (b) An employee who participates in an agency-specific
22 training program under this section remains subject to any other
23 applicable certification requirements established for training
24 programs under this subchapter, including written or oral
25 examinations administered by the comptroller.

26 SECTION 3. Sections [2054.057](#), [2155.078](#), [2262.053](#), and
27 [2262.0535](#), Government Code, are transferred to Subchapter C,

1 Chapter 656, Government Code, redesignated as Sections 656.050,
2 656.051, 656.052, and 656.053, Government Code, and amended to read
3 as follows:

4 Sec. 656.050 [~~2054.057~~]. TRAINING IN CONTRACT NEGOTIATION
5 FOR PURCHASES OF INFORMATION RESOURCES TECHNOLOGIES. (a) In this
6 section:

7 (1) "Department" means the Department of Information
8 Resources.

9 (2) "Information resources technologies" has the
10 meaning assigned by Section 2054.003.

11 (a-1) The department, with the cooperation of the
12 comptroller and other appropriate state agencies, shall develop and
13 implement a program to train state agency personnel in effectively
14 negotiating contracts for the purchase of information resources
15 technologies.

16 (b) The department shall make the training available to
17 state agency personnel who are directly or indirectly involved in
18 contract negotiations, such as senior or operational management,
19 purchasers, users of the purchased technologies, and personnel with
20 relevant technical, legal, or financial knowledge. State agency
21 personnel directly involved in contract negotiations for the
22 purchase of information resources technologies shall complete the
23 training developed by the department.

24 (c) The department shall include in the training:

25 (1) information on developing a structured purchasing
26 method that meets an agency's needs;

27 (2) information drawn from the state's previous

1 procurement experience about what is or is not advantageous for the
2 state;

3 (3) the perspective of state agencies with oversight
4 responsibilities related to the state's procurement of information
5 resources technologies; ~~and~~

6 (4) information on how to use contracts entered into
7 by the department under Section 2157.068; and

8 (5) other information that the department considers to
9 be useful.

10 (d) The department may use its own staff or contract with
11 private entities or other state agencies to conduct the training.

12 Sec. 656.051 [~~2155.078~~]. TRAINING AND CERTIFICATION OF
13 STATE AGENCY PURCHASING PERSONNEL AND VENDORS. (a) The
14 comptroller [~~commission~~] shall establish and administer a system of
15 training, continuing education, and certification for state agency
16 purchasing personnel. The training and continuing education for
17 state agency purchasing personnel must include ethics training.
18 The comptroller [~~commission~~] may establish and offer appropriate
19 training to vendors on a cost recovery basis. The comptroller
20 [~~commission~~] may adopt rules to administer this section~~[, including~~
21 ~~rules relating to monitoring a certified purchaser's compliance~~
22 ~~with the continuing education requirements of this section]~~.

23 (b) [~~(a-1)~~] The training, continuing education, and
24 certification required under Subsection (a) must include:

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

27 (2) training conducted by the Department of

1 Information Resources on purchasing technologies.

2 (c) [~~(b)~~] Notwithstanding Subsection (i) [~~(n)~~], all state
3 agency purchasing personnel, including agencies exempted from the
4 purchasing authority of the comptroller [~~commission~~], must receive
5 the training and continuing education to the extent required by the
6 comptroller [~~rule of the commission. The training and continuing~~
7 ~~education must include ethics training~~]. A state agency employee
8 who is required to receive the training may not participate in
9 purchases by the employing agency unless the employee has received
10 the required training or received equivalent training from a
11 national association recognized by the comptroller [~~commission.~~
12 ~~The equivalent training may count, as provided by Subsection (k),~~
13 ~~toward the continuing education requirements.~~

14 [~~(c) The commission shall set and collect a fee from state~~
15 ~~agencies that employ purchasing personnel. The commission shall~~
16 ~~set the fee in an amount that recovers the commission's costs under~~
17 ~~this section~~].

18 (d) The comptroller [~~commission~~] may provide training,
19 continuing education, and certification under this section to
20 purchasing personnel employed by a political subdivision or other
21 public entity of the state. Political subdivision purchasing
22 personnel may receive, but are not required to receive, the
23 training, continuing education, or certification provided under
24 this section. [~~The commission shall collect the fees described by~~
25 ~~Subsection (c) for training, education, or certification under this~~
26 ~~subsection.~~]

27 (e) [~~The commission may provide training and continuing~~

1 ~~education under this section using its own personnel or through~~
2 ~~contracts with private entities. The commission may also, by~~
3 ~~agreement with a public entity, use the services of persons~~
4 ~~employed by the public entity to provide training and continuing~~
5 ~~education under this section.~~

6 ~~[(f) The commission shall provide at least three levels of~~
7 ~~training under this section.~~

8 ~~[(g) The [basic] training provided by the comptroller~~
9 ~~[level] must include instruction in:~~

- 10 ~~(1) [an introduction to] contract purchasing methods;~~
11 ~~(2) [r] ethical issues affecting purchasing~~
12 ~~decisions;~~
13 ~~(3) negotiation methods;~~
14 ~~(4) writing specifications;~~
15 ~~(5) the criteria for determining which product or~~
16 ~~service offers the best value for the state;~~
17 ~~(6) developing evaluation criteria;~~
18 ~~(7) formal and informal bidding methods;~~
19 ~~(8) complex negotiations; [r] and~~
20 ~~(9) [~~instruction in~~] any other processes and issues~~
21 ~~that the comptroller [~~commission~~] considers appropriate for~~
22 ~~[~~introductory~~] purchasing training.~~

23 ~~(f) [(h) The second training level must include advanced~~
24 ~~instruction in formal and informal bidding methods, introduction to~~
25 ~~negotiation methods, instruction in writing specifications, and~~
26 ~~instruction in any other processes and issues that the commission~~
27 ~~considers appropriate for the second level of purchasing training.~~

1 ~~[(i) The third training level must include an introduction~~
2 ~~to complex negotiations, instruction in the criteria for~~
3 ~~determining which product or service offers the best value for the~~
4 ~~state, and instruction in any other processes and issues that the~~
5 ~~commission considers appropriate for advanced purchasing training.~~

6 ~~[(j)]~~ The comptroller ~~[commission]~~ may prescribe the
7 circumstances under which a state agency may delegate to a
8 certified purchaser signature purchasing authority to approve
9 purchase orders.

10 (g) ~~[(k)]~~ The comptroller ~~[commission]~~ shall require a
11 reasonable number of hours of continuing education to maintain ~~[a]~~
12 certification ~~[level]~~. The comptroller ~~[commission]~~ may allow
13 attendance at equivalent certification training recognized by the
14 comptroller ~~[commission]~~ to count toward the required number of
15 hours. Maintenance of ~~[the]~~ certification ~~[level]~~ may be by yearly
16 renewal or another reasonable renewal period comparable to
17 nationally recognized certification requirements. The comptroller
18 shall adopt rules to monitor compliance with this subsection.

19 (h) The comptroller shall certify a state agency employee as
20 a state agency purchaser when the employee has:

21 (1) completed the training required by this section or
22 as prescribed by rule; and

23 (2) passed a written examination.

24 (i) ~~[(l) The commission's prerequisites for receiving a~~
25 ~~level-two purchaser certification must include completion of the~~
26 ~~basic training level, passage of a written examination, and a~~
27 ~~minimum number of years of purchasing experience prescribed by the~~

1 ~~commission.~~

2 ~~[(m) The commission's prerequisites for receiving a~~
3 ~~level-three purchaser certification must include completion of the~~
4 ~~second training level, passage of a written examination, and a~~
5 ~~minimum of three years of purchasing experience.~~

6 ~~[(n)]~~ This section does not apply to an institution to which
7 Section 51.9335, Education Code, applies or to an institution to
8 which Section 73.115, Education Code, applies.

9 Sec. 656.052 [~~2262.053~~]. TRAINING AND CERTIFICATION FOR
10 CONTRACT MANAGERS. (a) In this section:

11 (1) "Contract management guide" means the guide
12 developed under Section 2262.051.

13 (2) "Contract manager" has the meaning assigned by
14 Section 2262.001.

15 (a-1) In coordination with the Department of Information
16 Resources, state auditor, and Health and Human Services Commission,
17 the comptroller shall develop a training program for contract
18 managers.

19 (b) The training must provide the contract manager with
20 information regarding how to:

21 (1) fairly and objectively select and negotiate with
22 the most qualified contractor;

23 (2) establish prices that are cost-effective and that
24 reflect the cost of providing the service;

25 (3) include provisions in a contract that hold the
26 contractor accountable for results;

27 (4) monitor and enforce a contract;

- 1 (5) make payments consistent with the contract;
- 2 (6) comply with any requirements or goals contained in
3 the contract management guide; [~~and~~]
- 4 (7) use and apply advanced sourcing strategies,
5 techniques, and tools;
- 6 (8) maintain required documentation for contracting
7 decisions, changes to a contract, and problems with a contract;
- 8 (9) create a risk evaluation and mitigation strategy;
- 9 (10) create a plan for potential problems with the
10 contract;
- 11 (11) develop an accurate and comprehensive statement
12 of work; and
- 13 (12) complete the contract and evaluate performance
14 under the contract.

15 (c) Each state agency shall ensure that the agency's
16 contract managers complete the training developed under this
17 section.

18 (d) The comptroller shall administer training under this
19 section and may assess a fee for the training in an amount
20 sufficient to recover the comptroller's costs under this section.

21 (e) The comptroller shall certify contract managers who
22 have completed the contract management training required under this
23 section.

24 (f) A state agency may develop qualified contract manager
25 training to supplement the training required under this section.
26 The comptroller may incorporate the training developed by the
27 agency into the training program under this section.

1 (g) The comptroller shall adapt the training required under
2 this section and administer an abbreviated training program meeting
3 the relevant training requirements under this section for state
4 agency employees, other than contract managers, with contract
5 management duties.

6 (h) This section does not apply to:

7 (1) an institution of higher education as defined by
8 Section 61.003, Education Code; or

9 (2) a contract manager whose contract management
10 duties relate primarily to contracts described by Section
11 2262.002(b).

12 Sec. 656.053 [~~2262.0535~~]. TRAINING FOR GOVERNING BODIES.

13 (a) In this section, "state agency" has the meaning assigned by
14 Section 2056.001.

15 (a-1) The comptroller shall adapt the program developed
16 under Section 656.052 [~~2262.053~~] to provide an abbreviated program
17 for training the members of the governing bodies of state agencies.
18 The training may be provided together with other required training
19 for members of state agency governing bodies.

20 (b) All members of the governing body of a state agency
21 shall complete at least one course of the training provided under
22 this section. This subsection does not apply to a state agency that
23 does not enter into any contracts.

24 (c) The comptroller may assess a fee for the training
25 provided under this section in an amount sufficient to recover the
26 comptroller's costs under this section.

27 (d) This section does not apply to the Texas Transportation

1 Commission.

2 SECTION 4. Section 2056.002(b), Government Code, is amended
3 to read as follows:

4 (b) The Legislative Budget Board and the governor's office
5 [~~Governor's Office of Budget, Policy, and Planning~~] shall determine
6 the elements required to be included in each agency's strategic
7 plan. Unless modified by the Legislative Budget Board and the
8 governor's office [~~Governor's Office of Budget, Policy, and~~
9 ~~Planning~~], and except as provided by Subsection (c), a plan must
10 include:

11 (1) a statement of the mission and goals of the state
12 agency;

13 (2) a description of the indicators developed under
14 this chapter and used to measure the output and outcome of the
15 agency;

16 (3) identification of the groups of people served by
17 the agency, including those having service priorities, or other
18 service measures established by law, and estimates of changes in
19 those groups expected during the term of the plan;

20 (4) an analysis of the use of the agency's resources to
21 meet the agency's needs, including future needs, and an estimate of
22 additional resources that may be necessary to meet future needs;

23 (5) an analysis of expected changes in the services
24 provided by the agency because of changes in state or federal law;

25 (6) a description of the means and strategies for
26 meeting the agency's needs, including future needs, and achieving
27 the goals established under Section 2056.006 for each area of state

1 government for which the agency provides services;

2 (7) a description of the capital improvement needs of
3 the agency during the term of the plan and a statement, if
4 appropriate, of the priority of those needs;

5 (8) identification of each geographic region of this
6 state, including the Texas-Louisiana border region and the
7 Texas-Mexico border region, served by the agency, and if
8 appropriate the agency's means and strategies for serving each
9 region;

10 (9) a description of the training of the agency's
11 contract managers under Section 656.052 [~~2262.053~~];

12 (10) an analysis of the agency's expected expenditures
13 that relate to federally owned or operated military installations
14 or facilities, or communities where a federally owned or operated
15 military installation or facility is located;

16 (11) an analysis of the strategic use of information
17 resources as provided by the instructions prepared under Section
18 2054.095; and

19 (12) other information that may be required.

20 SECTION 5. Sections 2252.908(c) and (e), Government Code,
21 are amended to read as follows:

22 (c) Notwithstanding Subsection (b), this section does not
23 apply to:

24 (1) a sponsored research contract of an institution of
25 higher education;

26 (2) an interagency contract of a state agency or an
27 institution of higher education; [~~or~~]

1 (3) a contract related to health and human services
2 if:

3 (A) the value of the contract cannot be
4 determined at the time the contract is executed; and

5 (B) any qualified vendor is eligible for the
6 contract;

7 (4) a contract with a publicly traded business entity,
8 including a wholly owned subsidiary of the business entity;

9 (5) a contract with an electric utility, as that term
10 is defined by Section 31.002, Utilities Code; or

11 (6) a contract with a gas utility, as that term is
12 defined by Section 121.001, Utilities Code.

13 (e) The disclosure of interested parties must be submitted
14 on a form prescribed by the Texas Ethics Commission that includes:

15 (1) a list of each interested party for the contract of
16 which the contracting business entity is aware; and

17 (2) a written, unsworn declaration subscribed by [the
18 signature of] the authorized agent of the contracting business
19 entity as true[, acknowledging that the disclosure is made under
20 oath and] under penalty of perjury that is in substantially the
21 following form:

22 "My name is _____, my
23 date of birth is _____, and my address is
24 _____,
25 (Street) (City) (State) (Zip Code)
26 _____.
27 I declare under penalty of
(Country)

1 perjury that the foregoing is true and correct.

2 Executed in _____ County, State of _____, on
3 the _____ day of _____, _____.

4 (Month) (Year)

5 _____
6 Declarant".

7 SECTION 6. Section 2262.101(a), Government Code, is amended
8 to read as follows:

9 (a) The Contract Advisory Team is created to assist state
10 agencies in improving contract management practices by:

11 (1) reviewing and making recommendations on the
12 solicitation documents and contract documents for contracts of
13 state agencies that have a value of at least \$10 million;

14 (2) reviewing any findings or recommendations made by
15 the state auditor, including those made under Section 2262.052(b),
16 regarding a state agency's compliance with the contract management
17 guide;

18 (3) providing recommendations to the comptroller
19 regarding:

20 (A) the development of the contract management
21 guide; and

22 (B) the training under Section 656.052
23 [~~2262.053~~];

24 (4) providing recommendations and assistance to state
25 agency personnel throughout the contract management process;

26 (5) coordinating and consulting with the quality
27 assurance team established under Section 2054.158 on all contracts

1 relating to a major information resources project;

2 (6) developing and recommending policies and
3 procedures to improve state agency contract management practices;

4 (7) developing and recommending procedures to improve
5 state agency contracting practices by including consideration for
6 best value; and

7 (8) creating and periodically performing a risk
8 assessment to determine the appropriate level of management and
9 oversight of contracts by state agencies.

10 SECTION 7. Section [2267.003](#), Government Code, is amended to
11 read as follows:

12 Sec. 2267.003. APPLICABILITY. This chapter does not apply
13 to:

14 (1) the financing, design, construction, maintenance,
15 or operation of a highway in the state highway system;

16 (2) a transportation authority operating ~~[created]~~
17 under Chapter [451](#), [452](#), [453](#), or [460](#), Transportation Code, other
18 than a metropolitan rapid transit authority operating under Chapter
19 [451](#), Transportation Code, in which the principal municipality has a
20 population of 1.9 million or more;

21 (3) any telecommunications, cable television, video
22 service, or broadband infrastructure other than technology
23 installed as part of a qualifying project that is essential to the
24 project; or

25 (4) except as provided by Section [2165.259](#), a
26 qualifying project located in the Capitol Complex, as defined by
27 Section [443.0071](#).

1 SECTION 8. (a) Not later than February 1, 2018, the
2 comptroller of public accounts shall adopt rules to implement
3 Section 656.051, Government Code, as transferred, redesignated,
4 and amended by this Act.

5 (b) Section 656.051, Government Code, as transferred,
6 redesignated, and amended by this Act, applies only to an
7 application for certification under that section that is submitted
8 on or after March 1, 2018. An application submitted before that
9 date is governed by the law in effect immediately before the
10 effective date of this Act, and the former law is continued in
11 effect for that purpose.

12 SECTION 9. Section [2252.908](#), Government Code, as amended by
13 this Act, applies only to a contract entered into or amended on or
14 after January 1, 2018.

15 SECTION 10. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 255 passed the Senate on May 8, 2017, by the following vote: Yeas 28, Nays 3; and that the Senate concurred in House amendments on May 26, 2017, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

I hereby certify that S.B. No. 255 passed the House, with amendments, on May 24, 2017, by the following vote: Yeas 141, Nays 2, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor