

## **BILL ANALYSIS**

C.S.S.B. 799  
By: Nelson  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Over the past three legislative sessions, the state legislature has passed major reforms to the procurement processes for state agencies. C.S.S.B. 799 seeks to standardize procurement thresholds to improve training and compliance, 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 limited circumstances, and make improvements to guidance and training in the procurement and contract management guide.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Information Resources in SECTION 16 of this bill.

### **ANALYSIS**

C.S.S.B. 799 sets out and revises provisions regarding contracting procedures and requirements for governmental entities.

C.S.S.B. 799 amends the Government Code to provide that, if the Health and Human Services Commission (HHSC) does 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 is not otherwise limited, HHSC may negotiate with and award a contract to a qualified expert for the services 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 the OIG's verification that the contractor possesses the necessary occupational licenses and experience. The bill exempts such a contract from competitive advertising and proposal evaluation requirements.

C.S.S.B. 799 provides that, 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, HHSC may, after making a written determination that competition is not available, negotiate with and award the contract to any qualified vendor who meets 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.

C.S.S.B. 799 includes 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 the development costs for which exceed \$5 million. The bill requires the Department of Information Resources (DIR) to provide additional oversight services for those particular projects.

C.S.S.B. 799 extends the deadline for a state agency to provide written notice to the Legislative Budget Board (LBB) of a contract for a major information system from the 10th day after the date the agency enters into the contract to the 30th day after that date.

C.S.S.B. 799 increases the maximum value of a purchase of goods and services that a state agency is delegated the authority to make from \$15,000 to \$50,000. The bill increases the value threshold of a purchase made by a state agency under a written contract above which competitive bidding is required from \$5,000 to \$10,000. The bill increases the value threshold of a proposed purchase or other acquisition by a state agency above which the agency must solicit bids or proposals from each eligible vendor on the master bidders list that serves the agency's geographic region from \$15,000 to \$25,000.

C.S.S.B. 799 makes the following changes with respect to state agency contracts to purchase information technology commodity items:

- increases the cap on the value of such a contract that a state agency may enter into from \$5 million to \$10 million; and
- authorizes 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 of public accounts to obtain the best value for the state, including a request for offers method.

C.S.S.B. 799 increases the value threshold of a contract for a construction project above which the Texas Facilities Commission or another agency whose project is exempted from all or part of state law governing building construction and the acquisition and disposition of real property by state agencies above which the agency must provide written notice to the LBB from \$14,000 to \$50,000. The bill extends the deadline for filing that notice from the 10th day after the date the agency enters into the contract to the 30th day after that date.

C.S.S.B. 799 increases the value threshold of a contract for and professional services, other than a contract for physician or optometric services, and a contract for consulting services for which a state agency must provide notice to the LBB from \$14,000 to \$50,000. The bill extends the deadline for filing the notice from the 10th day after the date the agency enters into the contract to the 30th day after that date.

C.S.S.B. 799 provides that, if a governmental entity is 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 is not otherwise limited, the entity may 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 has the necessary occupational licenses and experience. The bill exempts such contracts from competitive advertising and proposal evaluation requirements.

C.S.S.B. 799 requires the contract management guide for state agencies to include the following information:

- instructions to assist an agency in identifying the agency procurements that require an additional or secondary agency employee to serve as a contact for the procurement and establishing procedures for notifying vendors when to contact the additional or secondary agency employee;
- a general outline for the training an agency must provide to its procurement evaluators related to the goods and services the evaluator reviews for purchase by the agency; and

- for a procurement in an amount that exceeds \$20 million, the information an agency must include in a contract file on the evaluator for that procurement, including the reasons the person was selected and the person's relevant qualifications.

For a procurement in an amount that exceeds \$20 million, other than a contract entered into by the comptroller through the comptroller's purchasing system, the guide must require a state agency to notify interested parties at least two months before the date the agency issues the solicitation for the procurement.

C.S.S.B. 799 amends the Family Code to remove the requirement that the statewide 501(c)(3) tax-exempt organization with which the Department of Family and Protective Services contracts for purposes of administering court-appointed volunteer advocate programs be designated as a 509(a)(3) supporting organization.

C.S.S.B. 799 requires DIR to adopt rules necessary to implement the bill's changes in law.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 799 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions not in the engrossed regarding HHSC contracts for services of a qualified expert to review investigative findings of the OIG based on medical necessity or the quality of medical or dental care.

The substitute revises the requirement in the engrossed for the contract management guide to include the information a state agency must include in a contract file on the evaluator for a procurement to limit the applicability of that requirement only to a procurement in an amount that exceeds \$20 million. Additionally, the substitute revises the requirement in the engrossed for the guide to require that a state agency notify interested parties at least two months before the date the agency issues the solicitation for a procurement in an amount that exceeds \$20 million to except from that requirement a contract entered into by the comptroller through the comptroller's purchasing system.