

## **BILL ANALYSIS**

Senate Research Center  
80R21276 E

C.S.H.B. 2918  
By: Isett, Carl (Deuell)  
Government Organization  
5/18/2007  
Committee Report (Substituted)

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

Both the Department of Information Resources (DIR) and the Texas Building and Procurement Commission (TBPC) manage procurement in Texas. DIR is responsible for procurement of commodities and services for information technology, while TBPC has authority for procurement of other commodities.

Aspects of TBPC's procurement authority overlap and impact DIR's ability to obtain the best value for the state in purchases of information technology commodities and services. Specifically, information technology vendors must register with TBPC's catalog information system vendor program, and under the Texas multiple award contract program, TBPC may authorize a technology vendor to sell to state agencies if the vendor has an existing contract through the United States General Services Administration.

Currently, the project delivery framework is used only with major information resources projects and ensures that leadership of the agency initiating the project, the Legislative Budget Board, the State Auditor's Office, and DIR remain informed about the development and progress of the project.

C.S.H.B. 2918 eliminates redundancies in authority for information technology purchases, streamlines and clarifies information technology purchase methods, allows "assistance organizations" to use DIR's cooperative contracts, and enhances training requirements for contract managers. This bill requires that the project delivery framework be used for contracts over \$1 million in value that involve outsourcing a function or process.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 9 (Section 2157.006, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 44.031(a), Education Code, to delete existing text relating to a method to make certain school contracts using a catalogue purchase as provided by Subchapter B (Catalog Purchase Method), Chapter 2157, Government Code.

SECTION 2. Amends the heading to Section 2054.0565, Government Code, to read as follows:

Sec. 2054.0565. USE OF CONTRACTS BY OTHER ENTITIES.

SECTION 3. Amends Section 2054.0565, Government Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Authorizes the Department of Information Resources (DIR) to include terms in a procurement contract entered into by DIR, including a contract entered into under Section 2157.068 (Purchase of Commodity Items), that allow the contract to be used by another state agency, a political subdivision of this state, a governmental entity of another state, or an assistance organization as defined by Section 2175.001.

(c) Authorizes a state governmental entity that is not a state agency as defined by Section 2054.003 and notwithstanding any other law, to use a contract as provided by

Subsection (a) without being subject to a rule, statute, or contract provision, including a provision in a contract entered into under Section 2157.068, that would otherwise require the state governmental entity to sign an interagency agreement, or disclose the items purchased or the value of the purchase.

(d) Authorizes a state governmental entity that is not a state agency as defined by Section 2054.003 that uses a contract as provided by Subsection (a) to prohibit a vendor from disclosing the items purchased, the use of the items purchased, and the value of the purchase.

SECTION 4. Amends Section 2054.301, Government Code, as follows:

Sec. 2054.301. New heading: **APPLICABILITY; DEFINITION.** (a) Creates this subsection from existing text. Provides that this subchapter (Texas Project Delivery Framework) applies only to a major information resources project and a major contract.

(b) Defines "major contract."

SECTION 5. Amends Sections 2054.303(a) and (c), Government Code, as follows:

(a) Requires a state agency to prepare a specific business case for or analysis of each proposed major information resources project or major contract. Makes conforming changes.

(c) Makes a conforming change.

SECTION 6. Amends Section 2054.304, Government Code, to make conforming changes.

SECTION 7. Amends Section 2054.305, Government Code, to make a conforming change.

SECTION 8. Amends Section 2155.502, Government Code, by amending Subsections (b) and (c) and adding Subsection (e), as follows:

(b) Requires the Texas Building and Procurement Commission (TBPC) or DIR, as appropriate in developing a schedule under Subsection (a) or (e), to modify any contractual terms, with the agreement of the parties to the contract, as necessary to comply with any federal or state requirements, including rules adopted under this subchapter (Multiple Award Contract Schedule).

(c) Prohibits TBPC from listing a multiple award contract on a schedule developed under Subsection (a), rather than this section (Development of Multiple Award Contract Schedule), if the goods or services provided by that contract are commodity items as defined by Section 2157.068(a).

(e) Authorizes DIR to develop a schedule of multiple award contracts for commodity items as defined by Section 2157.068(a) using the criteria established under Subsection (a).

SECTION 9. Amends Subchapter A, Chapter 2157, Government Code, by adding Section 2157.006, as follows:

Sec. 2157.006. **PURCHASING METHODS.** (a) Requires TBPC or other state agency to purchase an automated information system using the purchasing method described by Section 2157.068 (Purchase of Commodity Items) for commodity items, or a purchasing method designated by TBPC to obtain the best value for the state, including a request for offers method.

(b) Authorizes a local government to purchase an automated information system using a method listed under Subsection (a). Provides that a local government that purchases an item using a method listed under Subsection (a) satisfies any state

law requiring the local government to seek competitive bids for the purchase of the item.

(c) Requires TBPC to adopt rules for designating purchasing methods under Subsection (a).

SECTION 10. Amends the heading to Subchapter B, Chapter 2157, Government Code, to read as follows:

#### SUBCHAPTER B. COMMODITY ITEMS

SECTION 11. Amends the heading to Section 2157.068, Government Code, to read as follows:

Sec. 2157.068. PURCHASE OF INFORMATION TECHNOLOGY COMMODITY ITEMS.

SECTION 12. Amends Section 2157.068, Government Code, by amending Subsection (b) and adding Subsection (i), as follows:

(b) Deletes existing text requiring DIR to negotiate with catalog information systems vendors to attempt to obtain a favorable price for all of state government on licenses for commodity items, based on the aggregate volume of purchases expected to be made by the state.

(i) Requires a state agency, unless the agency has express statutory authority to employ a best value purchasing method, to use a purchasing method provided by Section 2157.006(a) when purchasing a commodity item if the agency has obtained an exemption from DIR or approval from the Legislative Budget Board under Subsection (f), or the agency is otherwise exempt from this section.

SECTION 13. Amends Section 2262.051, Government Code, by adding Subsection (h), to require a guide to establish procedures for major contracts that outsource a state function or process to a contractor, including when applicable the use of documents required under Subchapter J (Texas Project Delivery Framework), Chapter 2054.

SECTION 14. Amends Section 2262.053(b), Government Code, to require the training to provide the contract manager with information regarding how to use and apply advanced sourcing strategies, techniques, and tools.

SECTION 15. Amends Section 60.454, Water Code, as follows:

Sec. 60.454. PURCHASING CONTRACT METHODS. Deletes existing text relating to a method to make certain district contracts using a catalogue purchase as provided by Subchapter B, Chapter 2157, Government Code.

SECTION 16. Repealer: Sections 2155.507 (Exemption from Catalogue Purchase Method for Information System Vendors), 2157.061 (Use of Catalog Purchase Required Unless Best Value Available Elsewhere), 2157.0611 (Requirement to Evaluate Three Offers When Possible), 2157.062 (Basic Requirements for Catalog Vendor), 2157.063 (Direct Purchase or Lease by State Agency; Negotiation of Additional Terms), 2157.066 (Catalog Requirements), and 2157.067 (Catalog Purchasing Available to Certain Local Governments), Government Code.

SECTION 17. Makes application of Subchapter J, Chapter 2054, Government Code, as amended by this Act, prospective.

SECTION 18. Requires TBPC to comply with Sections 2157.006(c) and 2262.051(h), Government Code, as added by this Act, and Section 2262.053(b), Government Code, as amended by this Act, not later than October 1, 2007.

SECTION 19. Effective date: September 1, 2007.