

**CONFERENCE  
COMMITTEE REPORT**  
*3<sup>RD</sup> Printing*

**S.B. NO. 1  
GENERAL APPROPRIATIONS  
BILL**

## REPORTING REQUIREMENTS

(Continued)

- (A) determine the agencies, institutions, goals, strategies or other reporting units for which cost accounting data is required;
  - (B) approve the basis for calculating and allocating costs to selected functions, tasks or measures;
  - (C) determine the frequency of reporting cost accounting data needed; and
  - (D) provide for the integration of cost accounting data into the budget development and oversight process.
- (6) The determinations to be made should be based upon due consideration of the relative benefits and cost-effectiveness of applying cost accounting requirements to a given state operation.
- (b) It is further the intent of the Legislature that the Comptroller develop and provide USAS training modules and support for state agencies and institutions to activate the cost accounting requirements addressed above.

### **Sec. 7.02. Annual Reports and Inventories.**

- (a) None of the funds appropriated by this Act may be expended after November 20th following the close of the fiscal year unless an annual financial report has been filed by the executive head of each agency specified in this Act in accordance with Chapter 2101, Government Code.
- (b) The Comptroller shall withhold any appropriations for expense reimbursements for the heads of agencies or any employees of such agencies until delinquent reports have been filed with the Comptroller.
- (c) "Heads of agencies" as used in this section mean the elected and appointed officials, members of commissions, boards, etc., and the chief administrative officer of such department, board, commission, bureau, office, or agency of the state for which appropriations are made in this Act.

### **Sec. 7.03. Notification to Members of the Legislature.**

- (a) An agency may not use funds appropriated by this Act to close an agency's field office unless the agency provides notification to affected members of the Legislature prior to the public announcement of the closing of the field office.
- (b) It is the intent of the Legislature that at the time of announcing information to the news media concerning a matter of public safety, a state agency that receives funds appropriated under this Act shall use those funds to make a reasonable attempt to contact each member of the Legislature whose district could be affected by the content of the press release and disclose to the member the content of the press release.

### **Sec. 7.04. Contract Notification: Amounts Greater than \$50,000.**

- (a) In this section "contract" includes a contract, grant, or agreement, including a revenue generating contract, an interagency or interlocal grant or agreement, purchase order or other written expression of terms of agreement or an amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered into or paid for, either in whole or in part, by a state agency or institution of higher education.
- (b) In this section "contract" does not include a contract with a value of less than or equal to \$50,000.
- (c) In this section "contract" includes an amendment, modification, renewal or extension which increases a contract's value from a value less than or equal to \$50,000 to a value greater than \$50,000.

## REPORTING REQUIREMENTS

(Continued)

- (d) Before the 30th calendar day after awarding a contract or granting an amendment, modification, renewal, or extension, a state agency or institution of higher education shall report to the Legislative Budget Board in the manner prescribed by Legislative Budget Board all contracts, amendments, modifications, renewals, and extensions to which the agency or institution was a party.
- (e) A state agency or institution of higher education receiving an appropriation under this Act shall report a contract pursuant to this section without regard to source of funds or method of finance associated with the expenditure, including a contract for which only non-appropriated funds will be expended.
- (f) The Legislative Budget Board may conduct reviews of contracts required to be submitted under this section 7.04 and valued at \$1,000,000 or more. If a contract reported under this section is found to violate:
  - (1) State of Texas Procurement and Contract Management Guide; or
  - (2) Any applicable statutes, rules, policies and procedures related to the procurement and contracting of goods and services, including compliance with conflict of interest disclosure requirements; the Director of the Legislative Budget Board may provide written notification to the comptroller, the governor, and/or the Legislative Budget Board detailing the requirements of this section that the agency did not meet and any recommendations to address identified risks related to the procurement or contract. The recommendations may include enhanced monitoring by Legislative Budget Board staff; auditing by the State Auditor's Office; required agency consultation with the Quality Assurance Team and/or Contract Advisory Team; or contract cancellation.
- (g) For contracts with an initial award value greater than \$1 million, a state agency or institution of higher education shall provide notice of a contract for services for which the expected total value of the contract subsequent to amendment or renewal exceeds the total value of the initial contract award by 10 percent or more, in accordance with procedures established by the Legislative Budget Board, to:
  - (1) the governor;
  - (2) the lieutenant governor; and
  - (3) the speaker of the house of representatives.
- (h) A state agency or institution of higher education must provide the notice required under Subsection (g) not later than the 30<sup>th</sup> day after the date of the disclosure or discovery that the expected total value of the contract subsequent to amendment or renewal exceeds the total value of the initial contract award by 10 percent. The notice must include:
  - (1) the amount of the cost increase;
  - (2) the reason for the cost increase; and
  - (3) any opportunity the state agency had to lessen the cost or to purchase the service from another vendor after the first dollar of the increased cost was discovered or disclosed to the agency or institution.
- (i) The Legislative Budget Board shall establish the procedures for the notice required by Subsections (g) or (h).

### **Sec. 7.05. Reports and References.**

- (a) All references in this Act to the "Governor" and "Office of the Governor" are changed to "the Governor's Office."
- (b) A state agency or institution shall submit to the Governor's Office all reports, approval processes, notifications, filings, documentation of expenditures, plans, addendums, or updates submitted to the Legislative Budget Board, under provisions contained in this Act.

## REPORTING REQUIREMENTS

(Continued)

### Sec. 7.11. Notification of Certain Purchases or Contract Awards, Amendments, and Extensions.

- (a) In this section "contract" includes a contract, grant or agreement, including a revenue generating contract, an interagency or interlocal grant or agreement, purchase order or other written expression of terms of agreement or an amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered into or paid for, either in whole or in part, by a state agency or institution of higher education.
- (b) Until providing notice that satisfies the requirements of Subsections 7.11(c) and (d), an agency or institution of higher education appropriated funds in this Act may not expend any funds to make a payment on a contract if the expected amount of the contract exceeds or may reasonably be expected to exceed either of the following thresholds:
  - (1) \$10 million; or
  - (2) \$1 million in the case of a contract awarded:
    - (A) as a result of an emergency or following an emergency procedure allowed by statute; or
    - (B) without issuing a request for proposal, request for bid, or other similar process common to participation in the competitive bidding processes required by statute, rule, or ordinary and commonly recognized state policies and procedures.
- (c) An agency or institution of higher education may not expend funds to make a payment on a contract under Subsection (b)(1) or (b)(2) until the notice required in this Section 7.11 is provided to the Legislative Budget Board. The notice shall be provided to the Legislative Budget Board:
  - (1) within 15 calendar days of contract award; or
  - (2) within 5 calendar days of contract award if the contract was awarded as a result of an emergency or following an emergency procedure allowed by statute. Such a purchase must be necessary to avoid an immediate hazard to life, health, safety or the welfare of humans, or to avoid an immediate hazard to property.
- (d) The notice required by Section 7.11(c) must include:
  - (1) (A) information regarding the nature, term, amount and the vendor(s) awarded the contract;
  - (B) a copy of the contract documents, including all appendices and attachments, and, if applicable, a finding of fact for major consulting contracts from the Governor's Office stating that the consulting services are necessary as required by Government Code, Section 2254.028(a)(3);
  - (C) each request for proposal, invitation to bid, or comparable solicitation related to the contract; and
  - (D) Subsections (d)(1)(B) and (C) shall not apply:
    - (i) to an enrollment contract described by T.A.C. Section 391.183 as that section existed November 1, 2013;
    - (ii) to a contract of the Texas Department of Transportation that relates to highway construction or engineering, or is subject to Section 201.112, Transportation Code;
- (2) (A) certification signed by the executive director of the agency or other similar agency or institution administrator or designee of the agency or institution of higher education stating that the process used to award the contract, contract extension, or purchase complies with or is consistent with the following:
  - (i) State of Texas Procurement and Contract Management Guide; and
  - (ii) statutes, rules, policies and procedures related to the procurement and contracting of goods and services, including compliance with conflict of interest disclosure requirements; or

## REPORTING REQUIREMENTS

(Continued)

- (B) if the process to award the contract, contract extension, or procurement did not comply with the requirements of Subsection (d)(2)(A)(i) and (ii), or if these requirements are found to be inapplicable, the agency or institution of higher education shall provide either a legal justification for the inapplicability of the requirements or an explanation for the alternative process utilized, and legal justification for the alternative process;
- (3) certification by the executive director of the agency or other similar agency or institution administrator or designee of the agency or institution of higher education that the agency or institution has a process for:
  - (A) verification of vendor performance and deliverables;
  - (B) payment for goods and services only within the scope of the contract or procurement order;
  - (C) calculation and collection of any liquidated damages associated with vendor performance; and
  - (D) when, why, or how to apply corrective action plans for continuing poor vendor performance;
- (4) certification by the executive director of the agency or other similar agency or institution administrator or designee of the agency or institution of higher education that the agency or institution will comply with the requirement to provide information to the Vendor Performance Tracking System when the contract is completed; and
- (5) any other information requested by the Legislative Budget Board before or after the Legislative Budget Board receives the notice as required by this Section 7.11.
- (e) A state agency or institution of higher education receiving an appropriation under this Act shall provide notice of a contract pursuant to this section without regard to the source of funds or method of finance associated with the expenditures, including a contract for which only non-appropriated funds will be expended.
- (f) If the agency does not satisfy the notification requirements of this section, the Director of the Legislative Budget Board may provide written notification to the comptroller, governor, and Legislative Budget Board detailing the requirements of this section that the agency did not meet and any recommendations to address identified risks related to the procurement or contract. The recommendations may include enhanced monitoring by Legislative Budget Board staff; auditing by the State Auditor's Office; required agency consultation with the Quality Assurance Team and/or Contract Advisory Team; or contract cancellation.
- (g) It is the intent of the legislature that a written notice certified as required by this Section 7.11 should be considered a "governmental record" as defined under Chapter 37, Penal Code.

**Sec. 7.12. Document Production Standards.** Out of the funds appropriated by this Act, each state agency shall review their document production protocols and apply best practices to produce documents in the most practicable, efficient, and cost effective manner possible that would lead to reduction in the total volume of paper used for general office administration, publications and reproduction and printing services. This may also include changing the format of transmitting or receiving documents; such as through electronic rather than hard copy.

## Part 8. OTHER APPROPRIATION AUTHORITY

### Sec. 8.01. Acceptance of Gifts of Money.

- (a) A gift or bequest of money to a state agency named in this Act, including the legislative branch, that has specific authority to accept gifts is appropriated to the agency designated by the grantor and for the purpose the grantor may specify, subject to Subsections (b), (c), (d), and (e).

## MISCELLANEOUS PROVISIONS

(Continued)

### **Sec. 17.08. Reporting Requirement for Funds Held Outside the Treasury.**

- (a) The Comptroller of Public Accounts and the Legislative Budget Board shall jointly prepare a report on funds held outside the Treasury on a biennial basis. The report should contain the following information for operating funds and any other funds held outside the Treasury selected by the Comptroller of Public Accounts and the Legislative Budget Board:
  - (1) the legal/statutory basis for the fund or revenue held outside the treasury;
  - (2) the allowable uses of the fund or revenue held outside the treasury;
  - (3) a listing of programs for which the fund or revenue held outside the treasury is currently expended or could be expended;
  - (4) the estimated or actual revenues and expended or budgeted amounts by fiscal year for the most recently completed and current fiscal biennia; and
  - (5) the estimated or actual balance as of August 31<sup>st</sup> of each year in the most recently completed and current fiscal biennia.
- (b) Any state agency that receives, expends, or administers funds or revenues held outside the Treasury, either by the Comptroller of Public Accounts, the Texas Treasury Safekeeping Trust Company, or a private financial institution shall assist the Comptroller of Public Accounts and the Legislative Budget Board in preparing this report and shall submit all data and information as prescribed by the Comptroller of Public Accounts or the Legislative Budget Board.
- (c) In prescribing data to be reported and reporting deadlines, the Comptroller of Public Accounts and the Legislative Budget Board shall collaborate with state agencies to maximize the use of existing data sources and minimize work required to compile and submit information.
- (d) The report shall be available to the Governor, members of the Legislative Budget Board, the Senate Finance Committee and the House Appropriations Committee, no later than the last day in February of each year in which a regular session of the Texas Legislature convenes.

### **Sec. 17.09. Contract Management and Oversight.**

- (a) It is the intent of the Legislature that all agencies and institutions of higher education establish effective processes and controls to manage contracts and ensure the cost-effective use of state appropriations for contracted goods and services.
- (b) Agencies and institutions should manage contracts consistent with state statute, the General Appropriations Act, and the State of Texas Procurement and Contract Management Guide and ensure proper oversight of contract processes including:
  - (1) Provide adequate time for applicable external reviews by the Quality Assurance Team (QAT) and Contract Advisory Team when establishing procurement timelines;
  - (2) Follow recommendations made by the Contract Advisory Team or adequately explain any deviations from the recommendations and why the deviation is necessary;
  - (3) Ensure proper justification for proprietary purchases and that contracts are established and approved by the Statewide Procurement Division of the Office of the Comptroller;
  - (4) Ensure that contract award decisions are determined based on best value criteria established in solicitation documents to ensure fair and open competition;
  - (5) Ensure that staff involved in contract management or administration duties are adequately trained to perform those duties;
  - (6) Periodically review internal contracting practices and manuals to ensure that they are current and up to date with current regulations and best practices;
  - (7) Ensure that provisions related to service level and pricing mechanisms in existing contracts are correctly enforced;

## MISCELLANEOUS PROVISIONS

(Continued)

- (8) Enforce damage provisions for vendor non-performance and collect monetary refunds for improper payments to vendors;
  - (9) Ensure dollar values of performance bonds and insurance are consistent with risk of non-performance; and
  - (10) Ensure that vendor performance is reported to the Vendor Performance Tracking System (VPTS) and that VPTS data is used in selecting vendors for contract awards.
- (c) Agencies shall make a good faith effort to identify and execute savings and efficiencies in their use of contracted goods and services. An agency or institution of higher education may not use funds appropriated elsewhere in this Act to pay for a contract for goods or services unless it:
- (1) Seeks competitive bids before renewing or extending a contract that has been in effect more than five fiscal years as of August 31, 2021, and is valued at the lesser of \$10,000,000 or 10 percent of the agency's All Funds budget for the 2022-23 biennium. The following contracts are exempt from the requirements of this Subsection (c)(1) of this §17.10:
    - (A) TxSmartBuy, term, and cooperative contracts administered by the Comptroller or Department of Information Resources;
    - (B) grants;
    - (C) interagency contracts;
    - (D) contracts that relate to a construction project as defined by §2166.001, Government Code;
    - (E) contracts that relate to highway construction or highway engineering;
    - (F) contracts that relate to developing information resource applications or information resource technologies; and
    - (G) contracts not required by law to be competitively bid; and
    - (H) managed care contracts in the Medicaid and CHIP program.
  - (2) Conducts a cost-benefit analysis to compare canceling or continuing any major information resource project and related contracts subject to QAT monitoring that is more than 50 percent over budget or over schedule. QAT must approve the cost-benefit analysis for the project to continue. If this requirement is not met, corrective actions in Article IX, Section 9.02, of this Act apply.
- (d) An agency or institution may request, with regards to a contract, an additional exemption from the requirements of Subsection (c)(1) of this §17.10 by submitting a request to the Legislative Budget Board (LBB) which outlines the justification for requesting the exemption. The request shall be considered to be approved unless the Legislative Budget Board issues a written disapproval within 30 business days of the date on which the staff of the Legislative Budget Board concludes its review of the proposal to exempt the contract and forwards its review to the Chair of the House Appropriations Committee, Chair of the Senate Finance Committee, Speaker of the House of Representatives, and Lieutenant Governor.

The request shall state that the agency or institution agrees to enhanced oversight of the contract upon LBB approval of the exemption. The LBB shall determine the level of enhanced oversight that is necessary or may choose to waive oversight. Enhanced oversight may include, but is not limited to, the following elements: additional reporting requirements; increased monitoring of the contract; and the formation of an executive steering committee for the project to which the contract relates. For information technology related contracts, an executive steering committee may include members of QAT and/or its designee(s). Responsibilities of an executive steering committee may include, but are not limited to, review of procurement and contract terms prior to solicitation/execution; and ongoing oversight of the management of the contract. The LBB shall determine whether an agency or institution has met the requirements of enhanced oversight. If the LBB determines that the requirements have not been met, additional corrective actions, including, but not limited to, those specified in Article IX, Section 9.02 may be applied.

- (e) It is the intent of the Legislature that agencies and institutions minimize the use of extensions that extend a contract beyond the base term and any optional extensions provided in a contract. An agency or institution may not use funds appropriated elsewhere in this Act to pay for an extension to an existing agency contract beyond the base term and optional extensions provided for in that contract unless all of the following conditions are met:

## MISCELLANEOUS PROVISIONS

(Continued)

- (1) The extension is limited in duration and cost to not more than one additional option period, as defined in the contract, to address the immediate operational or service delivery needs. If a contract does not contain a defined option period, the extension is limited to one year.
  - (2) The agency or institution provides notice of the extension, at least 30 days prior to execution of the extension, by uploading required information to the LBB contracts database on a form prescribed by the LBB. Required information includes, but is not limited to: the cost of the contract; the duration of the contract; the reason for the extension of the contract; and a plan to ensure that the contract can be completed within the extension period, signed by the executive director or other similar agency or institution administrator, or designee of the agency or institution.
  - (3) The agency or institution shall ensure, prior to providing notice pursuant to Subsection (e)(2), that all information and documents specified in Article IX, Section 7.11(d) have been uploaded to the LBB contracts database regardless of whether the information and documents are otherwise required to be uploaded under Article IX, Section 7.11.
- (f) Each agency and institution of higher education that receives appropriations in this Act, shall provide a report to the Legislative Budget Board and the Governor that details the steps taken to ensure compliance with state procurement requirements and any other information required by the Legislative Budget Board. The report for activities undertaken in fiscal year 2022 is due not later than September 30, 2022, and a summary report for the 2022-23 biennium is due August 31, 2023.

### **Sec. 17.10. Energy Efficiency Savings for State Facilities.**

- (a) In this section, "facility" means a facility with at least 100,000 gross square feet.
- (b) It is the intent of the legislature that a state agency that is appropriated money by this Act with charge and control over a facility shall have a remote or on-site assessment of the facility performed by the Energy Systems Laboratory at Texas A&M Engineering Experiment Station or another qualified provider to determine whether implementation of continuous commissioning or existing building commissioning practices would result in estimated savings of at least 10 percent in utility costs for the facility. A state agency shall supply any documents necessary to perform the assessment. The state agency shall report to the Legislative Budget Board on the results of the assessment.
- (c) If the results of an assessment performed under Subsection (b) of this section show estimated utility cost savings of at least 10 percent, the state agency shall have the Energy Systems Laboratory at Texas A&M Engineering Experiment Station or another qualified provider prepare a plan for implementation of continuous commissioning or existing building commissioning practices and monitoring of the implementation for the state agency.

### **Sec. 17.11 Human Trafficking Prevention Coordinating Council.**

- (a) The following is an informational listing of appropriations made elsewhere in this Act to address human trafficking.

Human trafficking-related activities include programs and services directly and indirectly related to state and local grant programs, law enforcement, research, trainings, regulatory efforts, criminal justice actions, and child welfare. Certain non-human trafficking-related costs which could not be disaggregated from other costs are also included in the listing below.

	<b>Fiscal Year 2022</b>	<b>Fiscal Year 2023</b>
<b>Article I</b>		
Office of the Attorney General	\$3,104,547	\$3,104,547
Trusted Programs Within the Office of the Governor	\$3,837,650	\$1,837,650
<b>Article II</b>		
Department of Family and Protective Services	\$574,999	\$574,999
Department of State Health Services	\$30,000	\$30,000