

BILL ANALYSIS

H.B. 2091
By: Harper-Brown
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, transportation authorities operating under Chapter 452 of the Transportation Code are not specifically permitted to use the internet for the electronic transmission of bids and proposals because such bids are required to be sealed. The use of electronic bidding by governmental entities is on the rise, and is generally recognized as a cost-effective and efficient way to streamline the bid process while providing a paper-free option to vendors.

The 77th Legislature passed several bills allowing state agencies, municipalities and cities to participate in "e-procurement." Additionally, transportation authorities do not have specific statutory authority to conduct reverse auctions for the purchase of goods or services. Reverse auctions are a form of competitive bidding whereby the buyer announces the product it wants to buy and prospective sellers bid against each other for the lowest offering price. The Internet makes real time reverse auctions possible, allowing prospective sellers to enter continuous bids over a period of several hours until the lowest bid is reached. In December 2000, the Texas Attorney General issued opinion JC -0316 that required specific statutory authority to use the reverse auction procedure.

House Bill 2091 authorizes transportation authorities operating under Chapter 452 (Dallas Area Rapid Transit and Fort Worth Transportation Authority) to use the Internet to transmit bids and proposals and use reverse auctions to purchase goods and services.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 452.106, Transportation Code by amending subsection (a) and adding subsection (c) as follows:

Authorizes the executive committee to adopt procurement procedures, guidelines and rules that provide for the electronic transmission of bids and proposals and the use of reverse auction procedure.

(c) requires procedures, guidelines and rules covering electronic transmission of bids and proposals to provide: (1) for the identification, security, and confidentiality of an electronic bid or proposal (2) that an electronic bid or proposal is not required to be sealed; and (3) that an electronic bid or proposal remains effectively unopened until the appropriate time.

SECTION 2. Amends Section Section 452.107(a), Transportation Code, by adding language to include the "reverse auction procedure" to the authority's currently accepted methods of sealed bids or proposals when awarding a contract for construction, services, or property.

SECTION 3. Changes in law would only apply to procurement after September 1, 2003 and that bids or proposals before September 1, 2003 is governed by the law as it existed before September 1, 2003.

EFFECTIVE DATE

BILL ANALYSIS

H.B. 2091
By: Harper-Brown
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, transportation authorities operating under Chapter 452 of the Transportation Code are not specifically permitted to use the internet for the electronic transmission of bids and proposals because such bids are required to be sealed. The use of electronic bidding by governmental entities is on the rise, and is generally recognized as a cost-effective and efficient way to streamline the bid process while providing a paper-free option to vendors.

The 77th Legislature passed several bills allowing state agencies, municipalities and cities to participate in “e-procurement.” Additionally, transportation authorities do not have specific statutory authority to conduct reverse auctions for the purchase of goods or services. Reverse auctions are a form of competitive bidding whereby the buyer announces the product it wants to buy and prospective sellers bid against each other for the lowest offering price. The Internet makes real time reverse auctions possible, allowing prospective sellers to enter continuous bids over a period of several hours until the lowest bid is reached. In December 2000, the Texas Attorney General issued opinion JC -0316 that required specific statutory authority to use the reverse auction procedure.

House Bill 2091 authorizes transportation authorities operating under Chapter 452 (Dallas Area Rapid Transit and Fort Worth Transportation Authority) to use the Internet to transmit bids and proposals and use reverse auctions to purchase goods and services.

RULEMAKING AUTHORITY

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 452.106, Transportation Code by amending subsection (a) and adding subsection (c) as follows:

Authorizes the executive committee to adopt procurement procedures, guidelines and rules that provide for the electronic transmission of bids and proposals and the use of reverse auction procedure.

(c) requires procedures, guidelines and rules covering electronic transmission of bids and proposals to provide: (1) for the identification, security, and confidentiality of an electronic bid or proposal (2) that an electronic bid or proposal is not required to be sealed; and (3) that an electronic bid or proposal remains effectively unopened until the appropriate time.

SECTION 2. Amends Section Section 452.107(a), Transportation Code, by adding language to include the "reverse auction procedure" to the authority's currently accepted methods of sealed bids or proposals when awarding a contract for construction, services, or property.

SECTION 3. Changes in law would only apply to procurement after September 1, 2003 and that bids or proposals before September 1, 2003 is governed by the law as it existed before September 1, 2003.

EFFECTIVE DATE

September 1, 2003

September 1, 2003