

By: Gattis

H.B. No. 2733

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of an office of state contract management
3 by the attorney general.

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

5 SECTION 1. Section 2262.002(b), Government Code, is amended
6 to read as follows:

7 (b) Except as otherwise provided by this chapter, this
8 [~~This~~] chapter does not apply to contracts of the Texas Department
9 of Transportation that:

10 (1) relate to highway construction or highway
11 engineering; or

12 (2) are subject to Section 201.112, Transportation
13 Code.

14 SECTION 2. Section 2262.101, Government Code, is amended to
15 read as follows:

16 Sec. 2262.101. CREATION; DUTIES. The Contract Advisory
17 Team is created to assist state agencies in improving contract
18 management practices by:

19 (1) [~~reviewing the solicitation of major contracts by~~
20 ~~state agencies,~~

21 [~~(2)~~] reviewing any findings or recommendations made
22 by the state auditor, including those made under Section
23 2262.052(b), regarding a state agency's compliance with the
24 contract management guide; and

1 (2) [~~(3)~~] providing recommendations to the commission
2 regarding:

3 (A) the development of the contract management
4 guide; and

5 (B) the training under Section 2262.053.

6 SECTION 3. Chapter 2262, Government Code, is amended by
7 adding Subchapter D to read as follows:

8 SUBCHAPTER D. STATE OFFICE OF CONTRACT MANAGEMENT

9 Sec. 2262.151. DEFINITIONS. In this subchapter:

10 (1) "High-risk contract" means a state agency contract
11 that:

12 (A) has a value of at least \$10 million;

13 (B) has a value of less than \$10 million, but has
14 high-risk factors as identified by the office;

15 (C) is entered into with an entity that is
16 incorporated outside the United States; or

17 (D) is entered into with an entity that, during
18 the five-year period preceding the date of the award of the
19 high-risk contract, has had a contract with a state agency or the
20 federal government terminated or canceled for:

21 (i) a violation of, or noncompliance with,
22 the terms of the contract;

23 (ii) delivery of an ineffective product or
24 system;

25 (iii) significant delays or cost overruns;

26 (iv) fraud;

27 (v) misconduct; or

1 (vi) any other event that resulted in the
2 termination or cancellation of the contract.

3 (2) "Major information resources project" has the
4 meaning assigned by Section 2054.003(10).

5 (3) "Office" means the state office of contract
6 management.

7 (4) "Quality assurance team" means the quality
8 assurance team established under Section 2054.158.

9 (5) "Solicitation" means a solicitation for bids,
10 offers, qualifications, proposals, or similar expressions of
11 interest for a high-risk contract.

12 Sec. 2262.152. TEXAS DEPARTMENT OF TRANSPORTATION.
13 Notwithstanding any other law, this subchapter applies to contracts
14 of the Texas Department of Transportation that:

15 (1) relate to highway construction or highway
16 engineering; or

17 (2) are subject to Section 201.112, Transportation
18 Code.

19 Sec. 2262.153. ESTABLISHMENT; GENERAL DUTIES. The attorney
20 general shall establish a state office of contract management to:

21 (1) develop criteria for identifying high-risk
22 factors in contracts;

23 (2) review and approve an action related to a
24 high-risk contract as provided by Section 2262.154;

25 (3) provide recommendations and assistance to state
26 agency personnel throughout the contract management process; and

27 (4) coordinate and consult with the quality assurance

1 team on all high-risk contracts relating to a major information
2 resources project.

3 Sec. 2262.154. REVIEW AND APPROVAL; WAIVER. (a) Each state
4 agency must receive approval from the office before taking the
5 following actions in relation to a high-risk contract:

- 6 (1) publicly releasing solicitation documents;
7 (2) executing a final contract; and
8 (3) making a payment or a series of payments that equal
9 half of the contract value.

10 (b) In determining whether to approve an action described by
11 Subsection (a), the office shall review related documentation to
12 ensure that potential risks related to the high-risk contract have
13 been identified and mitigated.

14 (c) The attorney general by rule may adopt criteria for
15 waiving the review and approval requirements under Subsections (a)
16 and (b).

17 Sec. 2262.155. SOLICITATION AND CONTRACT CANCELLATION.
18 After review of and comment on the matter by the Legislative Budget
19 Board and the governor, the office may recommend the cancellation
20 of a solicitation or a contract during the review process under
21 Section 2262.154 if:

22 (1) a proposed solicitation is not in the best
23 interest of the state;

24 (2) a proposed contract would place the state at an
25 unacceptable risk if executed; or

26 (3) an executed contract is experiencing performance
27 failure or payment irregularities.

1 SECTION 4. Section 2262.051(f), Government Code, is
2 repealed.

3 SECTION 5. Subchapter D, Chapter 2262, Government Code, as
4 added by this Act, applies only in relation to a contract:

5 (1) for which the solicitation of bids, offers,
6 qualifications, proposals, or similar expressions of interest is
7 published on or after September 1, 2007;

8 (2) that is extended or modified on or after September
9 1, 2007; or

10 (3) for which a change order is submitted on or after
11 September 1, 2007.

12 SECTION 6. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2007.