

AN ACT

relating to restrictions on state contracts with certain contractors.

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

SECTION 1. Subchapter A, Chapter 2155, Government Code, is amended by adding Section 2155.006 to read as follows:

Sec. 2155.006. PROHIBITION ON CERTAIN BIDS AND CONTRACTS.

(a) In this section:

(1) "Disaster" has the meaning assigned by Section 418.004.

(2) "Hurricane Katrina" means the hurricane of that name that struck the gulf coast region of the United States in August 2005.

(b) A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been:

(1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or

(2) assessed a penalty in a federal civil or

1 administrative enforcement action in connection with a contract  
2 awarded by the federal government for relief, recovery, or  
3 reconstruction efforts as a result of Hurricane Rita, as defined by  
4 Section 39.459, Utilities Code, Hurricane Katrina, or any other  
5 disaster occurring after September 24, 2005.

6 (c) A bid or award subject to the requirements of this  
7 section must include the following statement:

8 "Under Section 2155.006, Government Code, the vendor  
9 certifies that the individual or business entity named in this bid  
10 or contract is not ineligible to receive the specified contract and  
11 acknowledges that this contract may be terminated and payment  
12 withheld if this certification is inaccurate."

13 (d) If a state agency determines that an individual or  
14 business entity holding a state contract was ineligible to have the  
15 bid accepted or contract awarded under Subsection (b), the state  
16 agency may immediately terminate the contract without further  
17 obligation to the vendor.

18 (e) This section does not create a cause of action to  
19 contest a bid or award of a state contract.

20 SECTION 2. Section 2155.077, Government Code, is amended by  
21 amending Subsection (b) and adding Subsections (a-1), (d), and (e)  
22 to read as follows:

23 (a-1) The commission shall bar a vendor from participating  
24 in state contracts that are subject to this subtitle, including  
25 contracts for which purchasing authority is delegated to a state  
26 agency, if the vendor has been:

27 (1) convicted of violating a federal law in connection

1 with a contract awarded by the federal government for relief,  
2 recovery, or reconstruction efforts as a result of Hurricane Rita,  
3 as defined by Section 39.459, Utilities Code, Hurricane Katrina, or  
4 any other disaster occurring after September 24, 2005; or

5 (2) assessed a penalty in a federal civil or  
6 administrative enforcement action in connection with a contract  
7 awarded by the federal government for relief, recovery, or  
8 reconstruction efforts as a result of Hurricane Rita, as defined by  
9 Section 39.459, Utilities Code, Hurricane Katrina, or any other  
10 disaster occurring after September 24, 2005.

11 (b) Except as provided by Subsection (d), the [The]  
12 commission shall bar a vendor from participating in state contracts  
13 under Subsection (a) [~~this section~~] for a period that is  
14 commensurate with the seriousness of the vendor's action and the  
15 damage to the state's interests.

16 (d) The commission shall bar a vendor from participating in  
17 state contracts under Subsection (a-1) for a period of five years  
18 from the date the vendor was convicted or the penalty was assessed.

19 (e) In this section:

20 (1) "Disaster" has the meaning assigned by Section  
21 418.004.

22 (2) "Hurricane Katrina" means the hurricane of that  
23 name that struck the gulf coast region of the United States in  
24 August 2005.

25 SECTION 3. Subchapter B, Chapter 2261, Government Code, is  
26 amended by adding Section 2261.053 to read as follows:

27 Sec. 2261.053. PROHIBITION ON CERTAIN BIDS AND CONTRACTS.

1 (a) In this section:

2 (1) "Disaster" has the meaning assigned by Section  
3 418.004.

4 (2) "Hurricane Katrina" means the hurricane of that  
5 name that struck the gulf coast region of the United States in  
6 August 2005.

7 (b) Except as provided by Subsection (c), a state agency may  
8 not accept a bid or award a contract that includes proposed  
9 financial participation by a person who, during the five-year  
10 period preceding the date of the bid or award, has been:

11 (1) convicted of violating a federal law in connection  
12 with a contract awarded by the federal government for relief,  
13 recovery, or reconstruction efforts as a result of Hurricane Rita,  
14 as defined by Section 39.459, Utilities Code, Hurricane Katrina, or  
15 any other disaster occurring after September 24, 2005; or

16 (2) assessed a penalty in a federal civil or  
17 administrative enforcement action in connection with a contract  
18 awarded by the federal government for relief, recovery, or  
19 reconstruction efforts as a result of Hurricane Rita, as defined by  
20 Section 39.459, Utilities Code, Hurricane Katrina, or any other  
21 disaster occurring after September 24, 2005.

22 (c) A bid or award subject to the requirements of this  
23 section must include the following statement:

24 "Under Section 2261.053, Government Code, the contractor  
25 certifies that the individual or business entity named in this bid  
26 or contract is not ineligible to receive the specified contract and  
27 acknowledges that this contract may be terminated and payment

1 withheld if this certification is inaccurate."

2 (d) If a state agency determines that an individual or  
3 business entity holding a state contract was ineligible to have the  
4 bid accepted or contract awarded under Subsection (b), the state  
5 agency may immediately terminate the contract without further  
6 obligation to the contractor.

7 (e) This section does not create a cause of action to  
8 contest a bid or award of a state contract.

9 SECTION 4. The changes in law made by this Act apply only in  
10 relation to a state contract for which the request for bids or  
11 proposals or other applicable expressions of interest are made  
12 public on or after the effective date of this Act.

13 SECTION 5. This Act takes effect September 1, 2007.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 608 passed the Senate on March 28, 2007, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 608 passed the House on May 17, 2007, by the following vote: Yeas 143, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor