

By: Ellis

S.B. No. 608

A BILL TO BE ENTITLED

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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.