

By: Ellis

S.B. No. 608

A BILL TO BE ENTITLED

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, "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, or Hurricane Katrina;
or

(2) assessed a penalty in a federal civil or administrative enforcement action 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

1 Section 39.459, Utilities Code, or Hurricane Katrina.

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

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

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

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

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

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

23 (1) convicted of violating a federal law in connection
24 with a contract awarded by the federal government for relief,
25 recovery, or reconstruction efforts as a result of Hurricane Rita,
26 as defined by Section 39.459, Utilities Code, or Hurricane Katrina;

27 or

1 (2) assessed a penalty in a federal civil or
2 administrative enforcement action in connection with a contract
3 awarded by the federal government for relief, recovery, or
4 reconstruction efforts as a result of Hurricane Rita, as defined by
5 Section 39.459, Utilities Code, or Hurricane Katrina.

6 (b) Except as provided by Subsection (d), the [The]
7 commission shall bar a vendor from participating in state contracts
8 under Subsection (a) [this section] for a period that is
9 commensurate with the seriousness of the vendor's action and the
10 damage to the state's interests.

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

14 (e) In this section, "Hurricane Katrina" means the
15 hurricane of that name that struck the gulf coast region of the
16 United States in August 2005.

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

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

20 (a) In this section, "Hurricane Katrina" means the hurricane of
21 that name that struck the gulf coast region of the United States in
22 August 2005.

23 (b) Except as provided by Subsection (c), a state agency may
24 not accept a bid or award a contract that includes proposed
25 financial participation by a person who, during the five-year
26 period preceding the date of the bid or award, 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, or Hurricane Katrina;
4 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, or Hurricane Katrina.

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

12 "Under Section 2261.053, Government Code, the contractor
13 certifies that the individual or business entity named in this bid
14 or contract is not ineligible to receive the specified contract and
15 acknowledges that this contract may be terminated and payment
16 withheld if this certification is inaccurate."

17 (d) If a state agency determines that an individual or
18 business entity holding a state contract was ineligible to have the
19 bid accepted or contract awarded under Subsection (b), the state
20 agency may immediately terminate the contract without further
21 obligation to the contractor.

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

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

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