

1-1 By: Ellis S.B. No. 608
1-2 (In the Senate - Filed February 13, 2007; February 27, 2007,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 14, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 March 14, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 608 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to restrictions on state contracts with certain
1-11 contractors.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter A, Chapter 2155, Government Code, is
1-14 amended by adding Section 2155.006 to read as follows:

1-15 Sec. 2155.006. PROHIBITION ON CERTAIN BIDS AND CONTRACTS.

1-16 (a) In this section:

1-17 (1) "Disaster" has the meaning assigned by Section
1-18 418.004.

1-19 (2) "Hurricane Katrina" means the hurricane of that
1-20 name that struck the gulf coast region of the United States in
1-21 August 2005.

1-22 (b) A state agency may not accept a bid or award a contract,
1-23 including a contract for which purchasing authority is delegated to
1-24 a state agency, that includes proposed financial participation by a
1-25 person who, during the five-year period preceding the date of the
1-26 bid or award, has been:

1-27 (1) convicted of violating a federal law in connection
1-28 with a contract awarded by the federal government for relief,
1-29 recovery, or reconstruction efforts as a result of Hurricane Rita,
1-30 as defined by Section 39.459, Utilities Code, Hurricane Katrina, or
1-31 any other disaster occurring after September 24, 2005; or

1-32 (2) assessed a penalty in a federal civil or
1-33 administrative enforcement action in connection with a contract
1-34 awarded by the federal government for relief, recovery, or
1-35 reconstruction efforts as a result of Hurricane Rita, as defined by
1-36 Section 39.459, Utilities Code, Hurricane Katrina, or any other
1-37 disaster occurring after September 24, 2005.

1-38 (c) A bid or award subject to the requirements of this
1-39 section must include the following statement:

1-40 "Under Section 2155.006, Government Code, the vendor
1-41 certifies that the individual or business entity named in this bid
1-42 or contract is not ineligible to receive the specified contract and
1-43 acknowledges that this contract may be terminated and payment
1-44 withheld if this certification is inaccurate."

1-45 (d) If a state agency determines that an individual or
1-46 business entity holding a state contract was ineligible to have the
1-47 bid accepted or contract awarded under Subsection (b), the state
1-48 agency may immediately terminate the contract without further
1-49 obligation to the vendor.

1-50 (e) This section does not create a cause of action to
1-51 contest a bid or award of a state contract.

1-52 SECTION 2. Section 2155.077, Government Code, is amended by
1-53 amending Subsection (b) and adding Subsections (a-1), (d), and (e)
1-54 to read as follows:

1-55 (a-1) The commission shall bar a vendor from participating
1-56 in state contracts that are subject to this subtitle, including
1-57 contracts for which purchasing authority is delegated to a state
1-58 agency, if the vendor has been:

1-59 (1) convicted of violating a federal law in connection
1-60 with a contract awarded by the federal government for relief,
1-61 recovery, or reconstruction efforts as a result of Hurricane Rita,
1-62 as defined by Section 39.459, Utilities Code, Hurricane Katrina, or
1-63 any other disaster occurring after September 24, 2005; or

2-1 (2) assessed a penalty in a federal civil or
2-2 administrative enforcement action in connection with a contract
2-3 awarded by the federal government for relief, recovery, or
2-4 reconstruction efforts as a result of Hurricane Rita, as defined by
2-5 Section 39.459, Utilities Code, Hurricane Katrina, or any other
2-6 disaster occurring after September 24, 2005.

2-7 (b) Except as provided by Subsection (d), the [The]
2-8 commission shall bar a vendor from participating in state contracts
2-9 under Subsection (a) [~~this section~~] for a period that is
2-10 commensurate with the seriousness of the vendor's action and the
2-11 damage to the state's interests.

2-12 (d) The commission shall bar a vendor from participating in
2-13 state contracts under Subsection (a-1) for a period of five years
2-14 from the date the vendor was convicted or the penalty was assessed.

2-15 (e) In this section:

2-16 (1) "Disaster" has the meaning assigned by Section
2-17 418.004.

2-18 (2) "Hurricane Katrina" means the hurricane of that
2-19 name that struck the gulf coast region of the United States in
2-20 August 2005.

2-21 SECTION 3. Subchapter B, Chapter 2261, Government Code, is
2-22 amended by adding Section 2261.053 to read as follows:

2-23 Sec. 2261.053. PROHIBITION ON CERTAIN BIDS AND CONTRACTS.

2-24 (a) In this section:

2-25 (1) "Disaster" has the meaning assigned by Section
2-26 418.004.

2-27 (2) "Hurricane Katrina" means the hurricane of that
2-28 name that struck the gulf coast region of the United States in
2-29 August 2005.

2-30 (b) Except as provided by Subsection (c), a state agency may
2-31 not accept a bid or award a contract that includes proposed
2-32 financial participation by a person who, during the five-year
2-33 period preceding the date of the bid or award, has been:

2-34 (1) convicted of violating a federal law in connection
2-35 with a contract awarded by the federal government for relief,
2-36 recovery, or reconstruction efforts as a result of Hurricane Rita,
2-37 as defined by Section 39.459, Utilities Code, Hurricane Katrina, or
2-38 any other disaster occurring after September 24, 2005; or

2-39 (2) assessed a penalty in a federal civil or
2-40 administrative enforcement action in connection with a contract
2-41 awarded by the federal government for relief, recovery, or
2-42 reconstruction efforts as a result of Hurricane Rita, as defined by
2-43 Section 39.459, Utilities Code, Hurricane Katrina, or any other
2-44 disaster occurring after September 24, 2005.

2-45 (c) A bid or award subject to the requirements of this
2-46 section must include the following statement:

2-47 "Under Section 2261.053, Government Code, the contractor
2-48 certifies that the individual or business entity named in this bid
2-49 or contract is not ineligible to receive the specified contract and
2-50 acknowledges that this contract may be terminated and payment
2-51 withheld if this certification is inaccurate."

2-52 (d) If a state agency determines that an individual or
2-53 business entity holding a state contract was ineligible to have the
2-54 bid accepted or contract awarded under Subsection (b), the state
2-55 agency may immediately terminate the contract without further
2-56 obligation to the contractor.

2-57 (e) This section does not create a cause of action to
2-58 contest a bid or award of a state contract.

2-59 SECTION 4. The changes in law made by this Act apply only in
2-60 relation to a state contract for which the request for bids or
2-61 proposals or other applicable expressions of interest are made
2-62 public on or after the effective date of this Act.

2-63 SECTION 5. This Act takes effect September 1, 2007.

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