

By: Parker

H.B. No. 4682

A BILL TO BE ENTITLED

AN ACT

relating to the procurement of contracts in the state

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

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

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

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

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

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

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

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

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

(2) ~~(3)~~ providing recommendations to the commission

1 regarding:

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

4 (B) the training under Section 2262.053.

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

7 SUBCHAPTER D. COLLABORATION WITH PRIVATE PROCUREMENT SPECIALIST

8 Sec. 2262.151. DEFINITIONS. In this subchapter:

9 (1) "High-cost contract" means a state agency contract
10 that has a value of at least \$10 million;

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

13 (3) "Solicitation" means a solicitation for bids,
14 offers, qualifications, proposals, or similar expressions of
15 interest for a high-cost contract.

16 Sec. 2262.152. USE OF PRIVATE PROCUREMENT SPECIALIST. The
17 comptroller of public accounts shall establish rules for the
18 purchasing and procurement of contracts pursuant to the
19 requirements herein:

20 (1) Except as otherwise provided in 2262.153(c), all
21 high-cost contracts shall require the collaboration of a private
22 procurement specialist for the purposes of satisfying the
23 requirements found in 2262.153(a) and 2262.153(b);

24 (2) In assigning a private procurement specialist the
25 comptroller of public accounts and the respective state agency
26 shall take the following into account:

27 (i) a private procurement specialist's relative

1 experience and knowledge on the given subject associated with the
2 high-cost contract, and

3 (ii) any fees or costs otherwise associated in
4 securing the services of the private procurement specialist.

5 (3) review and approve an action related to a
6 high-cost contract as provided by Section 2262.153;

7 (4) provide recommendations and assistance to state
8 agency personnel throughout the contract management process; and

9 (5) coordinate and consult with the assigned private
10 procurement specialist on all high-cost contracts relating to a
11 major information resources project.

12 Sec. 2262.153. REVIEW AND APPROVAL; WAIVER. (a) Each state
13 agency must collaborate with a private procurement specialist
14 before taking the following actions in relation to a high-cost
15 contract:

16 (1) publicly releasing solicitation documents;

17 (2) executing a final contract; and

18 (3) making a payment or a series of payments that equal
19 half of the contract value.

20 (b) In determining whether to approve an action described by
21 Subsection (a), the assigned private procurement specialist and the
22 comptroller of public accounts shall review related documentation
23 to ensure that potential risks related to the high-cost contract
24 have been identified and mitigated.

25 (c) The comptroller of public accounts by rule may adopt
26 criteria for waiving the review and approval requirements under
27 Subsections (a) and (b).

1 (d) The private procurement specialist's fee is to be paid
2 by the appropriate agency out of funds appropriated.

3 Sec. 2262.155. SOLICITATION AND CONTRACT CANCELLATION.
4 After review of and comment on the matter by the Legislative Budget
5 Board and the governor, the assigned private procurement specialist
6 may recommend the cancellation of a solicitation or a contract
7 during the review process under Section 2262.153 if:

8 (1) a proposed solicitation is not in the best
9 interest of the state;

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

12 (3) an executed contract is experiencing performance
13 failure or payment irregularities.

14 SECTION 4. Section 2262.051(f), Government Code, is
15 repealed.

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

18 (1) for which the solicitation of bids, offers,
19 qualifications, proposals, or similar expressions of interest is
20 published on or after September 1, 2009;

21 (2) that is extended or modified on or after September
22 1, 2009; or

23 (3) for which a change order is submitted on or after
24 September 1, 2009.

25 SECTION 6. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2009.