

By: Davis

S.B. No. 1866

A BILL TO BE ENTITLED

AN ACT

relating to the selection of providers of professional services by governmental entities.

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

SECTION 1. Section 2254.003, Government Code, is amended to read as follows:

Sec. 2254.003. SELECTION OF PROVIDER; FEES. (a) A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

(1) on the basis of demonstrated competence and qualifications to perform the services; and

(2) for a fair and reasonable price.

(b) Unless inconsistent with the criteria set forth in Subsection (a), in selecting a provider of professional services or a group or association of providers, a governmental entity may consider the impact on the ability of the entity to comply with laws, rules and policies of the entity relating to historically underutilized and/or minority businesses, the entity's small business development program, or another contracting program approved by the entity, if any. The entity may also consider the provider's or group or association of providers' principal place of

1 business if, in the entity's governing body's judgment, the
2 location of the principal place of business will impact the most
3 efficient and economical provision of the services.

4 (c) The professional fees under the contract may not
5 exceed any maximum provided by law.

6 SECTION 2. Section 2254.004, Government Code, is amended to
7 read as follows:

8 Sec. 2254.004. CONTRACT FOR PROFESSIONAL SERVICES OF
9 ARCHITECT, ENGINEER, OR SURVEYOR. (a) In procuring architectural,
10 engineering, or land surveying services, a governmental entity
11 shall:

12 (1) first select the most highly qualified provider of
13 those services on the basis of [~~demonstrated competence and~~
14 ~~qualifications~~] the factors set forth in Section 2254.003; and

15 (2) then attempt to negotiate with that provider a
16 contract at a fair and reasonable price.

17 (b) If a satisfactory contract cannot be negotiated with the
18 most highly qualified provider of architectural, engineering, or
19 land surveying services, the entity shall:

20 (1) formally end negotiations with that provider;

21 (2) select the next most highly qualified provider;

22 and

23 (3) attempt to negotiate a contract with that provider
24 at a fair and reasonable price.

25 (c) The entity shall continue the process described in
26 Subsection (b) to select and negotiate with providers until a
27 contract is entered into.

1 SECTION 3. This Act takes effect September 1, 2011.