

BILL ANALYSIS

C.S.H.B. 2605
By: Flynn
Government Efficiency & Reform
Committee Report (Substituted)

BACKGROUND AND PURPOSE

State agencies sometimes contract with outside consultants to benefit from expertise that agency staff may not possess, but interested parties note that these contractors can submit reports that may be copyrighted or have other limitations on their distribution. The parties assert that such limitations unreasonably impede the public's access to information, and they recommend that the initial owner of work made for hire should be the employer or other person for whom the work was prepared unless both parties involved have signed a written agreement to the contrary. The parties also assert that a governmental entity should be able to award multiple contracts for architectural, engineering, or land surveying services under a single request for qualifications under certain conditions. C.S.H.B. 2605 seeks to address these issues.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2605 amends the Government Code to authorize a governmental entity to award multiple contracts for architectural, engineering, or land surveying services under a single request for qualifications if the request for qualifications contains the terms of the contracts and provides for the equitable distribution of the services to be performed among the multiple contracts; the selection of providers of those services is based on demonstrated competence and qualifications; the contracts are negotiated sequentially; and the services to be performed are distributed on an equitable basis among the multiple contracts.

C.S.H.B. 2605 requires a consulting services contract to include provisions that allow the state agency contracting with the consultant and any other state agency and the legislature, at the contracting state agency's discretion, to distribute the consultant report, if any, and to post the report on the agency's Internet website or the website of a standing committee of the legislature. The bill establishes that this requirement does not affect the application of public information law to a consultant's report.

C.S.H.B. 2605 specifies that its provisions relating to the distribution of consultant reports do not apply to a consulting services contract entered into on or after the bill's effective date if the state agency entered into negotiations for the consulting services contract before the bill's effective date and the contract is executed before December 31, 2013.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2605 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

No equivalent provision.

SECTION 1. Subchapter B, Chapter 2254, Government Code, is amended by adding Section 2254.041 to read as follows:
Sec. 2254.041. DISTRIBUTION OF CONSULTANT REPORTS. A consulting services contract must include provisions that allow the state agency contracting with the consultant and any other state agency and the legislature, at the contracting state agency's discretion, to distribute the consultant report, if any, and to post the report on the agency's Internet website or the website of a standing committee of the legislature.

SECTION 2. Section 2254.041, Government Code, as added by this Act, applies only to a consulting services contract entered into on or after the effective

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 2254.004, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding the process described by this section to select and negotiate with providers, a governmental entity may award multiple contracts for architectural, engineering, or land surveying services under a single request for qualifications if:

(1) the request for qualifications:

(A) contains the terms of the contracts; and

(B) provides for the equitable distribution of the services to be performed among the multiple contracts;

(2) the selection of providers of those services is based on demonstrated competence and qualifications;

(3) the contracts are negotiated sequentially; and

(4) the services to be performed are distributed on an equitable basis among the multiple contracts.

SECTION 2. Subchapter B, Chapter 2254, Government Code, is amended by adding Section 2254.041 to read as follows:

Sec. 2254.041. DISTRIBUTION OF CONSULTANT REPORTS. (a) A consulting services contract must include provisions that allow the state agency contracting with the consultant and any other state agency and the legislature, at the contracting state agency's discretion, to distribute the consultant report, if any, and to post the report on the agency's Internet website or the website of a standing committee of the legislature.

(b) This section does not affect the application of Chapter 552 to a consultant's report.

SECTION 3. (a) Except as provided by Subsection (b) of this section, Section 2254.041, Government Code, as added by this Act, applies only to a consulting

date of this Act. A consulting services contract entered into before the effective date of this Act is governed by the law in effect on the date the contract is entered into, and that law is continued in effect for that purpose.

services contract entered into on or after the effective date of this Act. A consulting services contract entered into before the effective date of this Act is governed by the law in effect on the date the contract is entered into, and that law is continued in effect for that purpose.

(b) Section 2254.041, Government Code, as added by this Act, does not apply to a consulting services contract entered into on or after the effective date of this Act if:

(1) the state agency entered into negotiations for the consulting services contract before the effective date of this Act; and

(2) the contract is executed before December 31, 2013.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 4. Same as introduced version.