

By: Simmons

H.B. No. 1558

A BILL TO BE ENTITLED

AN ACT

1
2 relating to conformity with State and Local procurement
3 processes.

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

5 SECTION 1. Sec. [460.406.](#) , Transportation Code, is amended
6 to read as follows:

7 PURCHASES: COMPETITIVE BIDDING. (a) Except as provided by
8 Subsection (c), an authority may not award a contract for
9 construction, services, or property, other than real property,
10 except through the solicitation of competitive sealed bids or
11 proposals ensuring full and open competition.

12 (b) The authority shall describe in a solicitation each
13 factor to be used to evaluate a bid or proposal and give the
14 factor's relative importance.

15 (c) The board of directors may authorize the negotiation of
16 a contract without competitive sealed bids or proposals if:

17 (1) the aggregate amount involved in the contract is
18 less than the greater of:

19 (A) \$50,000; or

20 (B) the amount of an expenditure under a contract
21 that would require a municipality to comply with Section
22 [252.021\(a\)](#), Local Government Code;

23 (2) the contract is for construction for which not
24 more than one bid or proposal is received;

1 (3) the contract is for services or property for which
2 there is only one source or for which it is otherwise impracticable
3 to obtain competition, including:

4 (A) items that are available from only one source
5 because of patents, copyrights, secret processes, or natural
6 monopolies;

7 (B) gas, water, and other utility services; and

8 (C) captive replacement parts or components for
9 equipment.

10 (4) the contract is to respond to an emergency for
11 which the public exigency does not permit the delay incident to the
12 competitive process;

13 (5) the contract is for personal ~~or~~, professional, or
14 planning services ~~for which competitive bidding is precluded by~~
15 ~~law;~~

16 (6) the contract, without regard to form and which may
17 include bonds, notes, loan agreements, or other obligations, is for
18 the purpose of borrowing money or is a part of a transaction
19 relating to the borrowing of money, including:

20 (A) a credit support agreement, such as a line or
21 letter of credit or other debt guaranty;

22 (B) a bond, note, debt sale or purchase, trustee,
23 paying agent, remarketing agent, indexing agent, or similar
24 agreement;

25 (C) an agreement with a securities dealer,
26 broker, or underwriter; and

27 (D) any other contract or agreement considered by

1 the board of directors to be appropriate or necessary in support of
2 the authority's financing activities;

3 (7) the contract is for work that is performed and paid
4 for by the day as the work progresses;

5 (8) the contract is for the lease or purchase of an
6 interest in land;

7 (9) the contract is for the purchase of personal
8 property sold:

9 (A) at an auction by a state licensed auctioneer;

10 (B) at a going out of business sale held in
11 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
12 or

13 (C) by a political subdivision of this state, a
14 state agency, or an entity of the federal government;

15 (10) the contract is for services performed by persons
16 who are blind or have severe disabilities;

17 (11) the contract is for the purchase of electricity;

18 (12) the contract is one for an authority project and
19 awarded for alternate project delivery using the procedures under
20 Subchapters E, F, G, H, and I, Chapter 2269, Government Code; or

21 (13) the contract is for fare enforcement officer
22 services under Section 460.1092.

23 (d) For the purposes of entering into a contract authorized
24 by Subsection (c)(12), an authority is considered a "governmental
25 entity" as described by Section 2269.002, Government Code.

26 SECTION 2. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2017.