

By: Miles

S.B. No. 1738

A BILL TO BE ENTITLED

AN ACT

relating to historically underutilized businesses.

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

SECTION 1. Section 2161.065(a), Government Code, is amended to read as follows:

(a) The commission shall design a mentor-protege program to foster long-term relationships between prime contractors and historically underutilized businesses and to increase the ability of historically underutilized businesses to contract with the state or to receive subcontracts under a state contract. Each state agency with a biennial appropriation that exceeds \$5 [~~\$10~~] million shall implement the program designed by the commission.

SECTION 2. Sections 2161.123(d) and (f), Government Code, are amended to read as follows:

(d) The comptroller [~~commission~~] and the state auditor shall cooperate to develop procedures providing for random periodic monitoring of state agency compliance with this section. The state auditor shall report to the comptroller [~~commission~~] a state agency that is not complying with this section. In determining whether a state agency is making a good faith effort to comply, the state auditor shall consider whether the agency:

(1) has adopted rules under Section 2161.003;

(2) has used the comptroller's [~~commission's~~] directory under Section 2161.064 and other resources to identify

1 historically underutilized businesses that are able and available
2 to contract with the agency;

3 (3) made good faith, timely efforts to contact
4 identified historically underutilized businesses regarding
5 contracting opportunities;

6 (4) conducted its procurement program in accordance
7 with the good faith effort methodology set out in comptroller
8 ~~[commission]~~ rules; and

9 (5) established goals for contracting with
10 historically underutilized businesses in each procurement category
11 based on:

12 (A) scheduled fiscal year expenditures; ~~and~~

13 (B) the availability of historically
14 underutilized businesses in each category as determined by rules
15 adopted under Section 2161.002; and

16 (C) an accurate representation of the number of
17 historically underutilized businesses in each category.

18 (f) If the state auditor reports to the comptroller
19 ~~[commission]~~ that a state agency is not complying with this
20 section, the comptroller ~~[commission]~~ shall assist the agency in
21 complying with this section and shall prepare for inclusion with
22 the agency's strategic plan a written plan for increasing the
23 agency's use of historically underutilized businesses.

24 SECTION 3. Section 2161.251(a), Government Code, is amended
25 to read as follows:

26 (a) This subchapter applies to all contracts entered into by
27 a state agency with an expected value of \$50,000 ~~[\$100,000]~~ or more,

1 including:

2 (1) contracts for the acquisition of a good or
3 service; and

4 (2) contracts for or related to the construction of a
5 public building, road, or other public work.

6 SECTION 4. Section 2161.252(a), Government Code, is amended
7 to read as follows:

8 (a) Each state agency that considers entering into a
9 contract with an expected value of \$50,000 [~~\$100,000~~] or more
10 shall, before the agency solicits bids, proposals, offers, or other
11 applicable expressions of interest for the contract, determine
12 whether there will be subcontracting opportunities under the
13 contract. If the state agency determines that there is that
14 probability, the agency shall require that each bid, proposal,
15 offer, or other applicable expression of interest for the contract
16 include a historically underutilized business subcontracting plan.

17 SECTION 5. The changes in law made by this Act apply only to
18 a contract for goods or services that is entered into on or after
19 the effective date of this Act. A contract entered into before the
20 effective date of this Act is governed by the law in effect on the
21 date the contract was entered into, and the former law is continued
22 in effect for that purpose.

23 SECTION 6. This Act takes effect September 1, 2017.