

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 300
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Intergovernmental Relations
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas General Land Office (GLO) published a report in August 2018 called "Hurricane Harvey: Texas at Risk." The report detailed lessons learned from Hurricane Harvey and recommended 18 changes to better prepare for the next natural disaster.

In that report, GLO recommended that GLO "bid out indefinite quantity contracts (IQCs) for information management, construction, and other engineering construction services under the Federal Acquisition Regulation (FAR) procedures before the annual hurricane season each year, so contracts are in place to be used within a week of a major disaster."

GLO published this recommendation because it faced a complex "tangle of federal regulations" when responding to Hurricane Harvey. This was because, for the first time in U.S. history, FEMA and GLO jointly managed temporary housing post-hurricane. And since GLO had never administered these programs before, it had no pre-hurricane contracts in place. GLO faced a slow and bureaucratic process to secure contracts while satisfying the Federal Acquisition Regulation requirements.

S.B. 300 instructs GLO to enter, before May 2 of each year, into indefinite quantity contracts with vendors to construct, repair, or rebuild property or infrastructure if a natural disaster occurs. These contracts should include provisions for information management, construction, and engineering services or any other service GLO deems necessary. They would be negotiated and agreed to before hurricane season each year, allowing GLO to respond quicker and more efficiently to natural disasters.

These contracts must be contingent on the availability of funds, the occurrence of a natural disaster within 12 months, and the delivery of the services to an area declared a disaster by the governor or president.

GLO will ensure compliance with the Federal Acquisition Regulation requirements, if necessary, and consider historically underutilized businesses under existing state law when awarding these contracts.

Committee Substitute Anticipated Changes:

The committee substitute will change the requirement to enter into indefinite quantity contracts to every four years—rather than annually—starting May 2020. This change makes the requirement more practical and efficient. The committee substitute will incorporate funding through the disaster contingency fund established under section 418.073 of the Government Code, and allow existing indefinite quantity contracts to satisfy this bill's requirements. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 300 amends current law relating to indefinite quantity contracts for the provision of certain services to declared disaster areas following a natural disaster.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2254.0049(a), Government Code, as follows:

(a) Requires a government entity, in procuring architectural, engineering, or land surveying services, including procuring those services under an indefinite quantity contract under Section 31.069, Natural Resources Code, to:

(1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and

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

SECTION 2. Amends Subchapter C, Chapter 31, Natural Resources Code, by adding Section 31.069, as follows:

Sec. 31.069. INDEFINITE QUANTITY CONTRACTS FOR SERVICES AFTER DECLARED NATURAL DISASTER. (a) Requires the Texas General Land Office (GLO) to enter into indefinite quantity contracts with vendors to provide information management services, construction services, including engineering construction services, and other services GLO determines may be necessary to construct, repair, or rebuild property or infrastructure in the event of a natural disaster.

(b) Prohibits a contract entered into under Subsection (a) from expiring after May 1 of a calendar year. Requires the terms of a contract under Subsection (a) to:

(1) provide that the contract is contingent on:

(A) the availability of funds;

(B) the occurrence of a natural disaster not later than 12 months after the effective date of the contract; and

(C) delivery of the services to an area of this state declared by the governor or president of the United States under law to be a disaster area as a result of the natural disaster; and

(2) have a term of four years.

(c) Requires GLO to ensure that it has contracts in place under this section with vendors to provide the services described by Subsection (a) that take effect immediately on the expiration of a contract under this section.

(d) Authorizes a contract under this section to be funded by multiple sources including local, state, and federal agencies and the disaster contingency fund established under Section 418.073 (Disaster Contingency Fund), Government Code.

(e) Requires GLO, if GLO determines that federal funds may be used for a contract under Subsection (a), to ensure that the contract complies with the requirements of the Federal Acquisition Regulation (48 C.F.R. Chapter 1), or a successor regulation.

(f) Requires GLO, in awarding a contract under this section, to consider and apply any applicable state law and rules of GLO relating to contracting with historically underutilized businesses.

(g) Provides that, if on September 1, 2019, GLO has indefinite quantity contracts with vendors for the provision of the types of services specified by Subsection (a),

GLO is not required to enter into new indefinite quantity contracts that meet the requirements of this section until those existing contracts expire. Provides that this subsection expires September 1, 2023.

SECTION 3. Requires GLO, except as provided by Section 31.069(g), Natural Resources Code, as added by this Act, to enter into indefinite quantity contracts required by Section 31.069, Natural Resources Code, as added by this Act, not later than May 1, 2020.

SECTION 4. Effective date: September 1, 2019.