

BILL ANALYSIS

C.S.H.B. 4748

By: Curry

Delivery of Government Efficiency
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The State Purchasing and General Services Act establishes procedures for state agencies to purchase goods and services. Under current procedures, a state contract may only be awarded to a contractor offering the best value to the state, generally a single contractor. The bill author has informed the committee that if a contractor withdraws or cannot meet their obligations, the procurement process must recommence to find another contractor. C.S.H.B. 4748 seeks to remedy this issue by revising the state procurement process to permit multiple awards of a state contract, ensuring service continuity, fiscal responsibility, and administrative oversight.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 4748 amends the Government Code to authorize the comptroller of public accounts or a state agency to use the multiple award purchasing procedure described by the bill's provisions to award a contract to more than one vendor for the purchase of similar goods or services as necessary to ensure adequate delivery, service, or product compatibility. The bill defines "multiple award contract" by reference as an award of a contract for an indefinite amount of one or more similar goods or services from a vendor, and "multiple award" as the award of a multiple award contract to more than one vendor by the comptroller or a state agency with the intent to order from the vendors who are awarded the contract all of the solicited goods or services necessary to satisfy the actual solicitation requirements for the contract. The bill requires the comptroller or a state agency, as applicable, to do the following:

- prepare a written determination stating the comptroller's or agency's reasons for using the multiple award purchasing procedure to purchase the goods or services under a multiple award contract and retain the determination in the multiple award contract file;
- disclose in the solicitation for a multiple award contract the comptroller or agency's intent to use the multiple award purchasing procedure and criteria for an award under that procedure;
- solicit, evaluate, and award a multiple award contract in accordance with applicable state purchasing law or the request for offers method prescribed by comptroller rules adopted under provisions related to purchasing methods; and
- place each order under a multiple award contract in a manner that provides the best value to the state in accordance with standards provided in applicable state purchasing law.

The bill requires each contractor under a multiple award contract to provide, or be capable of providing, the best value to the state. The bill authorizes the comptroller or a state agency, if necessary to determine the best value to the state, to conduct a secondary solicitation competition among the vendors awarded a multiple award contract before placing the order. The bill requires the comptroller or a state agency to document the method used for determining the best value to the state under a multiple award contract and retain the documentation in the contract file.

C.S.H.B. 4748 establishes that statutory provisions relating to state purchasing methods, as amended by the bill, do not apply to a contract for professional services, as the term is defined by reference to provisions relating to state and local contracts.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 4748 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced defined the term "multiple award" as an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror when the comptroller or other state agency intends to order all of its actual requirements for the specified supplies or services from those contractors, the substitute defines the term as the award of such a contract to more than one vendor by the comptroller or a state agency with the intent to order from the vendors who are awarded the contract all of the solicited goods or services necessary to satisfy the actual solicitation requirements for the contract. The substitute includes a definition absent from the introduced for the term "multiple award contract."

Whereas the substitute authorizes the comptroller or a state agency to use the multiple award purchasing procedure to award a contract to more than one vendor for the purchase of similar goods or services as necessary to ensure adequate delivery, service, or product compatibility, the introduced authorized the comptroller or another state agency to use that procedure if awards to two or more contractors for similar goods or services is necessary for those results. With respect to the provision requiring a written determination for the use of that procedure, the substitute requires the comptroller or a state agency to prepare a written determination stating the comptroller's or agency's reasons for using the procedure to purchase the goods or services under a multiple award contract and retain the determination in the multiple award contract file, whereas the introduced required the comptroller or state agency to make a written determination stating the reasons for a multiple award and retain it in the contract file.

While both the introduced and the substitute set out other provisions relating to multiple awards, the two versions differ as follows:

- whereas the substitute requires the comptroller or a state agency to disclose in the solicitation for a multiple award contract the comptroller's or agency's intent to use the multiple award purchasing procedure and criteria for an award, the introduced requires the solicitation for a multiple award to make such disclosures;
- whereas the substitute requires the comptroller or a state agency to solicit, evaluate, and award a multiple award contract in accordance with certain applicable law and methods, the introduced required any multiple award to be solicited, evaluated, and awarded in accordance with those laws and methods;
- the substitute revises the provision of the introduced that authorized a state agency, if needed to determine best value, to conduct secondary competition among the contractors on a multiple award, to instead authorize the comptroller or a state agency, in that

scenario, to conduct a secondary solicitation competition among the vendors awarded a multiple award contract before placing an order; and

- whereas the introduced required a state agency to document its method for determining best value and retain the documentation in the contract file, the substitute requires the comptroller or a state agency to document the method used for determining the best value to the state under a multiple award contract and retain the documentation in the contract file.

The substitute includes a provision absent from the introduced that establishes that statutory provisions relating to state purchasing methods, as amended by the bill, do not apply to a contract for professional services, as the term is defined by reference under provisions relating to state and local contracts.