

## **BILL ANALYSIS**

Senate Research Center

H.B. 593  
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Business & Commerce  
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Engrossed

### **DIGEST AND PURPOSE**

Under current law, a state agency may not accept a bid from, or award a contract to, a person who received compensation for participating in developing the bid specifications or developing the request for proposals. However, it would be possible for someone to assist in developing specifications at no charge, to encourage the specifications to be drawn in such a way that may benefit them in the competition for a contract. H.B. 593 prohibits a state agency from accepting a bid from, or awarding a contract to, a person who participated in the development of the bid specifications if the specifications are likely to limit or exclude competitors. This bill also prohibits a governmental entity from accepting a bid or awarding a contract to an individual or business entity that is barred from participating in governmental contracts. H.B. 593 also requires payment to a subcontractor in the event of a dispute between a contractor and a governmental entity if the work is completed and approved by the contractor and the entity.

### **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 Sections 2155.004(a), (c), (d), and (e), Government Code, as follows:

- (a) Prohibits a governmental entity, rather than a state agency, from accepting a bid from a person or awarding a contract to a person that includes proposed financial participation by the person if the person participated in preparing the bid specifications or request for proposals on which the bid or contract is based, rather than received compensation from the agency to participate in preparing specifications or request for proposals on which the bid or contract is based, and the bid specifications or request for proposals on which the bid or contract is based requires a work plan, project design, or other criteria for participation in the contract that is specific to that person or likely to limit or exclude competitors who provide similar goods or services or includes a scope of required goods or services that is so narrowly defined that it is specific to that person or likely to limit or exclude competitors who provide similar goods or services.
- (c) Authorizes a governmental entity, if the entity, rather than state agency, determines that an individual or business entity holding a governmental contract, rather than a state contract, was ineligible to have the contract accepted or awarded under Subsection (a) or (e), the governmental entity, to immediately terminate the contract without further obligation to the vendor.
- (d) Makes a conforming change.
- (e) Prohibits a governmental entity from accepting a bid from or awarding a contract that is subject to this subtitle to an individual or business entity that is barred from participating in governmental contracts under Section 2155.077 (Barring Vendor From Participation in State Contract). Deletes text referring to a bidder or contract participant providing free technical assistance to a state agency.

SECTION 2. Amends Subchapter A, Chapter 2155, Government Code, by adding Section 2155.006, as follows:

Sec. 2155.006. SUBCONTRACTOR PAYMENT. Requires any subcontractor, if a dispute arises regarding a contract between a governmental entity and a contractor, to be paid for the work completed under the contract if the work has been satisfactorily completed by the subcontractor and approved by the contractor and the governmental entity.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2003.