

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2777
By: Holland (LaMantia)
Water, Agriculture & Rural Affairs
5/8/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas procurement laws require purchases of goods and services by state agencies to be accomplished via competitive bidding. There are limited exceptions to purchasing goods and services through alternative means, including contract purchases and multiple award contracts established by the Comptroller of Public Accounts of the State of Texas. Other state agencies already have delegated authority codified in statute, which allows those agencies to carry out more efficient and cost-saving procurement processes.

Competitive solicitation can be difficult for some governmental agencies. There is no statutory guidance or exception in place if a governmental entity issues a competitive solicitation and does not receive a response. The only option is for entities to resolicit until an award can be made. This process is lengthy and requires involvement from various personnel and stakeholders. When a solicitation cannot be awarded due to lack of interest from the public, staff resources must continue to support the procurement until an eventual contract is awarded. The Texas Parks and Wildlife Department's (TPWD) needs are often unique, making obtaining goods and services via competitive bidding challenging. Qualified vendors may exist, but are often unaware of the bidding opportunities or lack the ability and interest to complete the rigorous documentation required for bidding.

H.B. 2777 authorizes TPWD to contract directly with a qualified vendor if responsive bids are not received in response to a competitive solicitation for goods and services. This helps to ensure that TPWD can complete projects in a timely manner, and provide employees with the tools and services they need. This increases the ability to encumber funds and produce deliverables within established deadlines, while avoiding loss of funding availability. H.B. 2777 assists TPWD in using all available resources to ensure they can save time and resources by getting the best value possible for the goods and services necessary for TPWD's continued operation.

C.S.H.B. 2777 makes changes to better outline the procedure TPWD must go through before contracting with a vendor. Ideally, this ensures that TPWD follows the proper contracting protocol. Additionally, C.S.H.B. 2777 suggests that TPWD should regionalize or gather multiple projects that could be combined in order to attract more bidders. Contractors may be more inclined to accept a smaller job if multiple projects could be combined. Finally, C.S.H.B. 2777 removes the ability of the TPWD executive director's designee to make decisions regarding these contracts, ensuring this authority is exclusive to the executive director level.

C.S.H.B. 2777 amends current law relating to the contracting authority of the Texas Parks and Wildlife Department.

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 11.0171, Parks and Wildlife Code, by adding Subsections (c) and (d), as follows:

(c) Authorizes the executive director of the Texas Parks and Wildlife Department (executive director) to negotiate with and award a contract for goods or services to any qualified vendor if the executive director:

(1) solicits bids for the goods or services through a competitive process in compliance with all applicable laws, including Chapters 2155 (Purchasing: General Rules and Procedures), 2254 (Professional and Consulting Services), and 2269 (Contracting and Delivery Procedures for Construction Projects), Government Code, that fails to result in competitive responsive bids;

(2) makes a written determination that resoliciting bids for the goods or services would:

(A) be unlikely to result in responsive bids;

(B) increase costs to the Texas Parks and Wildlife Department (TPWD);
or

(C) delay the ability of TPWD to address a critical need; and

(3) determines that the vendor meets the requirements of the original solicitation.

(d) Authorizes the executive director, to the extent practicable, to combine the procurement of multiple goods or services into a single competitively bid contract to enhance the contract's attraction for potential vendors.

SECTION 2. Makes application of Section 11.0171(c), Parks and Wildlife Code, as added by this Act, prospective.

SECTION 3. Effective date: upon passage or September 1, 2023.