

This newsletter is published on a monthly basis to provide relevant information to government purchasing and contracting professionals regarding public procurement and contracting topics. Hope you enjoy!

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Senate Bill 1

I thought we were through with the 85th Legislative Regular Session, but it just keeps on giving! Government Procurement Services tracked purchasing and contracting related bills during the legislative session. However, it was recently brought to my attention that I missed some information that was "hidden" in Senate Bill 1 - the General Appropriations Act. The bill is only 969 pages so I don't know how I missed it!

The information is in Article 9, Section 17.10 [beginning on page

Training Schedule



2017 Workshop Prices:

\$300 (1-day)

\$515 (2-day)

Group Discounts
Available

Agile Project Management

October 6, 2017

Austin

Communications & Stakeholder Management in Projects & Contracting

October 5, 2017

82].

Contract Cost Containment

"It is the intent of the legislature that all agencies and institutions of higher education find savings in contracted goods and services to ensure the cost effective use of state appropriations regardless of method of finance or source of funds.

Appropriations of General Revenue and General Revenue-Dedicated Funds made elsewhere in this Act are reduced by the amounts listed in this section. Affected agencies shall identify and execute savings and efficiencies in their use of contracted goods and services.

In addition to canceling contracts for which the agency does not have sufficient appropriations, agencies and institutions should, when administratively feasible and cost-effective, implement the following strategies to the extent allowable by state statute and the Contract Management Guide:

- Modify contract statements of work to remove non-essential services or requirements;
- Provide services previously outsourced; any increase in full-time equivalents needed to provide such services are subject to the approval process established by Article IX, Section 6.10 of this Act;
- Reduce staff augmentation contracts for non-essential functions;
- Ensure provisions related to service level and pricing mechanisms in existing contracts are correctly enforced;
- Enforce damage provisions for vendor non-performance and collect monetary refunds for improper payments to vendors;
- Ensure dollar values of performance bonds and insurance are consistent with risk of nonperformance and reduce requirements if it is prudent to do so;
- Use TxSmartBuy, term contracts, and cooperative contracts whenever possible;
- Modify supplier terms and discounts;
- Consolidate purchasing requests and delivery intervals;
- While ensuring the maximum use of competitive sourcing, consolidate contracts for similar services into the fewest vendors possible to reduce duplication of effort;
- Reduce on-hand quantities of inventoried items and centralize warehouses; and
- Encourage vendors to identify potential cost savings.

In addition, an agency or institution of higher education may not use

Austin

Essentials of Contract Management

Sept. 27-28, 2017

Houston

Ethics in Contracting

Sept. 12, 2017

Austin

Fundamentals of Public Purchasing

Sept. 14-15, 2017

DFW

Dec. 12-13, 2017

Austin

Negotiation Skills

November 14, 2017

DFW

Procurement Management

funds appropriated elsewhere in this Act to pay for a contract for goods or services unless it:

1. Seeks competitive bids before renewing or extending a contract that has been in effect more than three fiscal years as of August 31, 2017 and is valued at the lesser of \$10,000,000 or 10% of the agency's All Funds budget for the 2018-19 biennium.

The following contracts are exempt from the requirements:

- TxSmartBuy, term, and cooperative contracts administered by CPA or DIR
- Grants
- Interagency contracts
- Contracts that relate to a construction project as defined by §2166.001, Government Code
- Contracts that relate to highway construction or highway engineering
- Contracts that relate to developing information resource applications or information resource technologies
- Contracts not required by law to be competitively bid.

2. Conducts a cost-benefit analysis to compare canceling or continuing any contract related to a major information resource project subject to Quality Assurance Team (QAT) monitoring that is more than 50% over budget or over schedule. QAT must reapprove the cost-benefit analysis for the project to continue."

I encourage you to read the [entire section](#) (begins on Page 82) and discuss it with your management/legal department to ensure the information is clearly understood and disseminated to all appropriate parties.

Question of the Month

QUESTION:

Can you help me with SB 262? I work for a local government and there is confusion about this bill. Our management says that this bill requires local governments to adhere to the Department of Information Resources IT contract thresholds effective September 1, 2017. Please help!



Academy

Sept. 21-22, 2017

Austin

October 4-5, 2017

Houston

Purchasing 101 for Everyone

November 9, 2017

Houston

Schedule Management in Projects & Contracts

November 17, 2017

DFW

Scope Management in Projects & Contracts

November 16, 2017

DFW

Specification

ANSWER:

I agree. There has been a lot of confusion in the interpretation of this bill. Luckily, the Department of Information Resources is on top of it and has provided information on their website that clears up the confusion.

Here is an excerpt from their website:

"A clear reading of SB 262, Section 2, is that the section of the legislation in question relates to the purchase of automated information systems through Texas Multiple Award Schedule (TXMAS) contracts, not through the DIR cooperative contracts program.

Local governments purchasing through DIR's cooperative contracts program do not have to comply with thresholds defined in Section 2157.068, Texas Government Code, because the thresholds only apply to state agencies, and local governments are not statutorily defined as a "state agency".

While the majority of TXMAS contracts are managed by the Statewide Procurement Division (SPD) of the Texas Comptroller of Public Accounts, DIR has three TXMAS contracts for automated information systems."

SB 262, Section 2, only applies to the three contracts listed [on the DIR website]. For all other purchases under a DIR cooperative contract, the purchasing thresholds do not apply to local governments.

Here is the link to the [DIR website](#) with all of the information and a list of the three TXMAS contracts which are applicable to local governments.

Writing

September 13, 2017

Austin

November 8, 2017

Houston

Using Request for Proposals

Oct. 10-11, 2017

DFW

Nov. 14-15, 2017

Austin