

SCS HCS HB 2474 -- PUBLIC CONTRACTS

This bill relates to public contracts.

COOPERATIVE PURCHASING AGREEMENT (Section 34.046)

Currently the Commissioner of Administration is authorized to contract directly with other governmental entities for the purchase of supplies and to participate in cooperative purchasing agreements using contracts established by other governmental entities, so long as those contracts comply with the applicable laws and regulations of the establishing governmental entity.

This bill authorizes the Commissioner of Administration to also participate in, sponsor, conduct, or administer cooperative purchasing agreements using contracts established by nonprofit entities whose membership and governing body are exclusively composed of governmental entities, provided the contracts were established in accordance with laws and regulations applicable to governmental entities. The bill further specifies that such agreements may be used for the purchase of supplies, including upkeep and maintenance of physical infrastructure, and authorizes political subdivisions to participate in such cooperative purchasing agreements.

DESIGN-BUILD CONTRACTS (Section 67.5060)

This bill adds "progressive design-build contracts", as defined in the bill, to numerous provisions of law related to design-build contracts.

The bill modifies the definition for "design build project" by changing the threshold for noncivil works projects from \$7 million to \$2.5 million dollars.

The bill outlines the necessary elements of a request for proposal for a progressive design-build contract.

Political subdivisions are required to solicit proposals in a two-stage process. Phase I is the solicitation and evaluation of the qualifications of design-builders. Phase II is the solicitation and evaluation of proposals describing the design-builder's approach to design development, preconstruction services, and construction of the project.

Various criteria that the political subdivision must consider during each phase are described in the bill.

Political subdivisions that use progressive design-build contracts are prohibited from requiring or awarding points for certain nonconstruction-related policy standards as a condition of eligibility. Political subdivisions are also prohibited from using evaluations, awards, certifications, standards, or policies unrelated to the direct construction, safety, durability, permitting, or operation of the project. The prohibited items are outlined in the bill.

The political subdivision has the discretion to disqualify any design-builder that the political subdivision finds lacks the minimum qualifications required to perform the work.

The political subdivision will use criteria described in the bill to select no more than three but no less than two qualified design-builders, who will be given a specified amount of time to assemble phase II proposals.

Evaluation of phase II proposals must be qualifications-based. Price considerations are for the preconstruction phase services only.

The political subdivision will rank the phase II proposals according to criteria described in the bill. Following the evaluation, the political subdivision can enter into negotiations with the highest-ranked design-builder to establish a preconstruction agreement. If the parties are unable to reach an agreement, the political subdivision can begin negotiations with the next highest-ranked design-builder.

During the preconstruction phase, the design-builder and the political subdivision will collaborate to establish a fixed contract amount or a guaranteed maximum price. Upon acceptance of the price and contract terms, the parties can amend the contract to authorize construction.

The provisions relating to progressive design-build contracts will expire on August 28, 2036.