

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY MARCH 31, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 756

Introduced by Assembly Members Eng and Lieu

February 26, 2009

An act to add Section 10111.5 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 756, as amended, Eng. Public contracts: ~~reports information:~~ *Internet Web site.*

Existing law governing contracting between state agencies and private contractors sets forth requirements for the procurement of supplies, materials, equipment, and services by state agencies and sets forth the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.

This bill would require ~~a state agencies agency, except as specified, to prepare an annual report, available on each agency's~~ *provide a link to a centrally located and accessible state-run Internet Web site; regarding that includes a list of the personal services and consulting services contracts, as defined, entered into by the agency and to electronically transmit that report to the Department of Finance and to the Legislature, as provided. This bill would require the listings on the state's Internet Web site to include specified information.*

This bill would require contractors to electronically provide specified information to assist ~~the state agency~~ *state agencies* in the ~~preparation of its annual report~~ *reporting of information for the listings* of personal services and consulting services contracts. This bill would make contractors who fail to provide this information ineligible for any additional personal services or consulting services contracts, and would cease payment for any ongoing contracts, until the information is provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10111.5 is added to the Public Contract
 2 Code, to read:
 3 10111.5. (a) Each state agency shall ~~annually prepare a report~~
 4 *provide a link to a centrally located and accessible state-run*
 5 *Internet Web site* that includes a list of the personal services and
 6 consulting services contracts that it entered into during the previous
 7 fiscal year. ~~The report~~ *All listings* shall be available ~~on each~~
 8 ~~agency's~~ *in searchable form on the state's* Internet Web site. The
 9 ~~report listings~~ shall be organized to ensure transparency. The ~~listing~~
 10 *listings* shall include, but is not limited to, the following
 11 information:
 12 (1) The name and identification number of each contractor, *as*
 13 *well as whether the contractor is a for profit, nonprofit, small*
 14 *business, micro-business, disabled veteran, or nonprofit veteran's*
 15 *service agency.*
 16 (2) The statutory basis for the authorization of each contract,
 17 including, if relevant, any applicable condition permitting personal
 18 services contracts provided by Section 19130 of the Government
 19 Code.
 20 (3) The duration of each contract.
 21 (4) The number of amendments to each contract and the number
 22 of renewals of each contract, where applicable.
 23 (5) *Reason why low bid was not accepted.*
 24 (6) *Reason for noncompetitive bidding.*
 25 ~~(5)~~
 26 (7) The total amount of the contract price over the duration of
 27 the contract, including all known amendments to the contract, the

1 total amount paid by the state agency during the most recently
2 completed fiscal year, and the number, cost, bill rate, and staffing
3 levels associated with each type of contract employee retained
4 during the most recently completed fiscal year. ~~Staffing~~ *In time*
5 *and material contracts*, staffing levels shall also be described or
6 accounted for in personnel years or full-time equivalent terms. *In*
7 *deliverables based contracts*, average staffing levels and bill rates
8 shall be available and reportable 90 days after the completion of
9 the contract or after one year, whichever occurs first.

10 (6)

11 (8) Costs and relevant staffing information shall be organized
12 and reported using ~~the following contract categories:~~ *both broad*
13 *and detailed contract categories that are based on the United*
14 *Nations Standard Products and Services Code (UNSPSC).*

15 (A) ~~Architectural, engineering, and environmental services and~~
16 ~~consulting services:~~

17 (B) ~~Information technology personal services and consulting~~
18 ~~services:~~

19 (C) ~~Other personal services and consulting services contracts~~
20 ~~as follows:~~

21 (i) ~~Professional, administrative, financial, and staff services and~~
22 ~~consulting contracts:~~

23 (ii) ~~Legal services and consulting contracts:~~

24 (iii) ~~Education and information science services and consulting~~
25 ~~contracts:~~

26 (iv) ~~Clerical and office services and consulting contracts:~~

27 (v) ~~Security services and consulting contracts:~~

28 (vi) ~~Scientific and technical services and consulting contracts:~~

29 (vii) ~~Facility, equipment, and landscape maintenance services~~
30 ~~and consulting contracts:~~

31 (viii) ~~Printing and publishing services and consulting contracts:~~

32 (ix) ~~Property and food services, including janitorial services,~~
33 ~~and consulting contracts:~~

34 (x) ~~Medical and health services and consulting contracts:~~

35 (xi) ~~Psychiatric, psychological, and social welfare services and~~
36 ~~consulting contracts:~~

37 (xii) ~~Miscellaneous:~~

38 (b) For purposes of this section, the following definitions apply:

39 (1) "Consulting services contracts" has the same meaning as
40 defined in Section 10335.5.

1 (2) “Personal services contracts” means any contract, requisition,
2 or purchase order, excluding public works contracts, under which
3 labor or personal services is a significant, separately identifiable
4 element.

5 (3) *“Time and material contract” means a contract under which*
6 *the contractor agrees to furnish and install materials or fixtures,*
7 *or both, and which sets forth separately a charge for the materials*
8 *or fixtures and a charge for their installation or fabrication.*

9 (4) *“Deliverables” means any contract, requisition or*
10 *purchasing order, excluding public works contracts which does*
11 *not specify actual cost of direct labor at specified hourly rates or*
12 *actual cost of materials. These contracts are for products or*
13 *services that must be completed and delivered as final products*
14 *under the terms of an agreement or contract.*

15 (c) (1) To facilitate state agency reporting *of information for*
16 *the listings*, contractors shall electronically provide all of the
17 staffing and cost information specified in paragraph (5) of
18 subdivision (a) to the agencies at the end of each fiscal year for
19 each and every personal services and consulting services contract
20 operative during that fiscal year.

21 (2) Contractors who fail to provide the required information
22 shall be subject to both of the following until the information is
23 provided:

24 (A) Payments for any ongoing contracts shall cease.

25 (B) The contractor shall be ineligible for any additional personal
26 services or consulting services contracts.

27 ~~(d) A copy of the annual report shall be sent electronically within~~
28 ~~60 working days after the end of the previous fiscal year to the~~
29 ~~Department of Finance and the Legislature.~~

30 *(d) The information required by subdivision (a) shall be made*
31 *available to the public in an electronic format that is searchable*
32 *and easy to use in order to promote and support government*
33 *transparency.*

34 (e) This section shall not apply to information resulting from
35 contracts for confidential expert consulting services that constitutes
36 an attorney work product or is protected by the attorney-client
37 privilege.

38 ~~(f) The report shall be made available to the public in an~~
39 ~~electronic format similar to that used by the agency in its Wages~~
40 ~~and Salaries Supplement report.~~

1 *(f) State agencies that are not required to report to the State*
2 *Contract and Procurement Registration System (SCPRS) shall be*
3 *exempt from the requirements of this section, except as required*
4 *under Section 6254 of the Government Code.*

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