

**ASSEMBLY BILL**

**No. 2682**

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**Introduced by Assembly Member Wagner**

February 21, 2014

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An act to add Chapter 2.3 (commencing with Section 2010) to Part 1 of Division 2 of the Public Contract Code, relating to state contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2682, as introduced, Wagner. Responsible and reliable parties.

Existing law, for purposes of public works contracts, defines the term “responsible bidder” to mean a bidder that has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract.

This bill would require a state agency that solicits offers, awards a contract, or consents to subcontracts, under the Small Business Procurement and Contract Act, for goods and services under other specified law, or for information technology, to do so only with responsible and reliable parties. The bill would require the Department of General Services to adopt regulations for that procurement to provide for the suspension, debarment, or other exclusion of a party in a procurement activity that has not demonstrated the attribute of trustworthiness, or lacks the quality, fitness, capacity, and experience to satisfactorily perform a contract under those provisions. The bill would prohibit a state agency from allowing a party to participate in any procurement activity if the party has been suspended, debarred, or otherwise excluded from participation pursuant to those regulations.

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. Chapter 2.3 (commencing with Section 2010) is  
2 added to Part 1 of Division 2 of the Public Contract Code, to read:

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CHAPTER 2.3. RESPONSIBLE AND RELIABLE PARTIES

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(a) A state agency that solicits offers for, awards a contract for, or consents to subcontracts for, goods and services under Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code or Chapter 2 (commencing with Section 10290) of Part 2, or for information technology under Chapter 3 (commencing with Section 12100) of Part 2, shall do so only with responsible and reliable parties in accordance with regulations adopted pursuant to subdivision (b).

(b) The Department of General Services shall adopt regulations for procurement under Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code or Chapter 2 (commencing with Section 10290) of Part 2, and procurement of information technology under Chapter 3 (commencing with Section 12100) of Part 2, to provide for the suspension, debarment, or other exclusion of a party in a procurement activity that has not demonstrated the attribute of trustworthiness, or lacks the quality, fitness, capacity, and experience to satisfactorily perform a contract under those provisions. The regulations shall include, but are not limited to, the following elements:

(1) Preclude contractors with a history of poor performance or that have violated small business or disabled veteran business enterprise regulations from doing business with the state either as a primary contractor or as a subcontractor for a specified period.

(2) Preclude a business formed by principals of an entity subject to paragraph (1) from doing business with the state for the same period imposed pursuant to that paragraph.

(3) Provide for appeal of a suspension, debarment, or other exclusion pursuant to this chapter. Appeal shall be to the Office of Administrative Hearings, to be conducted by administrative law judges of that office.

- 1 (c) A state agency shall not allow a party to participate in any
- 2 procurement activity if the party has been suspended, debarred, or
- 3 otherwise excluded from participation pursuant to those regulations.

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