

AMENDED IN ASSEMBLY JUNE 25, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MARCH 17, 2014

SENATE BILL

No. 975

Introduced by Senator Lieu

February 11, 2014

An act to add Section 19138.1 to the Government Code, relating to personal services contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 975, as amended, Lieu. Personal services contracts: legal compliance.

The California Constitution establishes that the civil service includes every officer and employee of the state, except as otherwise provided in the California Constitution, and requires civil service appointment to be made under a general system based on merit ascertained by competitive examination.

The State Civil Service Act establishes standards for the use of personal services contracts by state agencies, consistent with those provisions of the California Constitution relating to civil service, and authorizes personal services contracts when prescribed conditions are met.

The State Contract Act requires an applicable state department to require a prospective bidder on a public works project to answer questions inquiring whether, and if ~~applicable~~ *so*, to explain the ~~circumstances~~, *circumstances under which* the prospective bidder has ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because

of a violation of law or a safety regulation. Existing law requires the questionnaire to be completed under the penalty of perjury. Existing law authorizes the department to reject the bid of a bidder who has been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local project because of a violation of law or a safety regulation.

Existing law requires a competitive bidding process for certain contracts, including amendments, entered into by any state agency for services to be rendered to the state, whether or not the services involve the furnishing or use of equipment, materials, or supplies, or are performed by an independent contractor.

This bill would require ~~the Department of General Services or a state agency, as defined, to require a~~ every bidder for a personal services contract to ~~pledge compliance, complete~~ under the penalty of perjury, ~~with all applicable state taxes, and all a standard questionnaire inquiring whether the bidder has ever violated state law or laws and regulations relating to health and safety, labor and employment, and licensing relevant to the bidder’s employees, worksite, bid, and contract and if so, requiring an explanation of the violation.~~ The bill would prohibit the ~~department or a state agency from awarding~~ award of a personal services contract to a bidder who does not ~~affirmatively pledge compliance, as specified~~ complete the required questionnaire. ~~The bill would also prohibit the department or a state agency from awarding a contract to a bidder with an adjudicated record of repeated noncompliance with applicable state taxes, laws, and regulations. By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. ~~Section 19138.1 is added to the Government~~
- 2 ~~Code, to read:~~

1 19138.1. ~~(a) (1) A state agency or the department shall require~~
 2 ~~from a bidder for a personal services contract the completion, under~~
 3 ~~penalty of perjury, of a standard form pledging compliance of the~~
 4 ~~bidder with all applicable state taxes, and all laws and regulations~~
 5 ~~relating to health and safety, labor and employment, and licensing~~
 6 ~~relevant to the bidder’s employees, worksite, bid, and contract.~~

7 ~~(2) A state agency or the department shall not award a personal~~
 8 ~~services contract to a bidder who does not affirmatively pledge,~~
 9 ~~under penalty of perjury, compliance pursuant to subdivision (a).~~

10 ~~(b) A state agency or the department shall not award a personal~~
 11 ~~services contract to a bidder with an adjudicated record of repeated~~
 12 ~~noncompliance with applicable state taxes, or with laws and~~
 13 ~~regulations relating to the health and safety, labor and employment,~~
 14 ~~and licensing relevant to the bidder’s employees, worksite, and~~
 15 ~~bid.~~

16 *SECTION 1. Section 19138.1 is added to the Government Code,*
 17 *to read:*

18 *19138.1. (a) Every bidder for a personal services contract*
 19 *entered into pursuant to Section 19130 shall complete, under*
 20 *penalty of perjury, a standard form of questionnaire inquiring*
 21 *whether the bidder has ever violated state tax law or laws and*
 22 *regulations relating to health and safety, labor and employment,*
 23 *or the licensing of the contractor’s employees, worksite, bid, and*
 24 *contract, and if so, requiring the bidder to explain the*
 25 *circumstances of that violation.*

26 *(b) A personal services contract shall not be awarded to a bidder*
 27 *who does not complete the questionnaire required by this section.*

28 *SEC. 2. No reimbursement is required by this act pursuant to*
 29 *Section 6 of Article XIII B of the California Constitution because*
 30 *the only costs that may be incurred by a local agency or school*
 31 *district will be incurred because this act creates a new crime or*
 32 *infraction, eliminates a crime or infraction, or changes the penalty*
 33 *for a crime or infraction, within the meaning of Section 17556 of*
 34 *the Government Code, or changes the definition of a crime within*
 35 *the meaning of Section 6 of Article XIII B of the California*
 36 *Constitution.*