

SCOPE OF 2006 PPEA/PPTA AMENDMENTS

SB 76

- 1) Formalizes the earmarking process or the protection of trade secrets, financial records, and other records submitted by a private entity, by requiring a written request for an exclusion from disclosure by the private entity and for a written determination by the responsible public entity that such records will be protected from disclosure under certain circumstances.
- 2) Requires a public entity to post all accepted conceptual proposals, whether solicited or not. The required posting for responsible public entities that are state agencies, departments, and institutions, shall be on eVA (the Department of General Service's web-based electronic procurement program) and for responsible public entities that are local public bodies, posting shall be on the responsible public entity's website or by publication, in a newspaper of general circulation in the area in which the contract is to be performed, of a summary of the proposals and the location where copies of the proposals are available for public inspection. Local public bodies may also post on eVA, in the discretion of the local responsible public entity.
- 3) Requires that at least one copy of the proposals shall be made available for public inspection. The bill provides that nothing shall be construed to prohibit the posting of the conceptual proposals by additional means deemed appropriate by the responsible public entity so as to provide maximum notice to the public of the opportunity to inspect the proposals.
- 4) Requires the responsible public entity to provide an opportunity for public comment 30 days before the execution of an interim or comprehensive agreement.
- 5) Provides that once the process of bargaining of all phases or aspects of an interim or comprehensive agreement is complete, but before an interim or a comprehensive agreement is entered into, a responsible public entity shall post the proposed agreement. Once an interim or comprehensive agreement has been executed, all procurement records, excluding trade secrets, financial information, and cost estimates, are available to the public upon request.

SB 5011

- 1) Exempts from disclosure memoranda, staff evaluations or other records generated by or for the responsible public entity for the evaluation and negotiation of proposals where (i) if such records were made public prior to their disclosure as required by the § 56-573.1:1 or 56-575.17, the financial interest or bargaining position of the public or private entity would be adversely affected, and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity.
- 2) Authorizes a responsible public entity and any independent review panel appointed to review information and advise the responsible public entity to hold closed meetings to discuss or consider records exempted from disclosure.
- 3) Allows procurement records under the PPTA to be withheld, even after a comprehensive agreement has been entered into, if the process of bargaining of other interim agreements related to the qualifying transportation facility or all phases or aspects of the comprehensive agreement is not complete.

NOTE: The provisions of the bill expire on July 1, 2007.