

AB-2764 Alters Procurements of IT Goods and Services

The recent enactment of AB-2764 changes certain requirements pertaining to the acquisitions of information technology (IT) goods and services. For a copy of the bill's text, statutory revisions, and legislative history, please refer to:

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2764.

Under previously existing law, certain requirements and certifications that applied to acquisitions of non-IT goods and services did not apply to acquisitions of IT goods and services. For example, procurements of non-IT goods and services were required to address the requirements of the Darfur Contracting Act, but not procurements of IT goods and services. *See* JBCM, Ch. 4, Section 4.4(C)(1). In addition, JBEs were prohibited from entering into contracts for the acquisition of non-IT goods and services with a person or entity on the FTB or BOE's list of 500 largest tax delinquents. JBCM, Ch. 4, Section 4.4(E). However, there was no similar requirement for acquisitions of IT goods and services.

Starting January 1, 2019, AB-2764 requires contracts for acquisitions of IT goods and services to be subject to the same prohibitions, certifications, and restrictions that apply to non-IT goods and services contracts. According to the bill's author, "AB 2764 would ensure public moneys are used in a consistent manner by amending the Public Contract Code to ensure the standards that apply to contracts for non-IT goods and services also apply to IT goods and services contracts, as well."

Specifically, AB-2764 requires that contracts for the procurement of IT goods and services be subject to the following requirements:

- a) Prohibits entering into any contract in the amount of \$100,000 or more with a contractor who discriminates between employees with domestic partners and employees with spouses, or discriminates between employees with same-sex partners and employees with different-sex partners in the provision of benefits.
- b) Prohibits entering into any contract in the amount of \$100,000 or more with a contractor that discriminates between employees on the basis of an employee's or dependent's actual or perceived gender identity in the provision of benefits.
- c) Prohibits entering into any contract with a contractor whose name appears on a list of the 500 largest tax delinquencies.
- d) Requires every contract contain a statement by the contractor, under the penalty of perjury, that the contractor has had no more than one finding of contempt of court relating to an order of the National Labor Relations Board.
- e) Prohibits entering into any contract with a company that is involved in specified activities in Sudan (i.e., the Darfur Contracting Act).

In response to AB-2764, the JCC Legal Services Office has updated the IT goods and services sample agreements, and related solicitation documents that are posted on the JBCM/JBCL site, and the Judicial Branch Contracting Manual will be updated in the coming months. JBEs should bear in mind that these requirements will go in effect January 1, 2019. Please contact the JCC Legal Services Office if you have any questions about this memorandum.