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Application of Governmental Law Requirements to Public-Private Partnership Projects

C. ROBERT HEATH

Bickerstaff Heath Delgado Acosta LLP
Austin, TX
bheath@bickerstaff.com
512.472.8021



Public-Private Partnerships

- There is no single template for a public-private partnership
- Public-private partnerships with a state agency are governed by chapter 2267 of the Government Code
- It is possible for local governments to elect to come under that statute, but in the absence of an election, it will not apply to them.



Public-Private Partnerships

- Chapter 2267 does impose some governmental requirements on public-private partnerships covered by the chapter
- A contracting private entity may not hire or retain a former employee of the state agency to a professional services or consulting contract for a year after the person leaves state employment

Public-Private Partnerships

- It may retain a firm that hires the former state employee so long as the former employee does not perform services for the public-private partnership
- A state employee may not hold an outside job that requires him or her to perform duties relating to a public-private partnership or to a proposal for a public-private partnership

Public-Private Partnerships

- The primary governmental law requirement for public-private partnerships is transparency
- Private entities are unlikely to be used to the kind of disclosure requirements that apply to governments

The Public Information Act

Obtaining information from the governmental body

- The records of the partnership and of the private-contracting entity will be subject to the Act when they are in the possession of the public-contracting party.
- Any public-private partnership agreement is likely to require reports and records to be provided to the governmental body

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