



Texas Department of Family and Protective Services

Commissioner
Stephanie Muth

December 18, 2023

The Honorable Greg Abbott
Office of the Governor
P.O. Box 12428
Austin, TX 78711

The Honorable Dan Patrick
Lieutenant Governor
P.O. Box 12068
Austin, TX 78711

The Honorable Dade Phelan
Speaker of the House
Texas House of Representatives
P.O. Box 29 IO
Austin, TX 78768

Mr. Glenn Hegar
Texas Comptroller of Public Accounts
P.O. Box 13528, Capitol Station
Austin, TX 78711-3528

RE: HB 586, Waiver of Sovereign Immunity for Certain Design and Construction
Claims Arising under Written Contracts with State Agencies

Dear Governor Abbott, Lieutenant Governor Patrick, Speaker Phelan, and Comptroller Hegar:

During the 83rd Legislature Regular Session, **HB 586** amended Title 5 of the Civil Practice and Remedies Code to add Chapter 114, which waives a state agency's sovereign immunity from suit for engineering, architectural, or construction services contracts when an express provision of the contract has been breached and when the amount in controversy is \$250,000 or more (excluding penalties, costs, expenses, prejudgment interest, and attorney's fees). Section 114.013 requires a bi-annual report to the governor, comptroller, and each house of the legislature regarding the cost of defense to the state agency and the Attorney General's Office for any adjudication related to a contract of this nature.

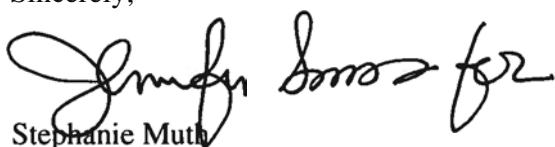
The Department of Family and Protective Services (DFPS) has not historically entered into contracts for engineering, architecture, or construction at a scale that would meet the bill's fiscal requirements (\$250,000 or more in controversy) for waiving sovereign immunity. Furthermore, DFPS does not anticipate entering into any contracts of this nature in the foreseeable future.

HB 586, Waiver of Sovereign Immunity for Certain Design and Construction Claims
Arising under Written Contracts with State Agencies
December 18, 2023
Page 2

DFPS will continue to maintain an awareness of the bill's requirements should future contracts arise to which the bill applies. At this time, though, DFPS does not have any current or forthcoming adjudication or claimed amounts for contracts of this nature to report.

We appreciate your initiatives to achieve a fair balance of responsibility in the contractual relationships between state agencies and private businesses, and we look forward to continuing to work with you in the future. Should you have any questions or need additional information, please feel free to contact Jennifer Simms, Deputy Commissioner of Operations. She can be reached by email at Jennifer.Sims.2@dfps.texas.gov.

Sincerely,



Stephanie Muth

cc: Jennifer Sims, Deputy Commissioner of Operations
Lisa Kanne, Chief Operating Officer
Joshua Walker, Contract Oversight and Support Director