

AN ACT

relating to a contractor's or subcontractor's right to elect not to proceed with additional work under a contract.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 2251, Government Code, is amended by adding Section 2251.0521 to read as follows:

Sec. 2251.0521. UNSIGNED CHANGE ORDER. (a) In this section:

(1) "Public work contract" has the meaning assigned by Section 2253.001.

(2) "Subcontract" means a contract between a subcontractor and a vendor who is providing services under a public work contract.

(b) A vendor may elect not to proceed with additional work directed by a governmental entity under a public work contract if:

(1) the vendor has not received a written, fully executed change order for the governmental entity-directed additional work; and

(2) the aggregate actual or anticipated value of the additional work under the vendor's contract terms plus any previous governmental entity-directed additional work for which the vendor has not received a written, fully executed change order exceeds 10 percent of the vendor's original public work contract amount.

(c) A subcontractor may elect not to proceed with additional

1 work directed by a vendor under a subcontract if:

2 (1) the subcontractor has not received a written,  
3 fully executed change order for the governmental entity-directed  
4 additional work from the vendor; and

5 (2) the aggregate actual or anticipated value of the  
6 additional work under the subcontractor's subcontract terms plus  
7 any previous governmental entity-directed additional work for  
8 which the subcontractor has not received a written, fully executed  
9 change order exceeds 10 percent of the subcontractor's subcontract  
10 amount.

11 (d) A vendor or subcontractor who elects not to proceed with  
12 additional work as provided by this section is not responsible for  
13 damages associated with the election not to proceed.

14 SECTION 2. Chapter 28, Property Code, is amended by adding  
15 Section 28.0091 to read as follows:

16 Sec. 28.0091. UNSIGNED CHANGE ORDER. (a) A contractor or  
17 subcontractor may elect not to proceed with additional work  
18 directed by an owner if:

19 (1) the contractor or subcontractor has not received a  
20 written, fully executed change order for the owner-directed  
21 additional work; and

22 (2) the aggregate actual or anticipated value of the  
23 additional work plus any previous owner-directed additional work  
24 for which the contractor or subcontractor has not received a  
25 written, fully executed change order exceeds 10 percent of the  
26 contractor's or subcontractor's original contract amount.

27 (b) A contractor or subcontractor who elects not to proceed

1 with additional work as provided by this section is not responsible  
2 for damages associated with the election not to proceed.

3 SECTION 3. Section 2251.0521, Government Code, and Section  
4 28.0091, Property Code, as added by this Act, apply only to a  
5 contract entered into on or after the effective date of this Act.

6 SECTION 4. This Act takes effect September 1, 2023.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 3485 was passed by the House on May 8, 2023, by the following vote: Yeas 138, Nays 2, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3485 was passed by the Senate on May 19, 2023, by the following vote: Yeas 30, Nays 1.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor