

By: Cook of Colorado

H.B. No. 3048

A BILL TO BE ENTITLED

AN ACT

relating to state construction projects.

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

SECTION 1. Section 2166.2531(d), Government Code, is amended to read as follows:

(d) The commission shall prepare a request for qualifications that includes general information on the project site, project scope, ~~[budget,~~ special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The commission shall also prepare a design criteria package that includes more detailed information on the project. If the preparation of the design criteria package requires engineering or architectural services that constitute the practice of engineering within the meaning of The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes) or the practice of architecture within the meaning of Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), those services shall be provided in accordance with the applicable law.

SECTION 2. Sections 2166.2532(e) and (g), Government Code, are amended to read as follows:

(e) The commission shall select the construction manager-at-risk in either a one-step or two-step process. The

1 commission shall prepare a request for proposals, in the case of a
2 one-step process, or a request for qualifications, in the case of a
3 two-step process, that includes general information on the project
4 site, project scope, schedule, selection criteria, [~~estimated~~
5 ~~budget,~~] and the time and place for receipt of proposals or
6 qualifications, as applicable; a statement as to whether the
7 selection process is a one-step or two-step process; and other
8 information that may assist the commission in its selection of a
9 construction manager-at-risk. The commission shall state the
10 selection criteria in the request for proposals or qualifications,
11 as applicable. The selection criteria may include the offeror's
12 experience, past performance, safety record, proposed personnel
13 and methodology, and other appropriate factors that demonstrate the
14 capability of the construction manager-at-risk. If a one-step
15 process is used, the commission may request, as part of the
16 offeror's proposal, proposed fees and prices for fulfilling the
17 general conditions. If a two-step process is used, the commission
18 may not request fees or prices in step one. In step two, the
19 commission may request that five or fewer offerors, selected solely
20 on the basis of qualifications, provide additional information,
21 including the construction manager-at-risk's proposed fee and its
22 price for fulfilling the general conditions.

23 (g) At each step, the commission shall receive, publicly
24 open, and read aloud the names of the offerors. [~~At the appropriate~~
25 ~~step, the commission shall also read aloud the fees and prices, if~~
26 ~~any, stated in each proposal as the proposal is opened.~~] Within 45
27 days after the date of opening the proposals, the commission or its

1 representative shall evaluate and rank each proposal submitted in
2 relation to the criteria set forth in the request for proposals.

3 SECTION 3. Sections 2166.2533(d) and (f), Government Code,
4 are amended to read as follows:

5 (d) The commission shall prepare a request for competitive
6 sealed proposals that includes construction documents, selection
7 criteria, ~~[estimated budget,]~~ project scope, schedule, and other
8 information that contractors may require to respond to the request.
9 The commission shall state in the request for proposals all of the
10 selection criteria that will be used in selecting the successful
11 offeror.

12 (f) The commission shall receive, publicly open, and read
13 aloud the names of the offerors ~~[and, if any are required to be~~
14 ~~stated, all prices stated in each proposal]~~. Within 45 days after
15 the date of opening the proposals, the commission shall evaluate
16 and rank each proposal submitted in relation to the published
17 selection criteria.

18 SECTION 4. Subchapter F, Chapter 2166, Government Code, is
19 amended by adding Section 2166.260 to read as follows:

20 Sec. 2166.260. APPROVAL OF CERTAIN EXPENDITURES REQUIRED. A
21 state agency may not spend more than the amount authorized for the
22 cost of a project unless the governor and the Legislative Budget
23 Board approve the expenditure. Once the cost of a project reaches
24 the amount authorized for the project, each change to approved
25 project plans must be approved by the governor and the Legislative
26 Budget Board.

27 SECTION 5. Section 2166.305(b), Government Code, is amended

1 to read as follows:

2 (b) A committee appointed by the commission shall perform
3 the review. The committee consists of:

4 (1) the director of facilities construction and space
5 management appointed under Section 2152.104, who serves [~~ex~~
6 ~~officio~~] as the presiding officer of the committee [~~and who votes~~
7 ~~only in case of a tie~~];

8 (2) seven individuals appointed by the commission, one
9 each from the lists of nominees submitted respectively by the:

10 (A) president of the Texas Society of Architects;

11 (B) president of the Texas Society of
12 Professional Engineers;

13 (C) presiding officer of the Executive Council of
14 the Texas Associated General Contractors Chapters;

15 (D) executive secretary of the Mechanical
16 Contractors Associations of Texas, Incorporated;

17 (E) executive secretary of the Texas Building and
18 Construction Trades Council;

19 (F) president of the Associated Builders and
20 Contractors of Texas; and

21 (G) executive director of the National
22 Association of Minority Contractors, with the list composed of
23 persons who reside in this state;

24 (3) one individual appointed by the commission
25 representing an institution of higher education, as defined by
26 Section 61.003, Education Code;

27 (4) one individual appointed by the commission

1 representing a state agency that has a substantial ongoing
2 construction program; and

3 (5) one individual appointed by the commission
4 representing the attorney general's office.

5 SECTION 6. Section 2166.201, Government Code, is repealed.

6 SECTION 7. This Act applies only to a Texas Building and
7 Procurement Commission request for competitive proposals under
8 Chapter 2166, Government Code, as amended by this Act, on or after
9 September 1, 2003.

10 SECTION 8. This Act takes effect September 1, 2003.