

By: Flynn

H.B. No. 1536

A BILL TO BE ENTITLED

1 AN ACT

2 relating to job order contracts entered into by school districts,
3 public institutions of higher education, navigation districts, and
4 certain other governmental entities.

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

6 SECTION 1. Section 44.031(a), Education Code, is amended to
7 read as follows:

8 (a) Except as provided by this subchapter, all school
9 district contracts, except contracts for the purchase of produce or
10 vehicle fuel, valued at \$25,000 or more in the aggregate for each
11 12-month period shall be made by the method, of the following
12 methods, that provides the best value for the district:

13 (1) competitive bidding;

14 (2) competitive sealed proposals;

15 (3) a request for proposals, for services other than
16 construction services;

17 (4) a catalogue purchase as provided by Subchapter B,
18 Chapter 2157, Government Code;

19 (5) an interlocal contract;

20 (6) a design/build contract;

21 (7) a contract to construct, rehabilitate, alter, or
22 repair facilities that involves using a construction manager;

23 (8) a job order contract for the [~~minor~~ construction,
24 renovation, repair, rehabilitation, or alteration of a facility in

1 accordance with Section 44.041 or by interlocal agreement;

2 (9) the reverse auction procedure as defined by
3 Section 2155.062(d), Government Code; or

4 (10) the formation of a political subdivision
5 corporation under Section 304.001, Local Government Code.

6 SECTION 2. The heading to Section 44.041, Education Code,
7 is amended to read as follows:

8 Sec. 44.041. JOB ORDER CONTRACTS FOR FACILITIES
9 CONSTRUCTION, RENOVATION, OR REPAIR.

10 SECTION 3. Sections 44.041(a), (c), and (e), Education
11 Code, are amended to read as follows:

12 (a) A school district may award job order contracts for the
13 [~~minor~~] construction, renovation, repair, rehabilitation, or
14 alteration of a facility if [~~the work is of a recurring nature but~~]
15 the delivery times of the work are indefinite and indefinite
16 quantities and orders are awarded substantially on the basis of
17 predescribed and prepriced tasks.

18 (c) The school district may specify individual job order
19 limitations, contract renewable term limitations, or total
20 contract value limitations. The school district shall advertise
21 for, receive, and publicly open sealed proposals for job order
22 contracts.

23 (e) The district may award job order contracts to a job
24 order contractor and, if considered necessary, a secondary job
25 order contractor [~~one or more job order contractors~~] in connection
26 with each solicitation of bids or proposals.

27 SECTION 4. The heading to Section 51.784, Education Code,

1 is amended to read as follows:

2 Sec. 51.784. JOB ORDER CONTRACTS FOR FACILITIES
3 CONSTRUCTION, RENOVATION, OR REPAIR.

4 SECTION 5. Sections 51.784(a), (c), and (e), Education
5 Code, are amended to read as follows:

6 (a) An institution may award job order contracts for the
7 [~~minor~~] construction, renovation, repair, rehabilitation, or
8 alteration of a facility if [~~the work is of a recurring nature but~~]
9 the delivery times of the work are indefinite and indefinite
10 quantities and orders are awarded substantially on the basis of
11 predescribed and prepriced tasks.

12 (c) The board may specify individual job order limitations,
13 contract renewable term limitations, or total contract value
14 limitations. The board shall advertise for, receive, and publicly
15 open sealed proposals for job order contracts.

16 (e) The board may award job order contracts to a job order
17 contractor and, if considered necessary, a secondary job order
18 contractor [~~one or more job order contractors~~] in connection with
19 each solicitation of bids or proposals.

20 SECTION 6. Section 271.113(a), Local Government Code, is
21 amended to read as follows:

22 (a) In entering into a contract for the construction of a
23 facility, a governmental entity may use any of the following
24 methods that provides the best value for the governmental entity:

- 25 (1) competitive bidding;
- 26 (2) competitive sealed proposals for construction
27 services;

1 (3) a design-build contract;

2 (4) a contract to construct, rehabilitate, alter, or
3 repair facilities that involves using a construction manager; or

4 (5) a job order contract for the construction,
5 renovation, [~~minor~~] repair, rehabilitation, or alteration of a
6 facility.

7 SECTION 7. The heading to Section 271.120, Local Government
8 Code, is amended to read as follows:

9 Sec. 271.120. JOB ORDER CONTRACTS FOR FACILITIES
10 CONSTRUCTION, RENOVATION, OR REPAIR.

11 SECTION 8. Sections 271.120(a), (c), (e), and (f), Local
12 Government Code, are amended to read as follows:

13 (a) A governmental entity may award job order contracts for
14 the [~~minor~~] construction, renovation, repair, rehabilitation, or
15 alteration of a facility if [~~the work is of a recurring nature but~~]
16 the delivery times of the work are indefinite and indefinite
17 quantities and orders are awarded substantially on the basis of
18 predescribed and prepriced tasks.

19 (c) The governmental entity may specify individual job
20 order limitations, contract renewable term limitations, or total
21 contract value limitations. The governmental entity shall
22 advertise for, receive, and publicly open sealed proposals for job
23 order contracts.

24 (e) The governmental entity may award job order contracts to
25 a job order contractor and, if considered necessary, a secondary
26 job order contractor [~~one or more job order contractors~~] in
27 connection with each solicitation of bids or proposals.

1 (f) An order for a job or project under the job order
2 contract must be signed by the governmental entity's representative
3 and the contractor. The order may be a fixed price, lump-sum
4 contract based substantially on contractual unit pricing applied to
5 estimated quantities or may be a unit price order based on the
6 quantities and line items [~~times~~] delivered.

7 SECTION 9. Section 60.454, Water Code, is amended to read as
8 follows:

9 Sec. 60.454. PURCHASING CONTRACT METHODS. Notwithstanding
10 any other provision of this chapter or other law, a district
11 contract valued at \$25,000 or more in the aggregate for each
12 12-month period may be made by the method below that, in the opinion
13 of the district's commission, provides the best value for the
14 district:

15 (1) a design-build contract to construct,
16 rehabilitate, alter, or repair facilities;

17 (2) a contract to construct, rehabilitate, alter, or
18 repair facilities that involves using a construction manager-agent
19 or construction manager-at-risk;

20 (3) competitive sealed proposals;

21 (4) a job order contract for the construction,
22 renovation, repair, rehabilitation, or alteration of a facility;

23 (5) a request for proposals, if the contract is for
24 services other than construction services;

25 (6) competitive sealed bids;

26 (7) a catalog purchase as provided by Subchapter B,
27 Chapter 2157, Government Code;

1 (8) an interlocal contract as provided by Chapter 791,
2 Government Code;

3 (9) the reverse auction procedure as defined by
4 Section 2155.062(d), Government Code;

5 (10) a contract with the United States, including any
6 agency thereof; or

7 (11) a contract with this state, including an agency
8 of this state.

9 SECTION 10. The heading to Section 60.464, Water Code, is
10 amended to read as follows:

11 Sec. 60.464. JOB ORDER CONTRACTS FOR FACILITIES
12 CONSTRUCTION, RENOVATION, OR REPAIR.

13 SECTION 11. Sections 60.464(a), (c), and (e), Water Code,
14 are amended to read as follows:

15 (a) A district may award job order contracts for the
16 construction, renovation, repair, rehabilitation, or alteration of
17 a facility if [~~the work is of a recurring nature but~~] the delivery
18 times of the work are indefinite and indefinite quantities and
19 orders are awarded substantially on the basis of prescribed and
20 prepriced tasks.

21 (c) The governmental entity may specify individual job
22 order limitations, contract renewable term limitations, or total
23 contract value limitations. The district shall advertise for,
24 receive, and publicly open sealed proposals for job order
25 contracts.

26 (e) The district may award job order contracts to a job
27 order contractor and, if considered necessary, a secondary job

1 order contractor [~~one or more job order contractors~~] in connection
2 with each solicitation of bids or proposals.

3 SECTION 12. The changes in law made by this Act apply only
4 to a job order contract for which a school district, public
5 institution of higher education, governmental entity, or
6 navigation district first advertises for sealed proposals on or
7 after September 1, 2007. A job order contract for which a school
8 district, public institution of higher education, governmental
9 entity, or navigation district first advertises for sealed
10 proposals before September 1, 2007, is governed by the law in effect
11 on the date the district, institution, or entity first advertises
12 for sealed proposals, and the former law is continued in effect for
13 that purpose.

14 SECTION 13. This Act takes effect September 1, 2007.