

AN ACT

relating to purchasing and other contracts by governmental entities.

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

SECTION 1. Section 791.011, Government Code, is amended by adding Subsection (j) to read as follows:

(j) For the purposes of this subsection, the term "purchasing cooperative" means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors. A local government may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative under this chapter in an amount greater than \$50,000 unless a person designated by the local government certifies in writing that:

(1) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or

(2) the plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

SECTION 2. Section 2252.002, Government Code, is amended to read as follows:

Sec. 2252.002. AWARD OF CONTRACT TO NONRESIDENT BIDDER. A governmental entity may not award a governmental contract to a

1 nonresident bidder unless the nonresident underbids the lowest bid  
2 submitted by a responsible resident bidder by an amount that is not  
3 less than the amount by which a resident bidder would be required to  
4 underbid the nonresident bidder to obtain a comparable contract in:

5           (1) the state in which the nonresident's principal  
6 place of business is located; or

7           (2) a state in which the nonresident is a resident  
8 manufacturer.

9           SECTION 3. Section 2267.353(b), Government Code, as added  
10 by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular  
11 Session, 2011, is amended to read as follows:

12           (b) A contract for a project under this subchapter may cover  
13 only a single integrated project. A governmental entity may not  
14 enter into a contract for aggregated projects at multiple  
15 locations. For purposes of this subsection:

16           (1) if a metropolitan transit authority created under  
17 Chapter 451, Transportation Code, enters into a contract for a  
18 project involving a linear transit project with multiple stops  
19 along the project route for boarding passengers, created under  
20 Chapter 451, Transportation Code, the linear transit project [bus  
21 ~~rapid transit system created under Chapter 451, Transportation~~  
22 ~~Code, the bus rapid transit system]~~ is a single integrated project;  
23 and

24           (2) a water treatment plant, including a desalination  
25 plant, that includes treatment facilities, well fields, and  
26 pipelines is a single integrated project.

27           SECTION 4. Section 2267.354, Government Code, as added by

1 Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular  
2 Session, 2011, is amended to read as follows:

3 Sec. 2267.354. LIMITATION ON NUMBER OF PROJECTS. (a)

4 ~~[Before September 1, 2013:~~

5 ~~[(1) a governmental entity with a population of~~  
6 ~~500,000 or more within the entity's geographic boundary or service~~  
7 ~~area may, under this subchapter, enter into contracts for not more~~  
8 ~~than three projects in any fiscal year; and~~

9 ~~[(2) a municipally owned water utility with a separate~~  
10 ~~governing board appointed by the governing body of a municipality~~  
11 ~~with a population of 500,000 or more may:~~

12 ~~[(A) independently enter into a contract for not~~  
13 ~~more than one civil works project in any fiscal year; and~~

14 ~~[(B) enter into contracts for additional civil~~  
15 ~~works projects in any fiscal year, but not more than the number of~~  
16 ~~civil works projects prescribed by the limit in Subdivision (1) for~~  
17 ~~the municipality, provided that:~~

18 ~~[(i) the additional contracts for the civil~~  
19 ~~works projects entered into by the utility under this paragraph are~~  
20 ~~allocated to the number of contracts the municipality that appoints~~  
21 ~~the utility's governing board may enter under Subdivision (1); and~~

22 ~~[(ii) the governing body of the~~  
23 ~~municipality must approve the contracts.~~

24 ~~[(b) Before September 1, 2015, a governmental entity that~~  
25 ~~has a population of 100,000 or more but less than 500,000 or is a~~  
26 ~~board of trustees governed by Chapter 54, Transportation Code, may~~  
27 ~~enter into contracts under this subchapter for not more than two~~

1 ~~projects in any fiscal year.~~

2       ~~[(c)]~~ After August 31, 2013 ~~[the period described by~~  
3 ~~Subsection (a) or (b)]:~~

4           (1) a governmental entity with a population of 500,000  
5 or more within the entity's geographic boundary or service area  
6 may, under this subchapter, enter into contracts for not more than  
7 six projects in any fiscal year;

8           (2) a municipally owned water utility with a separate  
9 governing board appointed by the governing body of a municipality  
10 with a population of 500,000 or more may:

11           (A) independently enter into contracts for not  
12 more than two civil works projects in any fiscal year; and

13           (B) enter into contracts for additional civil  
14 works projects in any fiscal year, but not more than the number of  
15 civil works projects prescribed by the limit in Subdivision (1) for  
16 the municipality, provided that:

17           (i) the additional contracts for the civil  
18 works projects entered into by the utility under this paragraph are  
19 allocated to the number of contracts the municipality that appoints  
20 the utility's governing board may enter under Subdivision (1); and

21           (ii) the governing body of the municipality  
22 must approve the contracts; and

23           (3) a governmental entity that has a population of  
24 100,000 or more but less than 500,000 or is a board of trustees  
25 governed by Chapter 54, Transportation Code, may enter into  
26 contracts under this subchapter for not more than four projects in  
27 any fiscal year.

1        (b) [~~(d)~~] For purposes of determining the number of  
2 eligible projects under this section, a municipally owned water  
3 utility with a separate governing board appointed by the governing  
4 body of the municipality is considered part of the municipality.

5        SECTION 5. (a) This section takes effect only if the Act of  
6 the 83rd Legislature, Regular Session, 2013, relating to  
7 nonsubstantive additions to and corrections in enacted codes  
8 becomes law.

9        (b) Subchapter H, Chapter 2269, Government Code, is amended  
10 by adding Section 2269.3615 to read as follows:

11        Sec. 2269.3615. IDENTIFICATION OF PROJECT TEAM. (a) A  
12 governmental entity may require a design-build firm responding to a  
13 request for detailed proposals to identify companies that will:

14                (1) fill key project roles, including project  
15 management, lead design firm, quality control management, and  
16 quality assurance management; and

17                (2) serve as key task leaders for geotechnical,  
18 hydraulics and hydrology, structural, environmental, utility, and  
19 right-of-way issues.

20        (b) If a design-build firm required to identify companies  
21 under Subsection (a) is selected for a design-build agreement, the  
22 firm may not make changes to the identified companies unless an  
23 identified company:

24                (1) is no longer in business, is unable to fulfill its  
25 legal, financial, or business obligations, or can no longer meet  
26 the terms of the teaming agreement with the design-build firm;

27                (2) voluntarily removes itself from the team;

1           (3) fails to provide a sufficient number of qualified  
2 personnel to fulfill the duties identified during the proposal  
3 stage; or

4           (4) fails to negotiate in good faith in a timely manner  
5 in accordance with provisions established in the teaming agreement  
6 proposed for the project.

7           (c) If the design-build firm makes team changes in violation  
8 of Subsection (b), any cost savings resulting from the change  
9 accrue to the governmental entity and not to the design-build firm.

10           SECTION 6. (a) This section takes effect only if the Act of  
11 the 83rd Legislature, Regular Session, 2013, relating to  
12 nonsubstantive additions to and corrections in enacted codes does  
13 not become law.

14           (b) Subchapter H, Chapter 2267, Government Code, as added by  
15 Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular  
16 Session, 2011, is amended by adding Section 2267.3615 to read as  
17 follows:

18           Sec. 2267.3615. IDENTIFICATION OF PROJECT TEAM. (a) A  
19 governmental entity may require a design-build firm responding to a  
20 request for detailed proposals to identify companies that will:

21           (1) fill key project roles, including project  
22 management, lead design firm, quality control management, and  
23 quality assurance management; and

24           (2) serve as key task leaders for geotechnical,  
25 hydraulics and hydrology, structural, environmental, utility, and  
26 right-of-way issues.

27           (b) If a design-build firm required to identify companies

1 under Subsection (a) is selected for a design-build agreement, the  
2 firm may not make changes to the identified companies unless an  
3 identified company:

4 (1) is no longer in business, is unable to fulfill its  
5 legal, financial, or business obligations, or can no longer meet  
6 the terms of the teaming agreement with the design-build firm;

7 (2) voluntarily removes itself from the team;

8 (3) fails to provide a sufficient number of qualified  
9 personnel to fulfill the duties identified during the proposal  
10 stage; or

11 (4) fails to negotiate in good faith in a timely manner  
12 in accordance with provisions established in the teaming agreement  
13 proposed for the project.

14 (c) If the design-build firm makes team changes in violation  
15 of Subsection (b), any cost savings resulting from the change  
16 accrue to the governmental entity and not to the design-build firm.

17 SECTION 7. Section 252.048(c-1), Local Government Code, is  
18 amended to read as follows:

19 (c-1) If a change order for a public works contract in a  
20 municipality with a population of 300,000 [~~500,000~~] or more  
21 involves a decrease or an increase of \$100,000 or less, or a lesser  
22 amount as provided by ordinance, the governing body of the  
23 municipality may grant general authority to an administrative  
24 official of the municipality to approve the change order.

25 SECTION 8. Section 49.273(i), Water Code, is amended to  
26 read as follows:

27 (i) If changes in plans or specifications are necessary

1 after the performance of the contract is begun, or if it is  
2 necessary to decrease or increase the quantity of the work to be  
3 performed or of the materials, equipment, or supplies to be  
4 furnished, the board may approve change orders making the changes.  
5 The board may grant authority to an official or employee  
6 responsible for purchasing or for administering a contract to  
7 approve a change order that involves an increase or decrease of  
8 \$50,000 or less. The aggregate of the change orders may not  
9 increase the original contract price by more than 25 [~~10~~]  
10 percent. Additional change orders may be issued only as a result  
11 of unanticipated conditions encountered during construction,  
12 repair, or renovation or changes in regulatory criteria or to  
13 facilitate project coordination with other political entities.

14 SECTION 9. The changes in law made by this Act to Sections  
15 791.011 and 2252.002, Government Code, and Section 49.273(i), Water  
16 Code, apply only to a contract made on or after the effective date  
17 of this Act.

18 SECTION 10. The changes in law made by this Act to Sections  
19 2267.3615 and 2269.3615, Government Code, as added by this Act,  
20 apply only to a contract or construction project for which a  
21 governmental entity first advertises or otherwise requests bids,  
22 proposals, offers, or qualifications, or makes a similar  
23 solicitation, on or after the effective date of this Act.

24 SECTION 11. Section 2267.353(d), Government Code, is  
25 repealed.

26 SECTION 12. This Act takes effect September 1, 2013.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 1050 was passed by the House on May 7, 2013, by the following vote: Yeas 144, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1050 on May 24, 2013, by the following vote: Yeas 139, Nays 1, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1050 was passed by the Senate, with amendments, on May 22, 2013, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

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

Date

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Governor