

By: Kacal

H.B. No. 2204

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for construction contracts for certain water supply projects, treatment works, and flood control measures.

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

SECTION 1. Section 17.183, Water Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsection (f) to read as follows:

(a) The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds that meet the following requirements:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision;

1           (3) that payment be made in partial payments as the  
2 work progresses;

3           (4) that each partial payment shall not exceed 95  
4 percent of the amount due at the time of the payment as shown by the  
5 engineer of the project, but, if the project is substantially  
6 complete, a partial release of the five percent retainage may be  
7 made by the political subdivision with approval of the executive  
8 administrator;

9           (5) that payment of the retainage remaining due upon  
10 completion of the contract shall be made only after:

11           (A) approval by the engineer for the political  
12 subdivision as required under the bond proceedings;

13           (B) approval by the governing body of the  
14 political subdivision by a resolution or other formal action; and

15           (C) certification by the executive administrator  
16 in accordance with the rules of the board that the work to be done  
17 under the contract has been completed and performed in a  
18 satisfactory manner and in accordance with approved plans and  
19 specifications;

20           (6) that no valid approval may be granted unless the  
21 work done under the contract has been completed and performed in a  
22 satisfactory manner according to approved plans and  
23 specifications;

24           (7) that, if a political subdivision receiving  
25 financial assistance under Subchapter K of this chapter, labor from  
26 inside the political subdivision be used to the extent possible;  
27 and

1           (8) that the contract include a requirement that iron  
2 and steel products [~~and manufactured goods~~] used in the project be  
3 produced in the United States, unless:

4           (A) such products [~~or goods~~] are not:

5                   (i) available in sufficient quantities;

6                   (ii) readily available; or

7                   (iii) of a satisfactory quality; [~~or~~]

8           (B) the use of such products [~~or goods~~] will  
9 increase the total cost of the project by more than 20 percent; or

10           (C) the use of iron and steel products that are  
11 not produced in the United States is incidental or de minimis and:

12                   (i) the cost of each individual iron or  
13 steel product used in the project that is not produced in the United  
14 States does not exceed one percent of the total cost of the  
15 materials incorporated into the project; and

16                   (ii) the cost of all iron and steel products  
17 used in the project that are not produced in the United States does  
18 not exceed five percent of the total cost of the materials  
19 incorporated into the project.

20           (b) Plans and specifications submitted to the board in  
21 connection with an application for financial assistance must  
22 include a seal by a licensed engineer affirming that the plans and  
23 specifications:

24                   (1) are consistent with the requirement regarding the  
25 use of iron and steel products under Subsection (a)(8); and

26                   (2) conform to current industry design and  
27 construction standards.

1 (c) For the purposes of Subsection [~~Subsections~~] (a)(8)  
2 [~~and (d)~~]:

3 (1) "Iron and steel products" means iron and steel  
4 products produced as the result of a manufacturing process and:

5 (A) includes lined or unlined pipes or fittings,  
6 carbon steel fasteners, manhole covers, municipal castings,  
7 hydrant tanks, flanges, pipe clamps and restraints, valves,  
8 structural steel, and reinforced precast concrete; and

9 (B) does not include mechanical or electrical  
10 components, equipment, controls, or systems or necessary  
11 appurtenances of such components, equipment, controls, or systems  
12 used to process or treat water [~~"Component" means any article,~~  
13 ~~material, or supply, whether a manufactured good or raw material,~~  
14 ~~that is directly incorporated into a manufactured good].~~

15 (2) [~~"Manufactured good" means an item produced as the~~  
16 ~~result of a manufacturing process.~~

17 [~~(3)~~] "Manufacturing process" means the application  
18 of a process to alter the form or function of materials or elements  
19 of a product in a manner that adds value and transforms the  
20 materials or elements so that a new end product is produced that is  
21 functionally different from the product that would result from  
22 simple assembly of the materials or elements.

23 (3) [(4)] "Produced in the United States" means[~~+~~

24 [(A) ~~in the case of~~] iron and steel products[~~+~~  
25 ~~products~~] for which:

26 (A) all manufacturing processes, from initial  
27 melting through application of coatings, take place in the United

1 States, except metallurgical processes that involve the refinement  
2 of steel additives; and

3 (B) at least 50 [~~in the case of a manufactured~~  
4 ~~good, a good for which:~~

5 [~~(i) all of the manufacturing process that~~  
6 ~~produced the manufactured good takes place in the United States,~~  
7 ~~and~~

8 [~~(ii) more than 60~~] percent of the  
9 materials [~~components of the manufactured good~~], by cost, originate  
10 in the United States.

11 (d) For the purposes of Subsection (c)(3)(B)  
12 [~~(c)(4)(B)(ii), if a component originates in the United States~~],  
13 the entire cost of the materials [~~that component~~] contributes to  
14 the determination of whether the iron and steel products are  
15 produced [~~the percentage of the components of the manufactured good~~  
16 ~~that originate~~] in the United States.

17 (f) The board shall adopt rules to:

18 (1) promote compliance with the requirements of this  
19 section; and

20 (2) establish and administer a system that allows for  
21 the waiver of the requirements of this section as necessary.

22 SECTION 2. Section [17.183](#), Water Code, as amended by this  
23 Act, applies only to a contract entered into on or after the  
24 effective date of this Act. A contract entered into before the  
25 effective date of this Act is governed by the law in effect when the  
26 contract was entered into, and the former law is continued in effect  
27 for that purpose.

1           SECTION 3. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2017.