

By: Martinez

H.B. No. 2752

A BILL TO BE ENTITLED

AN ACT

relating to job order contracting.

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

SECTION 1. Section 2269.001, Government Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Horizontal construction project" means:

(A) a highway, road, street, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; or

(B) work relating to a building or structure that is incidental to a project that is primarily a civil engineering construction project.

SECTION 2. Section 2269.004, Government Code, is amended to read as follows:

Sec. 2269.004. APPLICABILITY OF CHAPTER TO CERTAIN TRANSPORTATION CONTRACTS, PROJECTS, AND ENTITIES [~~EXEMPTION: TEXAS DEPARTMENT OF TRANSPORTATION, HIGHWAY PROJECTS~~]. (a) Except as otherwise provided by Subsections (b) and (c), this [~~This~~] chapter does not apply to:

(1) a contract entered into by the Texas Department of Transportation; [~~or~~]

(2) a project that receives money from a state or

1 federal highway fund;

2 (3) a regional tollway authority under Chapter 366,
3 Transportation Code;

4 (4) an improvement project undertaken by or through a
5 local government corporation exempt from competitive bidding
6 requirements or restrictions under Section 431.110, Transportation
7 Code;

8 (5) a regional mobility authority under Chapter 370,
9 Transportation Code;

10 (6) a coordinated county transportation authority
11 under Chapter 460, Transportation Code; or

12 (7) a project of a county under Chapter 284,
13 Transportation Code.

14 (b) Notwithstanding any other law, a contract, project, or
15 entity described by Subsections (a)(1)-(6) may use job order
16 contracting under Subchapter I for projects described by Section
17 2269.403.

18 (c) A county may adopt an order electing to be governed by
19 this chapter for a project to be developed by the county under
20 Chapter 284, Transportation Code.

21 SECTION 3. Section 2269.401, Government Code, is amended to
22 read as follows:

23 Sec. 2269.401. JOB ORDER CONTRACTING. In this chapter,
24 "job order contracting" is a procurement method used for
25 maintenance, repair, alteration, renovation, remediation, or
26 ~~[minor]~~ construction of a facility or for a horizontal construction
27 project when the ~~[work is of a recurring nature but the delivery~~

1 ~~times,~~] type[,] and quantities of work required are indefinite.

2 SECTION 4. The heading to Section 2269.403, Government
3 Code, is amended to read as follows:

4 Sec. 2269.403. REQUIREMENTS FOR JOB ORDER CONTRACTS [~~FOR~~
5 ~~FACILITIES~~].

6 SECTION 5. Section 2269.403(a), Government Code, is amended
7 to read as follows:

8 (a) A governmental entity may award job order contracts for
9 the maintenance, repair, alteration, renovation, remediation, or
10 [~~minor~~] construction of a facility or for a horizontal construction
11 project if [+]

12 [~~(1) the work is of a recurring nature but the delivery~~
13 ~~times are indefinite, and~~

14 [~~(2)~~] indefinite quantities and orders are awarded
15 substantially on the basis of prescribed and prepriced tasks.

16 SECTION 6. Section 2269.404, Government Code, is amended to
17 read as follows:

18 Sec. 2269.404. CONTRACTUAL UNIT PRICES. The governmental
19 entity shall [~~may~~] establish contractual unit prices for a job
20 order contract by:

21 (1) specifying one or more published construction unit
22 price books and the applicable divisions or line items; and [~~or~~]

23 (2) providing a list of work items and requiring the
24 offerors to propose one or more coefficients or multipliers to be
25 applied to the price book or prepriced work items as the price
26 proposal.

27 SECTION 7. Section 2269.405(c), Government Code, is amended

1 to read as follows:

2 (c) The governmental entity may require offerors to submit
3 information in addition to the offeror's proposed coefficients or
4 multipliers [~~rates~~], including experience, past performance, and
5 proposed personnel and methodology.

6 SECTION 8. Section 2269.406, Government Code, is amended to
7 read as follows:

8 Sec. 2269.406. AWARDING OF JOB ORDER CONTRACTS. The
9 governmental entity may award a job order contract only [~~contracts~~]
10 to one [~~or more~~] job order contractor [~~contractors~~] in connection
11 with each solicitation of proposals.

12 SECTION 9. Section 2269.408(b), Government Code, is amended
13 to read as follows:

14 (b) Subsection (a) does not apply to a job order contract or
15 an order issued under the contract [~~for industrialized housing,~~
16 ~~industrialized buildings, or relocatable educational facilities~~
17 ~~subject to and approved under Chapter 1202, Occupations Code,~~] if
18 the contractor employs the services of an architect or engineer who
19 approves the documents for the project.

20 SECTION 10. Section 2269.410, Government Code, is amended
21 by amending Subsection (b) and adding Subsection (c) to read as
22 follows:

23 (b) The order may be:

24 (1) a fixed price, lump-sum contract based
25 [~~substantially~~] on contractual unit pricing applied to the scope of
26 work [~~estimated quantities~~]; or

27 (2) a unit price order based on the quantities and line

1 items delivered.

2 (c) The order under a job order contract for a construction
3 project must include detailed line item descriptions, quantities,
4 and prices for each construction task, including the associated
5 coefficients or multipliers, to produce a lump-sum price of the
6 project.

7 SECTION 11. Sections 2269.006, 2269.007, 2269.008,
8 2269.009, 2269.010, and 2269.402, Government Code, are repealed.

9 SECTION 12. The changes in law made by this Act apply only
10 to a job order contract entered into or renewed on or after the
11 effective date of this Act and any order for a job or project under
12 that contract. A job order contract entered into or renewed before
13 the effective date of this Act and any order for a job or project
14 under that contract is governed by the law in effect immediately
15 before the effective date of this Act, and that law is continued in
16 effect for that purpose.

17 SECTION 13. This Act takes effect September 1, 2019.