

AN ACT

relating to performance and payment bonds for public work contracts on public property leased to a nongovernmental entity.

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

SECTION 1. Sections 2253.001(3) and (4), Government Code, are amended to read as follows:

(3) "Prime contractor" means a person, firm, or corporation that makes a public work contract with:

(A) a governmental entity; or

(B) a person who leases any public property, other than a person who leases property from a river authority created pursuant to Section 59, Article XVI, Texas Constitution, that owns electric generation capacity in excess of 1,000 megawatts.

(4) "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work, including work performed on property owned by a governmental entity or on public property leased by the governmental entity to a nongovernmental entity.

"Public work contract" does not include any contract entered into by a nongovernmental entity that leases property from a river authority created pursuant to Section 59, Article XVI, Texas Constitution, that owns electric generation capacity in excess of 1,000 megawatts.

SECTION 2. Section 2253.021(a), Government Code, is amended to read as follows:

(a) A governmental entity that makes a public work contract with a prime contractor or authorizes a nongovernmental entity leasing public property from the governmental entity to enter into a public work contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity:

(1) a performance bond if the contract is in excess of \$100,000; and

(2) a payment bond if:

(A) the contract is in excess of \$25,000, and the governmental entity is not a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code; or

(B) the contract is in excess of \$50,000, and the governmental entity is a municipality or a joint board created under Subchapter D, Chapter 22, Transportation Code.

SECTION 3. Sections 2253.024(a) and (b), Government Code, are amended to read as follows:

(a) A prime contractor, on the written request of a person who provides public work labor or material and when required by Subsection (c), shall provide to the person:

(1) the name and last known address of the governmental entity or nongovernmental leasehold tenant with whom the prime contractor contracted for the public work;

(2) a copy of the payment and performance bonds for the public work, including bonds furnished by or to the prime

1 contractor; and

2 (3) the name of the surety issuing the payment bond and
3 the performance bond and the toll-free telephone number maintained
4 by the Texas Department of Insurance under Subchapter B, Chapter
5 521, Insurance Code, for obtaining information concerning licensed
6 insurance companies.

7 (b) A subcontractor, on the written request of a
8 governmental entity, a nongovernmental leasehold tenant with whom
9 the prime contractor contracted, the prime contractor, a surety on
10 a bond that covers the public work contract, or a person providing
11 work under the subcontract and when required by Subsection (c),
12 shall provide to the person requesting the information:

13 (1) the name and last known address of each person from
14 whom the subcontractor purchased public work labor or material,
15 other than public work material from the subcontractor's inventory;

16 (2) the name and last known address of each person to
17 whom the subcontractor provided public work labor or material;

18 (3) a statement of whether the subcontractor furnished
19 a bond for the benefit of its subcontractors and materialmen;

20 (4) the name and last known address of the surety on
21 the bond the subcontractor furnished; and

22 (5) a copy of that bond.

23 SECTION 4. Section 2253.071(a), Government Code, is amended
24 to read as follows:

25 (a) The proceeds of a public work contract are not payable,
26 until all costs of completion of the contract work are paid by the
27 contractor or the contractor's surety, to a contractor who

1 furnishes a bond required by this chapter if:

2 (1) the contractor abandons performance of the
3 contract; or

4 (2) the contractor's right to proceed with performance
5 of the contract is lawfully terminated by the awarding governmental
6 entity or nongovernmental entity leasing public property from the
7 governmental entity because of the contractor's default.

8 SECTION 5. The changes in law made by this Act apply only to
9 a public work contract or construction project for which a
10 governmental entity or a nongovernmental entity leasing public
11 property from the governmental entity first advertises or otherwise
12 requests bids, proposals, offers, or qualifications, or makes a
13 similar solicitation, on or after the effective date of this Act.

14 SECTION 6. This Act takes effect September 1, 2021.

H.B. No. 1477

President of the Senate

Speaker of the House

I certify that H.B. No. 1477 was passed by the House on May 5, 2021, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1477 was passed by the Senate on May 25, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor