88R3876 YDB-F

By:  Bell of Kaufman H.B. No. 2518

A BILL TO BE ENTITLED

AN ACT

relating to public work contracts, including 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.

(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.

SECTION 2.  Section 2253.002, Government Code, is amended to read as follows:

Sec. 2253.002.  EXEMPTION.  This chapter does not apply to a public work contract entered into by:

(1)  a state agency relating to an action taken under Subchapter F  or I, Chapter 361, Health and Safety Code, or Subchapter I, Chapter 26, Water Code; or

(2)  a nongovernmental entity to lease public property from a river authority created under Section 59, Article XVI, Texas Constitution, that owns electric generation capacity in excess of 1,000 megawatts.

SECTION 3.  Section 2253.021(a), Government Code, is amended to read as follows:

(a)  A governmental entity that enters into [~~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 works contract with a prime contractor shall require the contractor, at least 10 days 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 4.  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 contractor; and

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

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

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

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

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

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

(5)  a copy of that bond.

SECTION 5.  Section 2253.027, Government Code, is amended by adding Subsection (c) to read as follows:

(c)  Notwithstanding Subsection (a), a governmental entity is not liable as a surety under Subsection (a)(1) if a prime contractor of a nongovernmental entity leasing property from the governmental entity fails to submit to the governmental entity the notice of commencement required by Section 2253.0405.

SECTION 6.  Subchapter C, Chapter 2253, Government Code, is amended by adding Section 2253.0405 to read as follows:

Sec. 2253.0405.  NOTICE OF COMMENCEMENT REQUIRED FOR CERTAIN PUBLIC WORKS CONTRACTS. A nongovernmental entity leasing public property from a governmental entity that enters into a public works contract with a prime contractor shall require the contractor at least 10 days before beginning the work to submit to the governmental entity a notice of commencement that:

(1)  identifies the contract;

(2)  identifies the specific leasehold at which the work will be performed;

(3)  describes the work to be performed; and

(4)  states the total cost of the work to be performed.

SECTION 7.  Section 2253.071(a), Government Code, is amended to read as follows:

(a)  The proceeds of a public work contract are not payable, until all costs of completion of the contract work are paid by the contractor or the contractor's surety, to a contractor who furnishes a bond required by this chapter if:

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

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

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

SECTION 9.  This Act takes effect September 1, 2023.