

SUBCHAPTER B. GENERAL INTERLOCAL CONTRACTING AUTHORITY

Sec. 791.011. CONTRACTING AUTHORITY; TERMS. (a) A local government may contract or agree with another local government or a federally recognized Indian tribe, as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1, whose reservation is located within the boundaries of this state to perform governmental functions and services in accordance with this chapter.

(b) A party to an interlocal contract may contract with a:

- (1) state agency, as that term is defined by Section [771.002](#); or
- (2) similar agency of another state.

(b-1) A local government that is authorized to enter into an interlocal contract under this section may not contract with an Indian tribe that is not federally recognized or whose reservation is not located within the boundaries of this state.

(c) An interlocal contract may be to:

- (1) study the feasibility of the performance of a governmental function or service by an interlocal contract; or
- (2) provide a governmental function or service that each party to the contract is authorized to perform individually.

(d) An interlocal contract must:

- (1) be authorized by the governing body of each party to the contract unless a party to the contract is a municipally owned electric utility, in which event the governing body may establish procedures for entering into interlocal contracts that do not exceed \$100,000 without requiring the approval of the governing body;
- (2) state the purpose, terms, rights, and duties of the contracting parties; and
- (3) specify that each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

(e) An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract.

(f) An interlocal contract may be renewed.

(g) A governmental entity of this state or another state that makes purchases or provides purchasing services under an interlocal contract for a state agency, as that term is defined by Section [771.002](#), must comply with Chapter 2161 in making the purchases or providing the services.

(h) An interlocal contract between a governmental entity and a purchasing cooperative may not be used to purchase engineering or architectural services.

(i) Notwithstanding Subsection (d), an interlocal contract may have a specified term of years.

(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.

Added by Acts 1991, 72nd Leg., ch. 38, Sec. 1, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 405, Sec. 47, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 98, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 257 (H.B. [1562](#)), Sec. 1, eff. May 30, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. [1886](#)), Sec. 12, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1065 (S.B. [760](#)), Sec. 1.

Acts 2013, 83rd Leg., R.S., Ch. 1127 (H.B. [1050](#)), Sec. 1, eff. September 1, 2013.

A BILL TO BE ENTITLED

AN ACT

1
2 relating to an interlocal contract between a governmental entity
3 and a purchasing cooperative to purchase roofing materials or
4 services.

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

6 SECTION 1. Section 791.011(h), Government Code, is amended
7 to read as follows:

8 (h) An interlocal contract between a governmental entity
9 and a purchasing cooperative may not be used to purchase:

- 10 (1) engineering or architectural services; or
11 (2) roofing materials or services, including
12 materials or services for construction, repair, or replacement of a
13 roof.

14 SECTION 2. The change in law made by this Act to Section
15 791.011, Government Code, applies only to an interlocal contract or
16 an amendment to, supplement to, or waiver of a provision of a
17 contract made on or after the effective date of this Act. An
18 interlocal contract or an amendment to, supplement to, or waiver of
19 a provision of a contract made before the effective date of this Act
20 is governed by the law in effect when the contract or amendment,
21 supplement, or waiver was made, and the former law is continued for
22 that purpose.

23 SECTION 3. This Act takes effect September 1, 2011.

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

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

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

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

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

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

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

SECTION 4. Section 2267.354, Government Code, as added by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

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

~~[Before September 1, 2013:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) ~~[(d)]~~ For purposes of determining the number of eligible projects under this section, a municipally owned water

utility with a separate governing board appointed by the governing body of the municipality is considered part of the municipality.

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

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

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

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

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

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

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

(2) voluntarily removes itself from the team;

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

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

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

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

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

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

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

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

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

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet

the terms of the teaming agreement with the design-build firm;

(2) voluntarily removes itself from the team;

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

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

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

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

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

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

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

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

SECTION 10. The changes in law made by this Act to Sections 2267.3615 and 2269.3615, Government Code, as added by this Act, apply only to a contract or construction project for which a 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 11. Section 2267.353(d), Government Code, is repealed.

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

President of the Senate

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.

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.

Secretary of the Senate

APPROVED: _____
Date

Governor