

Senate Amendment 3389

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1 1 Amend Senate File 513 as follows:
1 2 ~~#1.~~ By striking everything after the enacting
1 3 clause and inserting the following:
1 4 <Section 1. Section 26.2, subsection 1, Code 2007,
1 5 is amended to read as follows:
1 6 1. "Estimated total cost of a public improvement"
1 7 or "estimated total cost" means the estimated total
1 8 cost to the governmental entity to construct a public
1 9 improvement, including cost of labor, materials,
1 10 equipment, and supplies, but excluding the cost of
1 11 architectural, landscape architectural, or engineering
1 12 design services and inspection.
1 13 Sec. 2. Section 26.3, subsections 1 and 2, Code
1 14 2007, are amended to read as follows:
1 15 1. If the estimated total cost of a public
1 16 improvement exceeds the competitive bid threshold of
1 17 one hundred thousand dollars, or the adjusted
1 18 competitive bid threshold established in section
1 19 314.1B, the governmental entity shall advertise for
1 20 sealed bids for the proposed public improvement by
1 21 publishing a notice to bidders ~~as provided in section~~
~~1 22 362.3. The notice to bidders shall be published as~~
~~1 23 provided in section 362.3, except that the notice~~
~~1 24 shall be published more than twenty days but not more~~
~~1 25 than forty-five days before the date for filing bids.~~
1 26 Additionally, the governmental entity may publish a
1 27 notice in a relevant contractor organization
1 28 publication and a relevant contractor plan room
1 29 service with statewide circulation, provided that a
1 30 notice is posted on a website sponsored by either a
1 31 governmental entity or a statewide association that
1 32 represents the governmental entity. ~~The notice to~~
~~1 33 bidders shall be published more than twenty days but~~
~~1 34 not more than forty-five days before the date for~~
~~1 35 filing bids.~~
1 36 2. A governmental entity shall have an engineer
1 37 licensed under chapter 542B, a landscape architect
1 38 licensed under chapter 544B, or an architect
1 39 registered under chapter 544A prepare plans and
1 40 specifications, and calculate the estimated total cost
1 41 of a proposed public improvement.
1 42 Sec. 3. Section 26.4, Code 2007, is amended to
1 43 read as follows:
1 44 26.4 EXEMPTIONS FROM COMPETITIVE BIDS AND
1 45 QUOTATIONS.
1 46 Architectural, landscape architectural, or
1 47 engineering design services procured for a public
1 48 improvement are not subject to sections 26.3 and
1 49 26.14.
1 50 Sec. 4. Section 26.8, subsection 1, Code 2007, is
2 1 amended to read as follows:
2 2 1. Each bidder shall accompany its bid with a bid
2 3 security as security that the successful bidder will
2 4 enter into a contract for the work bid upon and will
2 5 furnish after the award of contract a corporate surety
2 6 bond, acceptable to the governmental entity, for the
2 7 faithful performance of the contract, in an amount
2 8 equal to one hundred percent of the amount of the
2 9 contract. The bid security shall be in an amount
2 10 fixed by the governmental entity, and shall be in the
2 11 form of a cashier's check or certified check drawn on
2 12 a state-chartered or federally chartered bank, or a
2 13 certified share draft drawn on a state-chartered or
2 14 federally chartered credit union, or the governmental
2 15 entity may provide for a bidder's bond with corporate
2 16 surety satisfactory to the governmental entity. The
2 17 ~~bid~~ bidder's bond shall contain no conditions except
2 18 as provided in this section.
2 19 Sec. 5. Section 26.10, unnumbered paragraph 1,
2 20 Code 2007, is amended to read as follows:
2 21 The governmental entity shall open, announce the
2 22 amount of the bids, and file all proposals received,
2 23 at the time and place specified in the notice to
2 24 bidders. The governmental entity may, by resolution,

2 25 award the contract for the public improvement to the
2 26 bidder submitting the lowest responsive, responsible
2 27 bid, determined as provided in section 26.9, or the
2 28 governmental entity may reject all bids received, fix
2 29 a new date for receiving bids, and order publication
2 30 of a new notice to bidders. The governmental entity
2 31 shall retain the bid security furnished by the
2 32 successful bidder until the approved contract form has
2 33 been executed, ~~and~~ a bond has been filed by the bidder
2 34 guaranteeing the performance of the contract, and the
2 35 contract and bond~~7~~ have been approved by the
2 36 governmental entity. The provisions of chapter 573,
2 37 where applicable, apply to contracts awarded under
2 38 this chapter.

2 39 Sec. 6. Section 26.11, Code 2007, is amended to
2 40 read as follows:

2 41 26.11 DELEGATION OF AUTHORITY.

2 42 When bids are required for any public improvement,
2 43 the governmental entity may delegate, by motion,
2 44 resolution, or policy to the city manager, clerk,
2 45 engineer, or other public officer, as applicable, the
2 46 duty of receiving and opening bids and announcing the
2 47 results. The officer shall report the results of the
2 48 bidding with the officer's recommendations to the next
2 49 regular meeting of the governmental entity's governing
2 50 body or at a special meeting called for that purpose.

3 1 Sec. 7. Section 26.13, subsection 3, Code 2007, is
3 2 amended to read as follows:

3 3 3. If labor and materials are yet to be provided
3 4 at the time of the request for the release of the
3 5 retained funds labor or materials are yet to be
3 6 provided is made, an amount equal to two hundred
3 7 percent of the value of the labor or materials yet to
3 8 be provided, as determined by the governmental
3 9 entity's or the department's authorized contract
3 10 representative, may be withheld until such labor or
3 11 materials are provided. For purposes of this section,
3 12 "authorized contract representative" means the person
3 13 chosen by the governmental entity or the department to
3 14 represent its interests or the person designated in
3 15 the contract as the party representing the
3 16 governmental entity's or the department's interest
3 17 regarding administration and oversight of the project.

3 18 Sec. 8. Section 26.14, Code 2007, is amended to
3 19 read as follows:

3 20 26.14 COMPETITIVE QUOTATIONS FOR PUBLIC
3 21 IMPROVEMENT CONTRACTS.

3 22 1. Competitive quotations shall be required for a
3 23 public improvement having an estimated total cost that
3 24 exceeds the applicable threshold amount provided in
3 25 this section, but is less than the competitive bid
3 26 threshold established in section 26.3.

3 27 2. Unless the threshold ~~amount is~~ amounts are
3 28 adjusted pursuant to section 314.1B, the ~~competitive~~
3 29 ~~quotation following~~ threshold amounts shall be as
3 30 follows apply:

- 3 31 a. Sixty-seven thousand dollars for a county,
3 32 including a county hospital.
- 3 33 b. Fifty-one thousand dollars for a city having a
3 34 population of fifty thousand or more.
- 3 35 c. Fifty-one thousand dollars for a school
3 36 district having a population of fifty thousand or
3 37 more.
- 3 38 d. Fifty-one thousand dollars for an aviation
3 39 authority created within a city having a population of
3 40 fifty thousand or more.
- 3 41 e. Thirty-six thousand dollars for a city having a
3 42 population of less than fifty thousand, for a school
3 43 district having a population of less than fifty
3 44 thousand, and for any other governmental entity.
- 3 45 f. The threshold amount applied to a city applies
3 46 to a city hospital.

3 47 3. a. When a competitive quotation is required,
3 48 the governmental entity shall make a good faith effort
3 49 to obtain quotations for the work from at least two
3 50 contractors regularly engaged in such work prior to
4 1 letting a contract. Quotations may be obtained from
4 2 contractors after the governmental entity provides a
4 3 description of the work to be performed, including the
4 4 plans and specifications prepared by an architect,
4 5 landscape architect, or engineer, if required under

4 6 chapter 542B, 544B, or 544A, and an opportunity to
4 7 inspect the work site. The contractor shall include
4 8 in the quotation the price for labor, materials,
4 9 equipment, and supplies required to perform the work.
4 10 If the work can be performed by an employee or
4 11 employees of the governmental entity, the governmental
4 12 entity may file a quotation for the work to be
4 13 performed in the same manner as a contractor. If the
4 14 governmental entity receives no quotations after
4 15 making a good faith effort to obtain quotations from
4 16 at least two contractors regularly engaged in such
4 17 work, the governmental entity may negotiate a contract
4 18 with a contractor regularly engaged in such work.

4 19 b. The governmental entity shall designate the
4 20 time, place, and manner for filing quotations, which
4 21 may be received by mail, facsimile, or electronic
4 22 mail. The governmental entity shall award the
4 23 contract to the contractor submitting the lowest
4 24 responsive, responsible quotation subject to section
4 25 26.9, or the governmental entity may reject all of the
4 26 quotations. The unconditional acceptance and approval
4 27 of the lowest responsive, responsible quotation shall
4 28 constitute the award of a contract. The governmental
4 29 entity shall record the approved quotation in its
4 30 meeting minutes. ~~Quotations~~ The contractor awarded
4 31 the contract shall not commence work until the
4 32 contractor's performance and payment bond has been
4 33 approved by the governmental entity. A governmental
4 34 entity may delegate the authority to award a contract,
4 35 to execute a contract, to authorize work to proceed
4 36 under a contract, or to approve the contractor's
4 37 performance and payment bond to an officer or employee
4 38 of the governmental entity. A quotation approved
4 39 outside a meeting of the governing body of a
4 40 governmental entity shall be included in the minutes
4 41 of the next regular or special meeting of the
4 42 governing body. ~~The governmental entity shall award~~
4 43 the contract to the contractor submitting the lowest
4 44 responsive, responsible quotation subject to section
4 45 26.9, or the governmental entity may reject all of the
4 46 quotations.

4 47 c. If a public improvement may be performed by an
4 48 employee of the governmental entity, the amount of
4 49 estimated sales and fuel tax and the premium cost for
4 50 the performance and payment bond which a contractor
5 1 identifies in its quotation shall be deducted from the
5 2 contractor's price for determining the lowest
5 3 responsible ~~bidder~~ quotation. If no quotations are
5 4 received to perform the work, or if the governmental
5 5 entity's estimated cost to do the work with its
5 6 employee is less than the lowest responsive,
5 7 responsible quotation received, the governmental
5 8 entity may authorize its employee or employees to
5 9 perform the work.

5 10 Sec. 9. NEW SECTION. 26.14A ALTERNATIVE
5 11 PROCEDURES.

5 12 1. When competitive quotations are required under
5 13 section 26.14 for a public improvement, the
5 14 governmental entity may proceed, in lieu of
5 15 competitive quotations, as if the estimated total cost
5 16 of the public improvement exceeds the competitive bid
5 17 threshold under section 26.3.

5 18 2. If the total estimated cost of the public
5 19 improvement does not warrant either competitive
5 20 quotations under section 26.14 or competitive bidding
5 21 under section 26.3, the governmental entity may
5 22 nevertheless proceed with competitive quotations or
5 23 competitive bidding for the public improvement.

5 24 Sec. 10. Section 380.4, unnumbered paragraph 1,
5 25 Code 2007, is amended to read as follows:

5 26 Passage of an ordinance, amendment, or resolution
5 27 requires a majority vote of all of the members of the
5 28 council, except when the mayor may vote to break a tie
5 29 vote in a city with an even number of council members,
5 30 as provided in section 372.4. Passage of a motion
5 31 requires a majority vote of a quorum of the council.
5 32 A resolution must be passed to spend public funds in
5 33 excess of ~~twenty-five~~ one hundred thousand dollars on
5 34 ~~any one~~ a public improvement project, or to accept
5 35 public improvements and facilities upon their
5 36 completion. Each council member's vote on a measure

5 37 must be recorded. A measure which fails to receive
5 38 sufficient votes for passage shall be considered
5 39 defeated.

5 40 Sec. 11. Section 384.20, unnumbered paragraph 3,
5 41 Code 2007, is amended to read as follows:
5 42 "Continuing appropriation" means the unexpended
5 43 portion of the cost of public improvements, as defined
5 44 in section ~~26.3~~ 26.2, which cost was adopted through a
5 45 public hearing pursuant to section 26.12 and was
5 46 included in an adopted or amended budget of a city. A
5 47 continuing appropriation does not expire at the
5 48 conclusion of a fiscal year. A continuing
5 49 appropriation continues until the public improvement
5 50 is completed, but expenditures under the continuing
6 1 appropriation shall not exceed the resources available
6 2 for paying for the public improvement.

6 3 Sec. 12. Section 384.23, Code 2007, is amended to
6 4 read as follows:
6 5 384.23 CONSTRUCTION OF WORDS "AND" AND "OR."
6 6 As used in divisions III to ~~VI~~ V of this chapter,
6 7 the use of the conjunctive "and" includes the
6 8 disjunctive "or" and the use of the disjunctive "or"
6 9 includes the conjunctive "and," unless the context
6 10 clearly indicates otherwise.

6 11 Sec. 13. Section 384.37, subsection 17, Code 2007,
6 12 is amended to read as follows:

6 13 17. "Proposal" means a legal bid on work
6 14 advertised for a public improvement under ~~division VI~~
~~6 15 of this chapter 26.~~

6 16 Sec. 14. Section 384.53, Code 2007, is amended to
6 17 read as follows:
6 18 384.53 PROCEDURES TO LET CONTRACT.
6 19 Contract letting procedures shall be as provided in
6 20 ~~division VI of this chapter 26.~~ The council may award
6 21 any number of contracts for construction of any public
6 22 improvement.

6 23 Sec. 15. Section 386.6, subsection 6, Code 2007,
6 24 is amended to read as follows:

6 25 6. If the council orders the construction of the
6 26 improvement, it shall proceed to let contracts
6 27 therefor in accordance with chapter ~~384, division VI~~
6 28 ~~26.~~

6 29 Sec. 16. Section 386.7, subsection 3, Code 2007,
6 30 is amended to read as follows:

6 31 3. If the council orders the construction of the
6 32 self-liquidating improvement, contracts for it shall
6 33 be let in accordance with ~~division VI of chapter 384~~
6 34 ~~26.~~>

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6 38 HERMAN C. QUIRMBACH
6 39 SF 513.504 82
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