

BILL ANALYSIS

Senate Research Center
79R11943 DRH-F

C.S.S.B. 1335
By: Madla
Intergovernmental Relations
4/11/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Subchapter H, Chapter 271, Local Government Code, as currently written does not authorize the use of design-build procurement methods unless specifically granted in legislation. Design-build is a method of contracting in which an owner hires a competent design firm or contractor who in turn hires an architect, structural engineer, mechanical/electrical engineer, civil engineer, and any specialty consultants. The design team works with the owner from day one to design a facility best suited to the owner's needs. The result is a project with a realistic budget, little or no change orders, time savings and effective design from the start.

C.S.S.B. 1335 authorizes the San Antonio Water System to utilize design-build in its procurement process for a brackish water desalination plant.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION. Amends Subchapter H, Chapter 271, Local Government Code, by adding Section 271.1195, as follows:

Sec. 271.1195. USE OF DESIGN-BUILD CONTRACT TO DESIGN AND CONSTRUCT WATER DESALINATION PLANT. (a) Defines "board" and "water system."

(b) Authorizes a water system to use the design-build method as provided by this section for the design, construction, rehabilitation, alteration, or repair of a water desalination plant if the governing body of a water system (board) determines that the method will provide the best value to the water system. Requires the water system, in using the design-build method and entering into a design-build contract, to follow the procedures and award the design-build contract as provided by this section. Provides that Sections 271.112 (Applicability; Other Law), 271.113 (Procurement Procedures), and 271.114 (Evaluation of Bids and Proposals for Construction) do not apply except as provided by this section. Provides that if the water system uses the design-build method under this section, this section prevails over any other law relating to a contract for the design and construction of a water desalination plant by a water system to the extent of any conflict.

(c) Requires the water system, in procuring professional or construction services for the design and construction of a water desalination plant using the design-build method, to use a two-step evaluation and selection process. Authorizes the board to delegate as it considers appropriate its authority regarding an action authorized or required by this section to a person, representative, or committee designated by the board.

(d) Requires the water system, in the first step of the evaluation and selection process, to issue a request for qualifications from design-build firms for the design-build contract for the water desalination plant and publish notice of the

request in the same manner as provided for a municipality under Section 271.112(d). Authorizes the request for qualifications to include certain information to assist design-build firms in responding to the request. Requires the request for qualifications to also include the maximum number of design-build firms that may be invited to participate in the second step of the evaluation and selection process.

(e) Requires the water system, during the first step of the evaluation and selection process, to evaluate certain appropriate factors submitted by each design-build firm that responds to the request for qualifications but may not evaluate cost-related or price-related evaluation factors. Authorizes the water system to interview representatives of any design-build firm that responds to the request for qualifications. Authorizes the water system to select not more than six design-build firms that the water system determines to be the most qualified based on demonstrated competence and qualifications. Requires a design-build firm chosen under this subsection to be invited to participate in the second step of the evaluation and selection process.

(f) Requires the water system, in the second step of the evaluation and selection process, to issue a request for proposals to the design-build firms selected under Subsection (e). Requires the request for proposals to include the selection criteria that the water system will use in analyzing the request for proposals and to request certain additional information.

(g) Requires the proposals of a design-build firm that responds to a request under Subsection (f) to also include preliminary design drawings, a project schedule, and a lump-sum contract price for the design-build contract. Provides that all information included in a proposal submitted under this section becomes the property of the water system.

(h) Authorizes the water system, to assure full understanding of and responsiveness to the requirements in the request for proposals, including provisions that will be included in the design-build contract, and budgetary and schedule constraints, to further interview and negotiate with any of the design-build firms intending to respond to the request for proposals both before and after the submission of the response to the request. Requires the water system to provide to a design-build firm intending to submit a response fair treatment with respect to any opportunity for discussion and for clarification made available by the water system. Prohibits the water system, in conducting any discussions regarding price, from disclosing to a design-build firm information regarding price submitted by a competing firm.

(i) Authorizes a design-build firm to revise a proposal after submission of its initial response to the request for proposals and before award of the contract to allow the firm to submit a best and final proposal. Requires the water system to select the design-build firm that submits the best and final proposal offering the best value to the water system on the basis of the selection criteria published in the request for proposals.

(j) Provides that, until an award and execution of a design-build contract by the water system, certain information may be disclosed and certain information is to remain confidential.

(k) Requires all proposals to be open to public inspection not later than the seventh day after the date. Requires, to the extent that a design-build firm making a proposal under this section designates, trade secrets and other proprietary data contained in the proposal to remain confidential to the extent allowed by law.

(l) Authorizes the water system to cancel a request for qualifications or a request for proposals, and reject any and all proposals wholly or partly.

(m) Requires the selected firm's engineers or architects to complete the design, submitting all design elements for review and determination of scope compliance to the water system's engineer or architect before or concurrently with construction.

(n) Requires the water system to provide or contract for, independently of the design-build firm, the inspection services, the testing of construction materials, and the verification testing services necessary for acceptance of the water desalination plant by the water system. Requires the water system to select those services for which it contracts in accordance with Section 2254.004 (Contract for Professional Services of Architect, Engineer, or Surveyor), Government Code.

(o) Requires the design-build firm to supply a signed and sealed set of as-built construction documents for the project to the water system at the conclusion of construction.

(p) Authorizes the water system to use a design-build firm to obtain or assist the water system in obtaining any permit necessary for the water desalination plant.

SECTION 2. Effective date: upon passage or September 1, 2005.