

**RULES FOR IMPLEMENTING CHAPTER 2269, TEXAS GOVERNMENT CODE  
CONTRACTING AND DELIVERY PROCEDURES FOR CONSTRUCTION PROJECTS  
(ALTERNATIVE PROJECT DELIVERY METHODS)**

**SECTION 1. DEFINITIONS.** In these Rules:

(a) "2269 Contract" means a contract using a method authorized under Chapter 2269 of the Texas Government Code.

(b) "2269 Method" means a contracting method authorized under Chapter 2269 of the Texas Government Code to organize the design and construction services for a public works project and includes the following methods:

- (i) Competitive Bidding Method ("CB");
- (ii) Competitive Sealed Proposal Method ("CSP");
- (iii) Construction Manager-Agent Method ("CMA");
- (iv) Construction Manager-at-Risk Method ("CMAR");
- (v) Design-Build Method ("DB");
- (vi) Design-Build Method for Certain Civil Works Projects ("DBCW");
- (vii) Job Order Contract Method ("JOC").

(c) "Alternative Project Delivery Method" ("APD") means an alternative contracting method authorized under Chapter 2269 of the Texas Government Code, and includes all of the 2269 Methods listed above except the Competitive Bidding Method:

- (i) Competitive Sealed Proposal Method ("CSP");
- (ii) Construction Manager-Agent Method ("CMA");
- (iii) Construction Manager-at-Risk Method ("CMAR");
- (iv) Design-Build Method ("DB");
- (v) Design-Build Method for Certain Civil Works Projects ("DBCW");
- (vi) Job Order Contract Method ("JOC").

(d) "Architect" means an individual registered as an architect under Chapter 1051, Occupations Code.

(e) "Chapter 2269" or "the Chapter" means Chapter 2269 of the Texas Government Code, "Contracting and Delivery Procedures for Construction Projects" and includes these Rules.

(f) "City" means the City of Corpus Christi, acting by and through its authorized City Manager or the City Manager's designee.

(g) "City Manager" means the City Manager or the City's Manager's designee.

(h) "Department" means the Department of Engineering Services.

(i) "Director" means the City Manager or the City Manager's designee.

(j) "Engineer" means an individual licensed as an engineer under Chapter 1001, Occupations Code.

(k) "Facility" means, unless otherwise specifically provided, an improvement to real property.

(l) "General conditions" in the context of a contract for the construction, rehabilitation, alteration, or repair of a facility means on-site management, administrative personnel, insurance, bonds, equipment, utilities, and incidental work, including minor field labor and materials.

(m) "General contractor" means a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for constructing, rehabilitating, altering, or repairing all or part of a facility at the contracted price.

(n) "Local area" means within the Corpus Christi city limits.

(o) "Local business" means a business with a principal place of business in the local area.

(p) "Nonresident" means a person or firm that is not a resident or whose principal place of business is not in this state, and whose ultimate parent company or majority owner does not have a principal place of business in this state.

(q) "Principal place of business" means a business headquarters or an established place of business within the city limits (local area) from which one (1) or more of the entity's workforce are regularly based, and/or from which a business conducts a substantial part of its operations or performs a substantial role in a commercially useful function. A local place of business used solely as a post office box, mail drop or telephone message center or any combination thereof, with no other substantial work function, may not be construed as a principal place of business.

(r) "Public work contract" means a contract for constructing, altering, or repairing a public building or carrying out or completing any public work.

(s) "Resident" refers to a person or firm whose principal place of business is in this state, including a contractor or firm whose ultimate parent company or majority owner has its principal place of business in this state.

**SECTION 2. EXEMPTION: TEXAS DEPARTMENT OF TRANSPORTATION; HIGHWAY PROJECTS.** These Rules and Chapter 2269 do not apply to:

- (1) a contract entered into by the Texas Department of Transportation; or
- (2) a project that receives money from a state or federal highway fund.

### **SECTION 3. EXEMPTION: CERTAIN LOCAL GOVERNMENT CORPORATION**

**IMPROVEMENT PROJECTS.** These Rules and Chapter 2269 do not apply to an improvement project undertaken by or through a local government corporation exempt from competitive bidding requirements or restrictions under Section 431.110, Transportation Code.

### **SECTION 4. CONFLICT OF LAWS.**

(a) Except as the Chapter provides, Chapter 2269 and these Rules prevail over any other law relating to a public work contract.

(b) Neither Chapter 2269 nor these Rules prevail over a conflicting provision in a law relating to contracting with a historically underutilized business.

**SECTION 5. REQUIREMENT TO FOLLOW PROCEDURES OF CHAPTER 2269.** The City Manager or designee shall follow Chapter 2269 and these Rules for the contracting and delivery of any project using a method authorized under Chapter 2269.

### **SECTION 6. USING METHOD OTHER THAN COMPETITIVE BIDDING FOR CONSTRUCTION SERVICES; EVALUATION OF PROPOSALS; CRITERIA**

(a) In considering a construction contract using a method authorized by Chapter 2269 other than competitive bidding, the City Manager shall, before advertising, determine which method provides the best value for the City and document the reasons for the determination.

(b) The City shall base its selection among offerors on applicable criteria listed for the particular method used. The City shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors, and the applicable weighted value for each criterion.

(c) The City shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded.

(d) The City Manager shall implement Chapter 2269 in accordance with Chapter 2269 and other applicable law.

### **SECTION 7. CRITERIA TO CONSIDER.**

(a) In determining the award of a 2269 Contract, the City may consider:

- (1) the price;
- (2) the offeror's experience and reputation;
- (3) the quality of the offeror's goods or services;
- (4) the impact on the ability of the City to comply with rules relating to historically underutilized businesses;
- (5) the offeror's safety record;
- (6) the offeror's proposed personnel;
- (7) whether the offeror's financial capability is appropriate to the size and scope of the project; and
- (8) any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

(b) In determining the award of a 2269 Contract, the City shall:

- (1) consider and apply any existing laws, including any criteria, related to historically underutilized businesses; and
- (2) consider and apply the applicable provisions of the City Charter, Council Policies, the City of Corpus Christi Code of Ordinances, and any existing laws or rules, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

## **SECTION 8. NOTICE REQUIREMENTS.**

(a) The City shall advertise or publish notice of requests for bids, proposals, or qualifications in a manner prescribed by law.

(b) For a contract entered into by the City under a 2269 Method, the City shall publish notice of the time and place the bid or proposal or request for qualifications will be received and opened in a manner prescribed by law.

(c) For a contract entered into under any 2269 Method, the City shall publish notice of the time and place the bids or proposals, or the responses to a request for qualifications, will be received and opened.

(d) The notice must be published in a newspaper of general circulation once each week for at least two weeks before the deadline for receiving bids, proposals, or responses.

(e) In a two-step procurement process, the time and place the second step bids, proposals, or responses will be received are not required to be published separately.

## **SECTION 9. SEALED BIDS, PROPOSALS, OR QUALIFICATIONS REQUIRED.**

A person who submits a bid, proposal, or qualification to the City shall seal it before delivery, except that an electronic bid, proposal, or qualification is not required to be sealed if received by the City in accordance with the City's adopted procedures for electronic bids and proposals.

## **SECTION 10. RIGHT TO WORK.**

When the City procures goods or services, awards a contract or oversees procurement or construction for a public work or public improvement under Chapter 2269, in engaging in an activity to which this section applies, the City

(1) may not consider whether a person is a member of or has another relationship with any organization; and

(2) shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

## **SECTION 11. MINORITY/MINORITY BUSINESS ENTERPRISES PARTICIPATION.**

Maximum opportunity will be afforded minorities, women and minority business enterprises to participate in the performance of contracts awarded by the City under Chapter 2269, subject to any State and Federal laws.

## **SECTION 12. AWARD OF CONTRACT TO NONRESIDENT.**

When awarding a 2269 Contract in which price is a factor for consideration, the City may not award a public works contract to a nonresident unless the nonresident underbids the lowest bid or price submitted by a responsible resident by an amount that is not less than the amount by which a resident would be required to underbid the nonresident to obtain a comparable contract in the state in which the nonresident's principal place of business is located. This Section does not apply to a contract involving federal funds.

## **SECTION 13. ARCHITECT OR ENGINEER SERVICES.**

(a) An architect or engineer required to be selected or designated under these Rules and Chapter 2269 has full responsibility for complying with Chapter 1051 or 1001, Occupations Code, as applicable.

(b) If the selected or designated architect or engineer is not a full-time employee of the City, the City shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Tex. Gov't Code Sec. 2254.004.

**SECTION 14. USE OF OTHER PROFESSIONAL SERVICES.**

(a) Independently of the contractor, construction manager-at-risk, or design-build firm, the City shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the work or facility by the City.

(b) The City shall select the services for which it contracts under this section in accordance with Tex. Gov't Code Sec. 2254.004.