

TEXAS HOUSE OF REPRESENTATIVES

CAPITOL OFFICE:
P.O. Box 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0528
(512) 463-7820 FAX



DISTRICT OFFICE:
1550 FOXLAKE DR., STE 120
HOUSTON, TEXAS, 77084
(281) 578-8484
FAX (281) 578-1674

RECEIVED

MAY 24 2013

OPINION COMMITTEE

BILL CALLEGARI, P.E.
STATE REPRESENTATIVE

FILE # ML-47283-13
I.D. # 47283

May 22, 2013

Honorable Greg Abbott
Attorney General of Texas
Supreme Court Building
P.O. Box 12548
Austin, Texas 78711-2548

RQ-1129-GA

Re: Request for an Attorney General Opinion on the Question whether METRO has the ability to use the job order contracting method of procurement for construction projects.

Background:

The Metropolitan Transit Authority of Harris County (METRO) is the local transit authority for the City of Houston and Harris County. In 2006, the METRO issued a request for technical proposals for job order contracting (JOC) services for maintenance and repair of facilities, as well as proposed new facilities. The facilities included those for bus operating, rail operating, park & rides, transit centers, and support.

The initial contract was executed on May 8, 2008. The initial term of the contract was for three years, with the ability of METRO to extend it. The contract was modified to add an optional fourth year, which was optioned in April of 2012.

It appears that most of the work has been for parking lot repairs, fencing, electrical work, pavement repair, and routine maintenance. At least one work order was for the repair of a road within the University of Houston campus.

Argument:

The legal question is whether METRO has the ability to use the JOC method of procurement for construction projects. If so, does that authority extend to civil works projects (highway, road, street, bridge, utility, water supply project, etc)?

We do not believe that METRO has JOC authority. JOC has always been limited to vertical construction (buildings), and we are not aware of any public entity that has JOC authority for civil works projects. Even if METRO does or did have JOC authority, it would be limited to vertical construction.

This concern has been passed on to METRO, and its attorneys have yet to come up with an answer or cite the specific authority (or general authority for that matter) that gives them JOC authority.

I passed House Bill 628 in the 82nd session that consolidated alternate project delivery processes for most governmental entities into a single chapter of the Government Code, Chapter 2267 (see also Transportation Code, Chapter 451). I ask that you provide an opinion to clarify if METRO, as a metropolitan transit authority, has the ability to use job order contracting.

Sincerely,



W.A. Callegari