

## **EXCERPTS FROM TEXAS WATER CODE**

The following excerpts from the Texas Water Code are hereby made a part of this contract. In the event there are any conflicts between these requirements and requirements of the specifications, these excerpts will govern.

### **CONSTRUCTION CONTRACT REQUIREMENTS**

Pursuant to § 17.183 of the Texas Water Code, the governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

- (1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;
- (2) that each contractor awarded a construction contract furnish performance and payment bonds:
  - (A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and
  - (B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and
- (3) that payment be made in partial payments as the work progresses;
- (4) that each partial payment shall not exceed 95 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the five percent retainage may be made by the political subdivision with approval of the executive administrator;
- (5) that payment of the retainage remaining due upon completion of the contract shall be made only after:
  - (A) approval by the engineer for the political subdivision as required under the bond proceedings;
  - (B) approval by the governing body of the political subdivision by a resolution or other formal action; and
  - (C) certification by the development fund manager in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices;
- (6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications; and
- (7) that, if a political subdivision receiving financial assistance under Subchapter K of this chapter, labor from inside the political subdivision be used to the extent possible.

### **FILING CONSTRUCTION CONTRACT**

The political subdivision shall file with the Board a certified copy of each construction contract it enters into for the construction of all or part of a project. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract.

## Excerpts from Texas Water Code

### INSPECTION OF PROJECTS

1. the Board may inspect the construction of a project at any time to assure that:
  - a. the contractor is substantially complying with the approved engineering plans of the project; and
  - b. the contractor is constructing the project in accordance with sound engineering principles.
2. inspection of a project by the Board does not subject the State to any civil liability.

### ALTERATION OF PLANS

After the Executive Administrator approves the engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the Executive Administrator authorizes the alteration in accordance with the rules of the Board.

### CERTIFICATE OF APPROVAL

The Executive Administrator may consider the following as grounds for refusal to give a Certificate of Approval for any construction contract:

1. failure to construct the project according to approved plans;
2. failure to construct the works in accordance with solid engineering principles;  
or
3. failure to comply with any terms of the contract.