

RÉSUMÉ DIGEST

ACT 393 (HB 573)

2018 Regular Session

Zeringue

New law authorizes political subdivisions to use an outcome-based performance contract alternative project delivery method to contract for financing, designing, constructing, and monitoring integrated coastal protection projects.

New law prohibits the use of outcome-based performance contracts for projects that cost more than \$25 million or with terms exceeding seven years.

New law generally defines "outcome-based performance contract" to be a contract with specific outcomes or goals and for payment upon completion of those agreed-upon outcomes or goals.

New law defines "outcome-based performance contractor" as any person or entity properly licensed, bonded, and insured who is responsible to the owner for the integrated coastal protection project to be delivered.

New law defines "owner" to be the political subdivision.

New law defines "licensed design professional" as a licensed engineer, architect, or landscape architect.

New law defines "resident business" as one authorized to do and doing business under the laws of this state that either maintains its principal place of business in the state or that employs a minimum of two employees who are residents of La.

New law also defines "coastal area", "integrated coastal protection", and "comprehensive master coastal protection plan".

New law prohibits the political subdivision from accepting unsolicited proposals for outcome-based performance contracts. Specifies that nothing in the law prohibits a company from making suggestions for new projects or alterations to solicited proposals. Specifies that the award of any contract may be made only after the issuance of a request for proposal and competitive bid.

New law allows the political subdivision to formulate rules and guidelines necessary to implement new law.

New law provides for financing terms and conditions of outcome-based performance contracts to be determined by the political subdivision and the outcome-based performance contractor.

New law allows the political subdivision to acquire land and easements in order to serve the purpose of new law.

New law requires outcome-based performance contractors employ duly licensed professionals. Further provides that the rules and regulations of the La. Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors apply to new law.

New law authorizes the political subdivision to provide a request for statement of interest and qualification (RSIQ). Delineates the requirements of what must be included in the RSIQ including a statement of the ability and intention of a contractor to provide equal opportunities in recruitment, selection, appointment, promotion, training, and other employment areas associated with an outcome-based performance contract.

New law authorizes the political subdivision to establish a qualification review committee which must evaluate the responses to the RSIQ. New law additionally requires the qualification review committee to create a list of the highest rated proposers and present the list to the political subdivision.

New law requires the political subdivision to issue a request for proposal (RFP) to those making the list of highest rated proposers. New law delineates what must be included in the RFP.

New law authorizes the political subdivision to establish a proposal review committee consisting of representatives of the owner, a design professional with appropriate expertise, and a licensed contractor with appropriate expertise.

New law requires the proposal review committee to make recommendations to the political subdivision within 90 days of the deadline for responses to the RFP.

New law requires the political subdivision and the selected outcome-based performance contractor to execute a contract within 60 days of the award of the outcome-based performance contract. Specifies that if no contract is executed within those 60 days, the political subdivision may readvertise the project.

New law requires the political subdivision to cancel any solicitation and decline to award a contract if a determination is made that the cancellation or declination is in the best interests of the political subdivision.

New law prohibits a challenge by legal process to any selection of an outcome-based performance contractor except for fraud, bias, or arbitrary and capricious selection by the authority.

New law specifies that new law supersedes any conflicting provisions of existing law.

Effective May 20, 2018.

(Adds R.S. 38:2320.1)