

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 856

2026 Regular Session

Fontenot

TRANSPORTATION DEPT: Provides relative to Indefinite Delivery, Indefinite Quantity Construction Phase Contract

### Synopsis of Senate Amendments

1. Adds present law regarding exceptions, exemptions, and limitations pertaining to public records (R.S. 44:4.1(B)(34)) and modifies references to include proposed law.
2. Changes from "Indefinite Delivery, Indefinite Quantity construction phase contracts" to "Indefinite Delivery, Indefinite Quantity construction contracts".
3. Specifies that for federal aid projects, the department must comply with federal law (23 CFR 200) in addition to other applicable federal laws.
4. Adds to the definitions of "best value", "Indefinite Delivery, Indefinite Quantity (ID/IQ)", and ""Indefinite Delivery, Indefinite Quantity (ID/IQ) construction contract".
5. Modifies provisions regarding procurement and award of single ID/IQ construction contracts and multiple-award ID/IQ construction contracts.
6. Adds to the public records disclosure procedure.
7. Makes technical changes.

### Digest of Bill as Finally Passed by Senate

Present law (R.S.44:4.1(B)(34)) provides that the La. legislature recognizes there are exceptions, exemptions, and limitations to public records laws.

Proposed law adds Indefinite Delivery, Indefinite Quantity (ID/IQ) construction contracts to the list of exceptions, exemptions, and limitations to public records laws.

Proposed law (R.S. 48:250.5(A)) declares that improving efficiency in hwy. and bridge construction and maintenance is in the public interest. Authorizes the Dept. of Transportation and Development (DOTD) and the office of La. highway construction (OLHC) to award ID/IQ construction contracts for maintenance, repair, rehabilitation, and construction projects when the secretary or the executive director determines it is in the best interest of taxpayers.

Proposed law (R.S. 48:250.5(B)) provides for definitions of the following:

- (1) "Best value" means a selection process in which proposals contain price and qualitative components and award of one or multiple of the ID/IQ contract is based upon a combination of price and qualitative considerations as provided in the solicitation documents.
- (2) "Indefinite Delivery, Indefinite Quantity (ID/IQ)" means a method of contracting that allows for delivery of an indefinite quantity of services over a fixed duration under which delivery of specific construction and construction related services is authorized by task orders.
- (3) "ID/IQ construction contract" means the principal contract awarded to an ID/IQ

contractor pursuant to the requirements of this Section.

- (4) "Low bid" means a selection process in which proposals are evaluated based on the proposed price from the lowest responsible bidder.
- (5) "Multiple award" means an ID/IQ procurement where awards of ID/IQ construction contracts for the same scope of services are made to multiple ID/IQ contractors through a single procurement.
- (6) "Single award" means an ID/IQ procurement where award of the ID/IQ construction contract is made to a single ID/IQ contractor.
- (7) "Work order" means a contract document issued for a definite scope of work pursuant to an ID/IQ construction contract and provides the location, time, and scope of work required and authorizes the ID/IQ contractor to deliver the scope of services described in the work order. It also provides required pay items, quantities, and unit prices, as applicable.

Proposed law (R.S. 48:250.5(C)) requires the DOTD and the OLHC to comply with all applicable federal laws and regulations for federal-aid projects and provides that federal regulations control in the event of a conflict with state law or rules.

Proposed law (R.S. 48:250.5(D)) specifies that procurements pursuant to proposed law may include single award or multiple award ID/IQ construction contracts. Authorizes the DOTD and the OLHC to procure ID/IQ contracts using low bid and best value methods as specified. Requires procurement documents, including the "notice of intent" (NOI) and "request for proposals" (RFP), indicate whether a single award or multiple awards will be made. Specifies that materials separately acquired by the DOTD and OLHC may be provided to contractors for use under and as a condition of any ID/IQ contract.

Proposed law (R.S. 48:250.5(E)) provides for the following procurement and ID/IQ construction contract requirements to award contracts:

- (1) Single award ID/IQ construction contracts procured on a low-bid basis may be advertised and awarded based on applicable present laws.
- (2) Multiple-award ID/IQ construction contracts on a low bid or best value basis, as determined by the DOTD and the OLHC. Requires the procurements be conducted by La. public bid and procurement laws, including advertising and procedure requirements pursuant to proposed law.
- (3) Multiple-award ID/IQ construction contract or a single award ID/IQ construction contract not advertised and awarded pursuant to applicable present laws, requiring commencement with the DOTD and the OLHC, issuing a NOI through advertisement on their designated webpages to request letters of interest (LOI). Requires the NOI be advertised for at least 10 business days prior to the deadline for submission of LOI and include a description of the ID/IQ services to be procured. Authorizes the DOTD and the OLHC to also readvertise the NOI using additional media or publications and may readvertise as necessary if the number of responses received is deemed insufficient to ensure adequate competition.
  - (a) After the deadline for submission of LOI for a single-award or multiple-award ID/IQ construction contract, the DOTD and OLHC must issue a RFP to all contractors that submitted an LOI. Requires the RFP include instructions for proposal preparation and submission, a description of the evaluation methodology, and comply with the requirements of proposed law.
  - (b) Bid bonds pursuant to present law must be specified in the DOTD and the OLHC's standard specifications or special provisions and they may waive the requirement for bid bonds for procurements under proposed law.

- (4) The assistant secretary for project delivery, with the concurrence of the secretary of the DOTD or designee, and the executive director of the OLHC and requires the establishment of an evaluation committee for evaluation of proposals received in response to the RFP. Authorizes the evaluation committee to, in its discretion, be assisted by other departments and the OLHC personnel and external advisors in the evaluation the proposals. Requires the evaluation committee to evaluate the proposals and make a recommendation of award to the secretary and executive director. Requires the secretary, executive director, or their designees make the final determination of award.
- (5) Prior to issuing a work order under a multiple-award ID/IQ construction contract, the DOTD and the OLHC must solicit competitive responses from the contractors awarded ID/IQ contracts based on ID/IQ procedures stated in the contract. Requires the procurement documents or contract state the procedures and selection criteria for issuance of work orders. Requires work orders be awarded on a competitive low bid basis, or, pursuant to applicable law and approved for use with federal funds, on a best value basis in which price is a significant evaluation factor.
- (6) Proposals received by the DOTD and the OLHC and the evaluation committee's records, including the evaluation committee's findings, grading, score sheets, and recommendations, are prohibited from being public records until the ID/IQ construction contract has been fully executed or the procurement has been cancelled. Requires that following contract execution or cancellation, records be subject to disclosure pursuant to present law. Further exempts proprietary, confidential, trade secret, or otherwise protected information. Prohibits the meetings of the evaluation committee from being subject to the Open Meetings Law.

Proposed law (R.S. 48:250.5(F)) authorizes the DOTD and the OLHC to include the following in its procurement documents or contracts:

- (1) The method for determining price escalation or de-escalation procedures when warranted by particular circumstances.
- (2) Special provisions specific to ID/IQ construction contracts.
- (3) Unit pricing or lists of work items specific to the ID/IQ construction contract.
- (4) A minimum quantity or dollar value if the DOTD and the OLHC opts to set a minimum.
- (5) A statement of procedures and selection criteria the DOTD and the OLHC must use in issuing work orders.
- (6) Any other information, terms, or requirements the DOTD and the OLHC deem necessary to include in procurement documents or contracts.

Proposed law (R.S. 48:250.5(G)) limits the term of the initial ID/IQ construction contract and any extensions to a maximum of five years and provides that the DOTD and the OLHC determines the duration of the initial term and any individual extensions. Requires that the ID/IQ construction contract establishes the general terms and conditions governing the relationship between the DOTD, the OLHC, and the selected bidder. Prohibits execution of the ID/IQ construction contract from authorizing work or serving as a notice to proceed.

Proposed law (R.S. 48:250.5(H)) requires that payment bonds, performance bonds, retainage bonds, minimum warranty periods, and general requirements of present law apply to the value and completion of individual work orders rather than the entire ID/IQ construction contract, unless otherwise specified in the contract, work order, or special provisions. Further requires that payment, performance, and retainage bonds be issued at the time of execution of each individual work order, unless otherwise specified. Provides that stipulated

damages apply to individual work orders and are calculated based on each work order's required completion date. Authorizes the DOTD and the OLHC to determine required insurance policies coverage extent, and type. Further requires that proposed law also apply to low bid ID/IQ contracts.

Proposed law (R.S. 48:250.5(I)) excludes engineering and design service contracts, other authorized consulting contracts, and federal-aid projects, but allows design services to be included in these contracts to the extent that they support the construction of projects.

Proposed law (R.S. 48:250.5(J)) provides that the provisions of present law apply to ID/IQ construction contracting and, in the event of a conflict, the provisions of proposed law prevail and supersede any conflicting state law.

Proposed law (R.S. 48:250.5(K)) authorizes the DOTD and the OLHC to establish guidelines, standard specifications, special provisions, handbooks, or other requirements documents for elements of ID/IQ construction contracting not explicitly provided for in proposed law or present law.

Proposed law (R.S. 48:250.5(L)) authorizes the DOTD and the OLHC to promulgate rules and regulations to implement and enforce proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 44:4.1(B)(34); Adds R.S. 48:250.5)