

RÉSUMÉ DIGEST

ACT 30 (SB 159)

2015 Regular Session

Heitmeier

New law authorizes any regional transit authority created by law to let a single contract combining the design and construction phases for any new ferry project on the Mississippi River. New law defines a "design-builder" as a person or entity contractually obligated to deliver the design and construction of a new Mississippi River ferry.

New law requires that the authority adopt a resolution establishing the design-build program for any new ferry. Provides that the resolution shall:

- (1) Require that a design-builder be duly registered, licensed, or otherwise qualified to perform design and construction service as required by law and registered to do business in the state.
- (2) Provide for a technical review committee which shall include at least one maritime engineer.
- (3) Provide for public announcement procedures for solicitation of interested design-build competitors, scope of service requirements, requests for statements of qualifications, criteria and rating procedures, requirements for cost proposals, requirements concerning how the technical review committee shall grade, judge, and rank the technical proposals and make recommendations to the authority's governing authority, and requirements for the selection process for the award of the design-build contract.
- (4) Require that a notice of intent to select a single legal entity for design-build services and to request letters of interest and statements of qualifications from qualified firms or teams shall be distributed by the authority through advertisement in the official journal of the authority, by appearance on the authority's Internet home page, if any, and by other means to ensure adequate response, including newspapers, trade journals, and other forms of media which may be appropriate for specialty services. Provides relative to the content of such notice.

New law additionally establishes the following procedures and limitations regarding the design-build contract:

- (1) Statements of qualifications from at least two qualified design-build competitors must be received in order to proceed with a request for technical proposals.
- (2) Technical proposals shall be requested from no fewer than two of the qualified design-build competitors.
- (3) The authority may use a private design professional or its own staff to develop a description of the project and the required scope of services.
- (4) The technical review committee shall grade, judge, and rank the technical proposals and make a recommendation to the authority for the awarding of the contract.
- (5) The final selection of the design-build competitor to whom the contract shall be awarded shall be made by the authority's governing authority. Such selection shall be made upon the basis of the best design for the purposes set forth in the request for qualifications and the best cost for that design, taking into account costs of construction and operation and maintenance of that design. Competitors may submit alternate designs and costs to ensure the greatest number of options.

New law requires that legal challenge to the choice of the designer-builder be filed and served within seven calendar days after the award of the contract. Requires that any such challenge be limited to fraud, bias for pecuniary or personal reasons not related to the interests of the taxpayers, or arbitrary and capricious selection of the successful designer-builder.

New law provides that once the design-builder has been chosen, a contract for a stipulated maximum total cost may be executed, as provided in the authority's award resolution.

New law authorizes increases or decreases in the final cost of the contract to account for inflation if provided for in the contract, for changes in the scope of the work, or for other conditions of which the design-builder either did not have knowledge of, or could not have reasonably foreseen the possibility of, concerning the design and construction provided any change is related to the original project and scope of services.

New law supersedes conflicting provisions of law relative to bidding for public contracts.

New law authorizes the Department of Transportation and Development (DOTD) to give priority and advance to construction as expeditiously as possible any bridge project that replaces a tunnel.

New law authorizes use of any source of funds for such projects or as matching funds for federal-aid funds, including the secretary's emergency fund.

New law authorizes use of any contract method provided by law, including design-build or construction management at risk.

Prior law authorized DOTD to combine the design and construction phases for a transportation facility or facilities, including but not limited to highways, interchanges, or bridges into a single contract.

New law adds ferries on the Mississippi River and tunnels to the illustrative list of transportation facilities.

New law requires DOTD to consider a design-build contract to replace the tunnel on LA 23 and to submit a written report of its recommendation to the House and Senate committees on transportation, highways, and public works not later than February 1, 2016.

Effective upon signature of the governor (May 29, 2015).

(Amends R.S. 48:250.2(A); adds R.S. 38:2225.2.5, R.S. 48:232.1 and 250.2(D))