
DIGEST

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Leger

HB No. 543

Abstract: Authorizes ports to use the design-build method on certain construction projects. Further provides for the design-builder to meet certain requirements and provides for rights and powers. Provides procedures for notice and advertisement requirements and use of a private design professional. Creates a primary evaluation committee to evaluate responses to the notice of intent and a technical review committee to evaluate design-build proposals.

Proposed law authorizes any port to utilize the design-build method on any production-related construction project.

Proposed law requires every design-builder to be duly licensed and registered to do business in the state, if required by law, as either an architect, an engineer, or a general contractor. Each design-builder shall have the following rights and powers:

- (1) To sublet responsibility for professional design services to an individual, firm, or corporation duly licensed and registered in the state of La. to provide professional design services.
- (2) To sublet responsibility for construction or other services requiring a contractor's or trade subcontractor's license to persons or entities duly registered, licensed, or otherwise qualified to provide those services as required by law.
- (3) To contract with any individual port, as part of a design-build contract to provide professional services or construction services that the design-builder is not itself licensed, registered, or otherwise qualified in accordance with proposed law.

Proposed law requires the port to distribute a notice of intent and to request letters of interest and statements of qualifications from qualified firms or teams through its official journal and the Internet website of the port, if one exists for a minimum of 30 days prior to the deadline of receipt of responses and to contain sufficient information to enable the design-build entities to respond. Further authorizes the port to use additional publications for advertisement and to re-advertise using additional media or publication if responses are inadequate.

Proposed law authorizes the port to use private design professionals using the procedures set forth in present law regarding selection of professional services for professional contracts, to develop the description of the project and the required scope of services.

Proposed law requires the description of the project and scope of services to include design criteria, analyses, reports, and cost estimates for the design-build project as prepared by a private design professional or the port.

Proposed law requires the design-build entity to include a registered design professional who shall be independent from the port's private design professional and shall be named in the design-build entity's proposal.

Proposed law requires the port to identify all required information in the notice of intent and in the standard response forms provided by the port. Provides that the notice of intent shall include statements of qualification by credentials and experience of design component members for the areas of expertise specific to the project and statements of qualification by experience and resources of the constructions team component.

Proposed law provides that any response failing to meet all of the requirements contained in the notice of intent shall not be considered by the port. False or misrepresented information furnished in response to a notice of intent shall be grounds for rejection by the port and disbarment for future participation in any future work undertaken by the port.

Proposed law establishes a primary design-build evaluation committee to evaluate the responses to the notice of intent received by the port. Further provides the following criteria to be applied in evaluating the design and construction components:

- (1) Experience of both the design and construction entity components and of key personnel as related to the project under construction.
- (2) Past performance of port projects.
- (3) Any project-specific criteria, as established by the port, which may apply to project needs.

Proposed law requires the evaluating committee to select a short list of not more than five of the highest rated entities and the short list must be presented to the port director or chief administrative officer of the port. Further provides that the short-listed entities shall be invited a detailed technical and cost proposal, submitted after the technical proposal, but before published results of the technical scores, for the design-build project. Provides that the invitation shall specify a reasonable deadline for submission of such proposals.

Proposed law requires the specific requirements of the technical proposal to be identified by the port to the short-listed entities by means of a "scope of services package", which shall include discussions of design strategy and preliminary design concepts, construction sequencing, techniques, materials, and methods, the schedule for commencement and completion of all phases of work, and a lump sum cost for all services in fulfillment of the requirements and within the constraints of the "scope of services package".

Proposed law provides that for more complex projects and projects with scope compensation

may be provided for all short-listed entities for the expense of preparing the technical proposal and the compensation may be predetermined by the court and revealed to the entity upon notification of short list selection.

Proposed law authorizes the port to use concepts submitted by any short-listed entity to design and construct the project without cost or payment by the port.

Proposed law establishes a technical review committee for evaluation of design-build proposals with a project manager, who shall also be the chairman of the committee, to be assigned by the port director or chief executive officer as well as any additional port engineering and technical experts, and nationally recognized design-build experts to serve as committee members to score each technical element of the project. Prohibits members of the evaluation committee from serving on the technical review committee. Each member's score shall be available for public review and considered public record.

Proposed law provides that the winning proposal shall be selected by using an adjusted score approach. Further provides that the adjusted score shall be determined by three components.

Proposed law provides that the first component consists of the technical score determined by the technical review committee. Provides that each technical review committee member shall rate his assigned element of the proposal from each of the entities on the short list and shall submit such scores to the chairman of the technical review committee. Further provides that the chairman of the technical review committee shall adjust the scores for any applicable weighing factors and shall determine the total technical score for each proposal.

Proposed law requires the chairman of the committee to notify each proposer in writing prior to determination of the adjusted score. Authorizes a proposer to request in writing no later than 10 business days from the date of notice, a review of its final technical score by the port director or his designee.

Proposed law requires a hearing for any proposer who requests a review of its total technical score to present facts and arguments in support of the request for review, and the hearing shall be within a reasonable time of the request and the proposer shall receive notice of the time and place of the hearing.

Proposed law requires the director to present the findings from the hearing to the governing authority of the port, who shall determine the action for review and that decision shall be final and not subject to appeal or review by any legal process unless there is evidence of fraud or arbitrary and capricious actions by the port.

Proposed law provides that the second component is the time value, expressed in calendar days multiplied by the value-per-calendar-day expressed in dollars by the port and contained in the "scope of services package".

Proposed law provides that the third component is the price proposal which will be publicly

opened after the published results of the technical scores.

Proposed law requires the winning proposal to be the one with the lowest adjusted score, which shall be determined by a certain formula.

Proposed law provides that any decision made by the governing authority of the port, the evaluation or technical committee, or employees of the port shall be a final decision and not subject to appeal or review by any legal process unless there is evidence of fraud or arbitrary and capricious actions by the port. Further provides that any legal process commenced or filed shall be within 10 days of the action or inaction.

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

(Adds R.S. 34:3523)