

SENATE BILL NO. 167

BY SENATOR ABRAHAM

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 48:250.3(B), (C), (D), and (E), and to enact R.S. 48:250.3.1, relative to design-build; to provide for progressive design-build contracts by the Department of Transportation and Development; to provide for requirements of design-builders, notice of intent letters, and procurement process for progressive design-build; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 48:250.3 (B), (C), (D), and (E) are hereby amended and reenacted and R.S. 48:250.3.1 is hereby enacted to read as follows:

§250.3. Design-build contracts; qualifications of design-build entities; public announcement procedures; letters of interest; selection of short list; bid proposals by competitors; qualifications evaluation committee; proposal review committee; selection and process of award

\* \* \*

B.(1) Each design-builder shall employ; or have as a partner; a member, coventurer, ~~or~~ subcontractor persons, or a firm with persons, who are duly licensed and registered to provide the services required to complete the project and do

1 business in this state.

2 **(2) All registrations and licenses for each component shall be obtained**  
 3 **prior to or concurrent with award of the project to the selected design-builder**  
 4 **by the department.**

5 **(a)** The standard professional engineer and land surveyor qualifications as  
 6 provided for in R.S. 37:681 et seq., the rules and regulations of the Louisiana  
 7 Professional Engineering and Land Surveying Board, and the department's standard  
 8 technical qualification requirements for firms providing professional engineering and  
 9 land surveying services as provided for in R.S. 48:290 shall apply to the components  
 10 providing design services, ~~and the~~.

11 **(b) The** standard contractor qualifications as provided for in R.S. 37:2150 et  
 12 seq., and the current rules and regulations of the State Licensing Board for  
 13 Contractors shall apply to the component providing construction services utilized by  
 14 the design-builder, based upon the applicable categories for the specific project. ~~All~~  
 15 ~~registrations and licenses for each component shall be obtained prior to or concurrent~~  
 16 ~~with award of the project to the selected design-builder by the department.~~

17 C. A ~~notice of intent~~ **"notice of intent" (NOI)** to request letters of interest  
 18 for a design-build project, or for a pool of prequalified design-builders that shall  
 19 remain prequalified for up to two years, shall be distributed by the department  
 20 through advertisement on the Department of Transportation and Development's  
 21 internet webpage. ~~All notices of intent~~ **NOIs** shall be advertised a minimum of ten  
 22 days prior to the deadline for receipt of responses, ~~and~~ **The NOI** shall contain a  
 23 description of the project or type of work and sufficient information for a  
 24 design-builder to determine its interest and to enable it to submit a letter of interest.  
 25 The department may readvertise the ~~notice of intent~~ **NOI** using additional media or  
 26 publications in an attempt to solicit additional responses if the number of responses  
 27 received by the department is inadequate.

28 D. The department shall provide a ~~"Request for Qualifications"~~ **"request for**  
 29 **qualifications"** (RFQ) to design-builders who submit a letter of interest. The  
 30 department shall identify all required information in the ~~request for qualifications~~

1 RFQ and in the standard response forms provided by the department. Any response  
 2 that fails to meet all requirements contained in the RFQ may not be considered  
 3 by the department. False or misrepresented information furnished in response  
 4 to an RFQ shall be grounds for rejection by the department. The response to the  
 5 request for qualifications RFQ shall include both of the following:

6 (1) statements Statements of qualification by credentials and experience of  
 7 design component members for the areas of expertise specific to the project or type  
 8 of work.

9 (2) ~~and statements~~ Statements of qualification by experience and resources  
 10 of the construction team component. ~~The completed response form and any other~~  
 11 ~~required information shall be transmitted to the department by the responding~~  
 12 ~~design-builder by the deadline to submit such forms and information as provided in~~  
 13 ~~the request for qualifications. Any response failing to meet all of the requirements~~  
 14 ~~contained in the request for qualifications shall not be considered by the department.~~  
 15 ~~False or misrepresented information furnished in response to a request for~~  
 16 ~~qualifications shall be grounds for rejection by the department.~~

17 E.(1) The chief engineer, with concurrence of the secretary, shall establish  
 18 a design-build qualifications evaluation committee for evaluation of the responses  
 19 to the request for qualifications received by the department. The following general  
 20 criteria used by the ~~qualifications evaluation~~ committee in evaluating responses ~~to~~  
 21 ~~the request for qualifications for design-build services~~ shall apply to both the design  
 22 and construction components of any responding entity:

23 (a) Experience of both the design and construction entity components and of  
 24 key personnel as related to the project or type of work under consideration.

25 (b) Past performance on department projects.

26 (c) Any project-specific criteria ~~as~~ that may apply to project needs.

27 (2) The qualifications evaluation committee shall evaluate the qualifications  
 28 of responding design-builders on the basis of the criteria identified in the request for  
 29 qualifications and set forth in this Subsection and shall select a short list of the  
 30 highest rated entities in a number to be determined by the department; ~~however, if,~~

1 If fewer than three responses are received, the secretary or designated representative  
 2 may approve proceeding with the design-build process. The qualifications evaluation  
 3 committee may, at its discretion, be assisted by other department personnel in its  
 4 evaluation of an entity's qualifications. The design-build qualifications evaluation  
 5 committee shall present its short list to the chief engineer for recommendation to the  
 6 secretary. The short-listed entities shall be invited by the secretary or designated  
 7 representative to submit a detailed technical and cost proposal for the design-build  
 8 project. The invitation to the short-listed entities shall specify a deadline for  
 9 submission of such proposals.

10 \* \* \*

11 **§250.3.1. Progressive design-build contracts**

12 **A. For purposes of this Section, "design-builder" means the entity**  
 13 **contractually responsible for delivering the project design and construction.**

14 **B.(1) Each design-builder shall employ or have as a partner a member,**  
 15 **coventurer, subcontractor persons, or a firm with persons, who are duly**  
 16 **licensed and registered to provide the services required to complete the project**  
 17 **and do business in this state.**

18 **(2) All registrations and licenses for each component shall be obtained**  
 19 **prior to or concurrent with award of the project to the selected design-builder**  
 20 **by the department.**

21 **(a) The standard professional engineer and land surveyor qualifications**  
 22 **as provided for in R.S. 37:681 et seq., the rules and regulations of the Louisiana**  
 23 **Professional Engineering and Land Surveying Board, and the department's**  
 24 **standard technical qualification requirements for firms providing professional**  
 25 **engineering and land surveying services, as provided for in R.S. 48:290, shall**  
 26 **apply to the components providing design services.**

27 **(b) The standard contractor qualifications as provided for in R.S.**  
 28 **37:2150 et seq. and the current rules and regulations of the State Licensing**  
 29 **Board for Contractors shall apply to the component providing construction**  
 30 **services utilized by the design-builder, based upon the applicable categories for**

1 the specific project.

2 C. A "notice of intent" (NOI) to request letters of interest for a  
3 design-build project shall be distributed by the department through  
4 advertisement on the Department of Transportation and Development's  
5 internet webpage. All NOIs shall be advertised a minimum of ten days prior to  
6 the deadline for receipt of responses. The NOI shall contain a description of the  
7 project or type of work and sufficient information for a design-builder to  
8 determine its interest and to enable it to submit a letter of interest. The  
9 department may re-advertise the NOI using additional media or publications  
10 in an attempt to solicit additional responses if the number of responses received  
11 by the department is inadequate.

12 D. The department shall provide a "request for qualifications" (RFQ)  
13 to design-builders who submit a letter of intent. The department shall identify  
14 all required information in the RFQ and in the standard response forms  
15 provided by the department. The RFQ shall include but is not limited to  
16 the following:

17 (1) Project description.

18 (2) Pre-construction scope of services.

19 (3) Submittal criteria for the project.

20 (4) Procurement grading criteria.

21 (5) Scoring methodology.

22 (6) Total fees and compensation payable to the design-builder for  
23 preconstruction services.

24 (7) Estimate of the probable construction cost of the project.

25 E. The response to the RFQ shall include "statements of qualifications"  
26 (SOQ) submitted by the design-builder. If the department receives only one  
27 response, the secretary or designated representative may approve proceeding  
28 with the progressive design-build process. The information contained within the  
29 SOQ shall include but not be limited to the following:

30 (1) The design-builder's formation and organizational documents at the

1 time of the SOQ submission.

2 (2) Experience of both the design and construction components of the  
3 design-build entity on projects of similar size, scope, and may include the  
4 complexity of previous projects.

5 (3) Information regarding proposed key personnel's experience and  
6 training to competently manage and complete the design and construction of  
7 the project.

8 (4) Past performance on projects.

9 (5) The design-builder's ability to obtain all bonding and insurance  
10 requirements.

11 (6) The design-builder's safety plan.

12 F. The chief engineer, with the concurrence of the secretary, shall  
13 establish a design-build qualifications evaluation committee for evaluation of  
14 the responses to the RFQ received by the department. The chief engineer, with  
15 the concurrence of the secretary, shall assign a project manager who shall  
16 become the chairman of the qualifications evaluation committee for the project.  
17 The qualifications evaluation committee may, at its discretion, be assisted by  
18 other department personnel in its evaluation of a design-builder's SOQ.

19 G. The department may evaluate submissions based solely upon the  
20 information provided in each design-build entity SOQ. The department may  
21 also interview some or all of the design-build entities to further evaluate their  
22 qualifications for the project.

23 H. After selecting a design-builder based upon qualifications, the  
24 department may enter into a contract and direct the design-builder to begin  
25 design and preconstruction activities sufficient to establish an estimated price,  
26 lump sum, or guaranteed maximum price, for the project.

27 I. If the department and the design-builder do not reach an agreement  
28 on the estimated price for the project or the department otherwise elects not to  
29 amend the design-builder's contract to complete the remaining work, the  
30 department may solicit proposals to complete the project from firms that

1            submitted SOQ or formally solicit bids or proposals from other entities using  
2            any public procurement method available to the department. The selected  
3            design-builder shall be prohibited from bidding on the project.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_