

SENATE BILL NO. 145

BY SENATOR HENSGENS

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

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AN ACT

To enact R.S. 38:2225.2.6, relative to design-build contracts; to provide for airports to use the design-build method; to provide for air traffic control tower and hangar development by design-build method; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 38:2225.2.6 is hereby enacted to read as follows:

§2225.2.6. Design-build contracts; authorized use by airports; air traffic control tower and hangar

A. Notwithstanding any other provision of law to the contrary, a public airport may use the design-build project delivery method to contract for construction and design-build of an air traffic control tower or hangar development and redevelopment project when deemed in the public interest, beneficial to the entity, and in accordance with the procedures set forth by law.

B. The following are considerations for using the design-build delivery method:

- (1) Collaboration and cost control.**
- (2) Concurrent execution of design and construction.**
- (3) Complex project with a restrictive time frame.**
- (4) Public entity, designer, and contractor with mutual project goals.**
- (5) Risk identification controlled by entity.**
- (6) Minimization of the risk of construction and design disputes by using a collaborative process.**

C.(1) For purposes of this Section, "design-builder" means the entity contractually responsible for delivering the project design and construction.

(2) Every design-builder shall be duly licensed and registered to do

1 business in the state of Louisiana as either an architect, an engineer, or a
2 general contractor. Each design-builder shall have the following rights and
3 powers:

4 (a) The design-builder may sublet responsibility for professional design
5 services to an individual, firm, or corporation duly licensed and registered in
6 the state of Louisiana to provide design services.

7 (b) The design-builder may sublet responsibility for construction or
8 other services requiring a contractor's or trade subcontractor's license to
9 persons or entities duly registered, licensed, or otherwise qualified to provide
10 those services as required by law.

11 D. Prior to any submittal of a proposal on a design-build project, the
12 following requirements shall be met:

13 (1)(a) All engineering and surveying firms providing design and design-
14 related services with the design-builder to which the design-build contract is
15 awarded shall be licensed to perform those services by the Louisiana
16 Professional Engineering and Land Surveying Board.

17 (b) All architectural firms providing design services with the
18 design-builder to which the design-build contract is awarded shall be licensed
19 to perform those services by the Louisiana State Board of Architectural
20 Examiners or the Louisiana Horticulture Commission.

21 (c) All contractors performing construction work for the design-build
22 contract shall be licensed by the Louisiana State Licensing Board for
23 Contractors.

24 (2) A two-stage selection process that will utilize a request for
25 qualifications graded and judged by a primary evaluation committee and a
26 request for technical proposals graded and judged by a separate technical
27 review committee shall be used to select the design-builder and shall include the
28 following specific provisions:

29 (a)(i) Public announcement procedures for the solicitation of interested
30 design-build competitors and a procedure for requesting letters of interest and

1 statements of qualifications from qualified firms or teams.

2 (ii) Public announcement procedures shall include a requirement for the
3 advertisement in the official journal of the municipality in which the project is
4 to take place.

5 (iii) All notices of intent to select design-build contractors shall be
6 advertised a minimum of thirty days prior to the deadline for receipt of
7 responses and shall contain a brief description of the project, the required scope
8 of services, the members of the primary evaluation committee, and sufficient
9 information for design-build entities to determine their interest.

10 (b) Decisions by the primary evaluation committee shall be made on the
11 basis of the criteria set forth in this Subsection. Members of the primary
12 evaluation committee may serve as members of the technical review committee.
13 Each member of the technical review committee shall score assigned elements.
14 Scores shall be considered public information.

15 (3) The airport shall provide a request for a qualifications package to
16 design-builders who submit a letter of interest. All required information shall
17 be identified in the request for qualifications package and in standard response
18 form. The response to a request for qualifications package shall include
19 statements of qualifications. The completed response form and any other
20 required information shall be transmitted by the responding design-builder by
21 the deadline to submit forms and information as provided in the request for
22 qualifications package. Any response failing to meet all of the requirements
23 contained in the request for qualifications package shall not be considered.
24 False and misrepresented information furnished in response to a request for
25 qualifications package shall be grounds for rejection.

26 (4)(a) The primary evaluation committee shall evaluate the responses to
27 the request for qualifications package received by the airport. The following
28 general criteria used by the primary evaluation committee in evaluating
29 responses to the request for qualifications package for design-build services
30 shall apply to both the design and construction components of any

1 **responding entity:**

2 **(i) Professional training and experience of both the design and**
3 **construction entity components and of key personnel in general and as related**
4 **to the project under construction.**

5 **(ii) Capacity for timely completion of the work.**

6 **(iii) Past performance on projects of a similar nature to the project**
7 **described in the notice of intent.**

8 **(iv) The quantity and value of work awarded to both the design and**
9 **construction entity components.**

10 **(b) The primary evaluation committee may consider additional**
11 **project-specific needs, including but not limited to the design-builder's past**
12 **projects in the same metropolitan statistical area as the proposed project and**
13 **the domicile address of the responding design-builder verified by the secretary**
14 **of state online business filing database.**

15 **(c) The primary evaluation committee shall consist of a minimum of five**
16 **members designated by the head of the airport according to the rules**
17 **established pursuant to this Subsection. One of the members of the primary**
18 **evaluation committee shall be a licensed contractor in the discipline of the**
19 **project and one member shall be a licensed design professional in the discipline**
20 **of the project, neither of which shall have any involvement in the project.**

21 **(d) The primary evaluation committee shall evaluate the qualifications**
22 **of responding design-builders on the basis of the criteria set forth in this**
23 **Subsection and the rules established pursuant to this Subsection and shall select**
24 **a short list of no fewer than three of the highest rated entities. However, if fewer**
25 **than three responses are received, the head of the airport may approve**
26 **proceeding with the design-build process. The primary evaluation committee**
27 **may, at its discretion, be assisted by other airport personnel in its evaluation of**
28 **a design-builder's qualifications. The primary evaluation committee shall**
29 **present its short list to the head of the airport. The short-listed design-builders**
30 **shall be invited to submit a detailed technical proposal for the design-build**

1 project. The invitation to the short-listed entities shall specify a deadline for
2 submission of proposals.

3 (5)(a) The specific requirements of the technical proposal shall be
4 identified by the airport to the design-builders making the short list by means
5 of a "Scope of Services Package". The technical proposal shall include design
6 strategy, preliminary design concepts, fundamental requirements, quality
7 standards, capacities, materials, the schedule of commencement and completion,
8 and a lump sum for all services in fulfillment of the requirements and within the
9 constraints of the "Scope of Services Package". Any and all weighing or grading
10 factors that will be used to judge the technical proposal shall be identified in the
11 "Scope of Services Package".

12 (b) The airport may compensate unsuccessful and responsive short-listed
13 entities for the expense of preparing the technical proposal. The amount shall
14 be predetermined by the airport and shall be identified in the "Scope of Services
15 Package". The airport may use concepts submitted by any paid short-listed
16 design-builder in the construction of the project.

17 (6) A technical review committee for the evaluation of design-build
18 proposals shall be established according to the rules set forth in this Subsection.
19 The technical review committee members shall include construction
20 professionals as defined by the rules established in this Subsection. The
21 technical review committee shall identify specific technical elements of the
22 project, depending on the characteristics of the project, that will be included in
23 the technical score and those shall be identified in the "Scope of Services
24 Package". The technical review committee may select additional engineering,
25 architectural, construction, and other technical experts to serve as committee
26 members. The technical review committee shall select one member to serve as
27 chairman of the committee.

28 (a) An adjusted score approach shall be used by the airport in
29 determining the winning proposal. The adjusted score shall be determined using
30 the following components:

1 (i) Technical score shall be determined by any weighing factors assigned
2 to each element depending on its relative magnitude or significance to the
3 overall project. Each technical review committee member shall rate their
4 assigned element of the proposal from each of the design-builder on the short
5 list and shall submit their score to the chairman of the technical review
6 committee. The schedule and price components shall not be made known to the
7 technical review committee during the scoring process. The chairman of the
8 technical review committee shall adjust the scores for any applicable weighing
9 factors and shall determine the total technical score for each proposal. Prior to
10 determining the adjusted score, the chairman of the technical review committee
11 shall notify each design-builder, in writing, of their final technical score. All
12 information pertaining to the technical review committee, including that of the
13 committee chairman, shall be public information.

14 (ii) The time value, consisting of the product of the design-builders
15 proposed contract time expressed in calendar days multiplied by the
16 value-per-calendar-day expressed in dollars established by the airport and
17 identified in the "Scope of Services Package".

18 (iii) The price proposal submitted by the short listed design-builders.

19 (b) The winning proposal shall be the proposal with the lowest adjusted
20 score. The adjusted score for each entity's design-build proposal shall be
21 determined by the following formula: Adjusted Score = (Price Bid + Time
22 Value) divided by the Technical Score. Use of the time value is not mandatory
23 and if not used, the adjusted score shall be determined by the following
24 formula: Adjusted Score = Price Bid divided by the Technical Score.

25 (7) Design-builders who have submitted bona fide proposals may, within
26 seven days of the announcement of the award, challenge the award by
27 submitting a letter to the head of the airport describing in detail the reasons for
28 the challenge. The head of the airport shall have the authority to resolve any
29 challenge concerning the award of a contract. A written decision shall be
30 rendered within fourteen days of the timely receipt of the challenge and shall

1 be mailed or otherwise furnished immediately to the design-builder making the
 2 challenge. The decision shall be final and conclusive unless the decision is
 3 fraudulent or if the person adversely affected by the decision has timely
 4 appealed to the court of proper venue for the airport.

5 E. Once the design-builder has been chosen and a contract for a
 6 stipulated schedule and sum certain price is executed, the price of the
 7 design-build contract shall not be increased other than for inflation as
 8 prescribed in the contract and for site or other conditions of which the
 9 design-builder had no knowledge and should not have had knowledge as a
 10 reasonable possibility existing at the site or concerning the design and
 11 construction.

12 F. The provisions of this Section shall supersede any conflicting
 13 provisions of any other law, including but not limited to the requirements of
 14 Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____