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## DIGEST

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HB 1193 Original

2026 Regular Session

Sawyer

**Abstract:** Establishes the use of Indefinite Delivery, Indefinite Quantity construction phase contracts and Indefinite Delivery, Indefinite Quantity supply contracts by the Coastal Protection and Restoration Authority. Provides procedures, definitions, and requirements to govern the contracts while providing flexibility for project-specific needs.

Proposed law (R.S. 49:214.6.11(A)) declares that improving efficiency in readiness in performing integrated coastal protection is in the best interest of taxpayers. Authorizes the Coastal Protection and Restoration Authority (CPRA) to award Indefinite Delivery, Indefinite Quantity construction phase and supply contracts in relation to integrated coast protection projects and related incidental work let or to be let by the authority.

Proposed law (R.S. 49:214.6.11(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 the indefinite delivery, indefinite quantity contract 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, materials, or supplies over a fixed duration under which delivery of specific services is authorized by work orders or purchase orders.
- (3) "ID/IQ construction phase contract" and "ID/IQ supply contract" means the contract awarded to an ID/IQ contractor or supplier pursuant to the requirements of proposed law.
- (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 phase Contract or ID/IQ supply contract for the same scope of services or supplies are made to multiple ID/IQ contractors or suppliers through a single procurement.
- (6) "Purchase order" means a contract document issued for a specific quantity of material or supplies pursuant to an ID/IQ supply contract. A purchase order provides the quantities, unit prices, location and time of delivery, as applicable, and authorizes the ID/IQ supplier to deliver the material or supplies described in the purchase order

- (7) "Single award" means an ID/IQ procurement where award of the ID/IQ construction phase contract or ID/IQ supply contract is made to a single ID/IQ contractor.
- (8) "Work order" means a contract document issued for a definite scope of work pursuant to an ID/IQ construction phase 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. 49:214.6.11(C)) requires CPRA to comply with all applicable federal regulations for projects and provides governed by federal law that federal regulations control in the event of a conflict with state law or rules.

Proposed law (R.S. 49:214.6.11(D)) authorizes CPRA to use low bid, qualification-based, or best value, or any other form of ID/IQ, to select a successful bidder or bidders. Further allows procurement to include single award or multiple award. Additionally requires the procurement documents include best value or qualification-based evaluation factors. Further requires that proposed law supersedes La. Public Bid laws. Further allows that materials acquired under ID/IQ supply contracts be provided to contractors for the use and as a condition of any contractor for integrated coastal protection projects.

Proposed law (R.S. 49:214.6.11(E)) requires procurement and award of ID/IQ construction phase contracts and ID/IQ supply contracts meet the following requirements:

- (1) Single award ID/IQ construction phase contracts awarded on a low bid basis must follow either the advertisement for low bid contracts pursuant to La. Public Bid law (R.S. 38:2212) or the requirements for advertisements pursuant to proposed law. Specifies that if a single-award, low-bid ID/IQ construction phase contract is advertised pursuant to La. Public Bid law, the award may also be made pursuant to those provisions. Specifies that if award is made pursuant to La. Public Bid law, the authority is not required to follow the provisions of proposed law.
- (2) Single award ID/IQ supply contracts which will be awarded on a low bid basis must follow either the applicable method set forth in the provisions of competitive sealed bids (R.S. 39:1594) or the requirements for advertisements set forth in proposed law. Specifies that if a single-award, low-bid ID/IQ supply contract is advertised pursuant to competitive sealed bids, the award may also be made pursuant to competitive sealed bids. Specifies that if award is made pursuant to competitive sealed bids, the CPRA is not required to follow the provisions of proposed law.
- (3)
  - (a) Before awarding multiple award ID/IQ construction phase contract or ID/IQ supply contract or a single award ID/IQ construction phase contract or ID/IQ supply contract not advertised pursuant to La. Public Bid Law or the provisions of competitive sealed bids, the authority must issue a "notice of intent" (NOI) through advertisement on its designated webpage to request letters of interest (LOI). Requires all notices be

advertised at least 10 days before the response and include a description of the ID/IQ services or supplies. Authorizes the CPRA to readvertise the NOI using additional media or publications if the number of responses received is deemed insufficient to encourage competition.

- (b) Requires the CPRA to issue a “request for proposals” (RFP) to contractors that submitted an LOI. Further requires that the RFP include instructions for preparing and submitting proposals, evaluation criteria, estimated quantities and unit prices, and indicate whether a single or multiple awards will be made. Additionally, requires that all procurement documents, including the NOI and RFP, comply with proposed law.
- (c) Requires that bid security be specified in the CPRA's standard specifications or special provisions. Authorizes the CPRA to waive the requirement for bid security for procurements under proposed law.
- (d) Requires the executive direct to establish an evaluation committee to review proposals and authorizes assistance to the committee by other CPRA personnel or external advisors. Requires the committee to evaluate proposals as described in the RFP and recommend an award to the executive director who makes the final determination.

Proposed law (R.S. 49:214.6.11(F)) authorizes CPRA to include the following items in its procurement documents or contracts:

- (1) Payment of mobilization or demobilization costs and the method for determining mobilization and demobilization reimbursement if the CPRA opts to award those costs separate from an individual work order.
- (2) The method for determining price escalation or de-escalation.
- (3) Special provisions specific to ID/IQ construction phase contract or ID/IQ supply contract.
- (4) Unit pricing or lists of work items specific to ID/IQ construction phase contracts or ID/IQ supply contracts.
- (5) A minimum or maximum quantity or dollar value of supplies or services that the CPRA is obligated to order and the contractor or supplier is obligated to furnish, if the authority opts to set a minimum or maximum.
- (6) Statement of procedures and selection criteria the authority will use in issuing work orders or purchase orders.

Proposed law (R.S. 49:214.6.11(G)) limits the term of the initial ID/IQ construction phase contract or ID/IQ supply contract and any extensions to a maximum of five years, but the contract may

authorize extensions up to an additional five years. Further requires that the total of the initial term and any optional contract extensions not exceed 10 years with the duration of the initial term and the terms of individual contract extensions to be determined by the CPRA. Additionally requires the ID/IQ construction phase contract or ID/IQ supply contract serve as the underlying agreement that establishes the general terms and conditions governing the relationship between the CPRA and the selected bidder. Prohibits execution of the ID/IQ construction phase contract or ID/IQ supply contract from authorizing work or serving as a notice to proceed.

Proposed law (R.S. 49:214.6.11(H)) requires performance bonds under present law apply to the value and completion of work under an individual work order rather than the value and completion of all work under the ID/IQ construction phase contract unless otherwise specified in the ID/IQ construction phase contract or the individual work order, or otherwise provided in a special provision. Specifies that the requirement of issuance of performance bonds must be at the time of execution of an individual work order unless otherwise specified by the ID/IQ construction phase contract, the individual work order, or a special provision developed by the CPRA. Further specifies that stipulated damages apply to individual work orders and must be calculated by the required completion date of an individual work order. Further requires insurance policies and the extent and type of coverage required be determined by the CPRA.

Proposed law (R.S. 49:214.6.11(I)) prohibits proposed law from applying to architect and engineer service contracts or other consulting contracts of the authority authorized by state law or projects governed by federal law, except that design services may be included to support the ID/IQ construction phase projects.

Proposed law (R.S. 49:214.6.11(J)) specifies that except as otherwise provided in proposed law, the provisions of present law do not apply to ID/IQ construction phase and ID/IQ supply contracting. Further specifies that in the event of a conflict, the provisions of proposed law prevails and supersedes any conflicting provision of state law.

Proposed law (R.S. 49:214.6.11(K)) authorizes the CPRA to establish guidelines, standard specifications, special provisions, handbooks, or other required documents for elements of ID/IQ construction phase and ID/IQ supply contracting not explicitly provided for in proposed law or otherwise subject to the Administrative Procedure Act.

Proposed law (R.S. 49:214.6.11(L)) authorizes the CPRA to promulgate rules and regulations to implement and enforce the provisions of proposed law in accordance with the provisions of the Administrative Procedure Act.

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

(Adds R.S. 49:214.6.11)