

## RÉSUMÉ DIGEST

ACT 356 (HB 596)

2017 Regular Session

Leger

New law authorizes the Coastal Protection and Restoration Authority (CPRA) to use an outcome-based performance contract alternative project delivery method to contract for financing, designing, constructing, and monitoring integrated coastal protection projects.

New law prohibits the use of outcome-based performance contracts for projects that cost more than \$250 million or with terms exceeding 25 years. Requires approval of the contract by the Coastal Protection and Restoration Authority Board and the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources.

New law generally defines "outcome-based performance contract" to be a contract with specific outcomes or goals and for payment upon completion of those agreed-upon outcomes or goals.

New law defines "outcome-based performance contractor" as any person or entity properly licensed, bonded, and insured who is responsible to the owner for the integrated coastal protection project to be delivered.

New law defines "owner" to be the CPRA.

New law defines "licensed design professional" to be a licensed engineer, architect, or landscape architect.

New law defines "resident business" to be one authorized to do and doing business under the laws of this state that either maintains its principal place of business in the state or that employs a minimum of two employees who are residents of Louisiana.

New law provides that all other terms in new law have the same meaning as those terms in existing law.

New law prohibits the CPRA from accepting unsolicited proposals for outcome-based performance contracts. Provides that nothing in the law prohibits a company from making suggestions for new projects or alterations to solicited proposals. Provides that the award of any contract may be made only after the issuance of a request for proposal and competitive bid.

New law allows the CPRA to formulate rules and guidelines in accordance with the APA.

New law provides for financing terms and conditions of outcome-based performance contracts to be determined by the CPRA and the outcome-based performance contractor.

New law also provides for any revenues or earnings from activities pursuant to new law to be deposited in the Coastal Protection and Restoration Fund.

New law allows the CPRA to acquire land and easements in order to serve the purpose of new law.

New law requires outcome-based performance contractors to employ duly licensed professionals. Further states that the rules and regulations of the La. Professional Engineering and Land Surveying Board and the State Licensing Board for Contractors apply to new law.

New law requires the CPRA to provide a request for statement of interest and qualification (RSIQ). Delineates the requirements of what must be included in the RSIQ including a statement of the ability and intention of a contractor to provide equal opportunities in recruitment, selection, appointment, promotion, training, and other employment areas associated with an outcome-based performance contract.

New law requires that the CPRA establish a qualification review committee which must evaluate the responses to the RSIQ. New law additionally requires the qualification review

committee to create a list of the highest rated proposers and present the list to the executive director.

New law requires that the executive director issue a request for proposal (RFP) to those making the list of highest rated proposers. New law delineates what must be included in the RFP.

New law requires the executive director to establish a proposal review committee to select the outcome-based performance contractor.

New law requires that the proposal review committee consist of seven individuals: three representatives of the owner, a design professional not involved with the project, a licensed contractor not involved with the project, and two at-large members selected by the owner.

New law requires the proposal review committee to make recommendations to the executive director within 90 days of the deadline for responses to the RFP.

New law requires the authority and the selected outcome-based performance contractor to execute a contract within 60 days of the award of the outcome-based performance contract. If no contract is executed within those 60 days, authorizes the authority to re-advertise the project.

New law requires the CPRA to cancel any solicitation and decline to award a contract if a determination is made that the cancellation or declination is in the best interests of the state.

New law provides that there shall be no challenge by legal process to any selection of an outcome-based performance contractor except for fraud, bias, or arbitrary and capricious selection by the authority.

New law states that new law supersedes any conflicting provisions of existing law.

Effective upon signature of governor (June 22, 2017).

(Amends R.S. 49:214.6.2(A); Adds R.S. 49:214.7)