

SENATE COMMITTEE AMENDMENTS

2023 Regular Session

Amendments proposed by Senate Committee on Transportation, Highways and Public Works to Original Senate Bill No. 167 by Senator Abraham

1 AMENDMENT NO. 1

2 On page 1, at the end of line 3 delete "and" and on line 4, delete "local municipalities"

3 AMENDMENT NO. 2

4 On page 1, delete lines 11 through 17, delete pages 2 through 6, and on page 7, delete lines
5 1 through 20 and insert the following:

6 **"§2225.2.6 Design-build contracts; authorized use by airport authorities**

7 **A.(1) Notwithstanding any other provision of law to the contrary, an airport**
8 **authority may use the design-build project delivery method to contract for construction**
9 **and design-build when deemed in the public interest, beneficial to the airport, and in**
10 **accordance with the procedures set forth by law.**

11 **(2) Whenever the airport authority resolves to construct or repair any building**
12 **or structure using the design-build method as authorized by Paragraph (1) of this**
13 **Subsection, it shall adopt a list of projects under which design-build contracts will be**
14 **utilized; and an ordinance adopting the selection process promulgated by the division**
15 **of administration, office of facility planning and control, specifying the selection**
16 **process for the awarding of a design-build contract in compliance with the provisions**
17 **of this Section.**

18 **(3) For the purposes of this Section, "design builder" means the entity**
19 **contractually responsible for delivering the project design and construction.**

20 **B. Every design builder shall be duly licensed and registered to do business in**
21 **the state of Louisiana as either an architect, an engineer, or a general contractor. Each**
22 **design builder shall have the following rights and powers:**

23 **(1) The design builder may sublet responsibility for professional design services**
24 **to an individual, firm, or corporation duly licensed and registered in the state of**
25 **Louisiana to provide professional design services.**

26 **(2) The design builder may sublet responsibility for construction or other**
27 **services requiring a contractor's or trade subcontractor's license to persons or entities**
28 **duly registered, licensed, or otherwise qualified to provide those services as required**
29 **by law.**

30 **C. Prior to letting any contract, the airport authority shall adopt an ordinance**
31 **adopting procedures promulgated by the division of administration, office of facility**
32 **planning and control, establishing procedures for developing plans, specifications,**
33 **qualifications, and other matters pertaining to procedures for advertising, reviewing**
34 **and selecting design builders, and letting the design-build contracts for public work as**
35 **specified in Paragraph (A)(2) of this Section.**

36 **D. The procedures promulgated by the division of administration, office of**
37 **facility planning and control, provided for in Subsection C of this Section shall include,**
38 **at a minimum, the following provisions:**

39 **(1) Requirements that:**

40 **(a) All engineering and surveying firms providing design and design related**
41 **services with the design builder to which the design-build contract is awarded shall be**
42 **licensed to perform these services by the Louisiana Professional Engineering and Land**
43 **Surveying Board.**

44 **(b) All architectural firms providing design services with the design builder to**
45 **which the design-build contract is awarded shall be licensed to perform the services by**
46 **the Louisiana Board of Architectural Examiners or the Louisiana Horticulture**
47 **Commission.**

48 **(c) All contractors performing construction work for the design-build program**
49 **shall be licensed by the Louisiana State Licensing Board for Contractors.**

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

5 (a)(i) Public announcement procedures for solicitation of interested design-build
 6 competitors and a procedure for requesting letters of interest and statements of
 7 qualifications from qualified firms or teams.

8 (ii) Public announcement procedures shall include a requirement for
 9 advertisement in the official journal of the parish the project is to take place.

10 (iii) All notices of intent to select design-build contractors shall be advertised a
 11 minimum of thirty days prior to the deadline for receipt of responses and shall contain
 12 a brief description of the project, the required scope of services, and sufficient
 13 information for design-build entities to determine their interest.

14 (b) These decisions shall be made on the basis of the criteria set forth in this
 15 Subsection. Members of the technical review committee shall not have served as
 16 members of the primary evaluation committee. Each member of the technical review
 17 committee shall score assigned elements. Scores shall be considered public record.

18 (3) The airport authority shall provide a request for a qualifications package to
 19 design builders who submit a letter of interest. All required information shall be
 20 identified in the request for qualifications package and in the standard response forms.
 21 The response to a request for qualifications package shall include statements of
 22 qualification by credentials and experience of design component members for the areas
 23 of expertise specific to the project and statements of qualification by experience and
 24 resources of the construction team component. The completed response form and any
 25 other required information shall be transmitted by the responding design builder by
 26 the deadline to submit forms and information as provided in the request for
 27 qualifications package. Any response failing to meet all of the requirements contained
 28 in the request for qualifications package shall not be considered. False or
 29 misrepresented information furnished in response to a request for qualifications
 30 package shall be grounds for rejection.

31 (4)(a) A primary design-build evaluation committee shall evaluate the responses
 32 to the request for qualifications package received by the airport authority. The
 33 following general criteria used by the primary evaluation committee in evaluating
 34 responses to the request for qualifications package for design-build services shall apply
 35 to both the design and construction components of any responding entity:

36 (i) Professional training and experience of both the design and construction
 37 entity components and of key personnel in general and as related to the project under
 38 consideration.

39 (ii) Capacity for timely completion of the work.

40 (iii) Past performance on public projects or projects of a similar nature to the
 41 project described in the notice of intent.

42 (iv) The quantity and value of governing authority work awarded to both the
 43 design and construction entity components.

44 (b) Notwithstanding the provisions of R.S. 38:2225(B), the primary design-build
 45 evaluation committee may consider additional project-specific needs, including but not
 46 limited to the design-builder's past projects in the same metropolitan statistical area
 47 as the proposed project and the domicile address of the responding design builder
 48 verified by the Louisiana Secretary of State online business filing database.

49 (c) The primary design-build evaluation committee shall consist of a minimum
 50 of three members designated by the head of the airport authority according to the rules
 51 established pursuant to this Subsection.

52 (d) The primary evaluation committee shall evaluate the qualifications of
 53 responding design builders on the basis of the criteria set forth in this Subsection and
 54 the rules established pursuant to this Subsection and shall select a short list of not
 55 fewer than three of the highest rated entities; however, if fewer than three responses
 56 are received, the head of the airport authority may approve proceeding with the
 57 design-build process. The primary evaluation committee may, at its discretion, be
 58 assisted by other airport authority personnel in its evaluation of a design builder's
 59 qualifications. The primary design-build evaluation committee shall present its short
 60 list to the head of the airport authority. The short-listed design builders shall be invited

1 to submit a detailed technical proposal for the design-build project. The invitation to
 2 the short-listed entities shall specify a deadline for submission of proposals.

3 (5)(a) The specific requirements of the technical proposal shall be identified by
 4 the airport authority to the design builders making the short list by means of a "Scope
 5 of Services Package." Generally, the technical proposal shall include discussions of
 6 design strategy and preliminary design concepts, space standards, space planning,
 7 fundamental requirements, quality standards, capacities, other design related issues,
 8 materials, the schedule for commencement and completion of all phases of work, and
 9 a lump sum cost for all services in fulfillment of the requirements and within the
 10 constraints of the "Scope of Services Package."

11 (b) For more complex projects and projects with scopes which permit flexibility
 12 and innovation in the design approach, the airport authority may compensate
 13 unsuccessful and responsive short-listed entities for the expense of preparing the
 14 technical proposal. The determination of whether or not compensation will be paid for
 15 the technical proposal and the amount shall be predetermined by the airport authority
 16 and shall be included in the scope of services package. The airport authority may use
 17 concepts submitted by any paid short-listed design builder in the construction of the
 18 project.

19 (6) A technical review committee for evaluation of design-build proposals shall
 20 be established according to the rules established in this Subsection. This committee
 21 shall be made up of building construction professionals as defined by the rules
 22 established in this Subsection. The technical review committee shall identify specific
 23 technical elements of the project, depending on the characteristics of the project, to be
 24 included in the technical score. The technical review committee may select additional
 25 engineering, architectural and technical experts, and nationally recognized
 26 design-build experts to serve as committee members to score each technical element of
 27 the project.

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

31 (i) The technical score determined by the technical review committee. Weighing
 32 factors may be assigned to each element depending on its relative magnitude or
 33 significance to the overall project. Each technical review committee member shall rate
 34 his assigned element of the proposal from each of the design builders on the short list
 35 and shall submit the scores to the chairman of the technical review committee. The
 36 schedule and price bid shall not be made known to the technical review committee
 37 during the scoring process. The chairman of the technical review committee shall
 38 adjust the scores for any applicable weighing factors and shall determine the total
 39 technical score for each proposal. Prior to determining the adjusted score, the
 40 chairman of the technical review committee shall notify each design builder, in writing,
 41 of each design builder's final total technical score.

42 (ii) The time value, consisting of the product of the proposed contract time
 43 expressed in calendar days multiplied by the value-per-calendar-day expressed in
 44 dollars established by the authority and included in the scope of services package.

45 (iii) The price proposal.

46 (b) The winning proposal shall be the proposal with the lowest adjusted score.
 47 The adjusted score for each entity's design-build proposal shall be determined by the
 48 following formula: Adjusted Score = (Price Bid + Time Value) divided by Technical
 49 Score. Use of the Time Value is not mandatory and if it is not used, the Adjusted Score
 50 shall be determined by the following formula: Adjusted Score = Price Bid divided by
 51 Technical Score.

52 (7) Design builders who have submitted bona fide proposals may, within seven
 53 days of the announcement of the award, challenge the award based on any of the
 54 foregoing reasons, and only those reasons, by submitting a letter to the head of the
 55 airport authority describing in detail the reasons for the challenge. The head of the
 56 airport authority shall have the authority to resolve any challenge concerning the
 57 award of a contract. A written decision shall be rendered within fourteen days and
 58 shall be mailed or otherwise furnished immediately to the design builder making the
 59 challenge. The decision shall be final and conclusive unless the decision is fraudulent
 60 or if the person adversely affected by the decision has timely appealed to the court of
 61 proper venue for the airport authority.

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

7 F. The provisions of this Section shall supersede any conflicting provisions of
8 any other law, including but not limited to the requirements of Chapter 10 of this
9 Title."