

**HOUSE COMMITTEE AMENDMENTS**

Amendments proposed by House Committee on Transportation, Highways, and Public Works to Engrossed Senate Bill No. 65 by Senator Murray

AMENDMENT NO. 1

On page 1, line 2, after "To" delete the remainder of the line and delete lines 3 through 5 in their entirety and insert the following:

"enact R.S. 38:2225.2.3, relative to the utilization of the construction manager at risk method by the New Orleans Aviation Board; to permit the New Orleans Aviation Board to construct certain projects unitizing the construction manager at risk method; to provide for related matters."

AMENDMENT NO. 2

On page 1, delete lines 8 through 17 in their entirety, and on page 2, delete lines 1 through 25 in their entirety and insert the following:

"Section 1. R.S. 38:2225.2.3 is hereby enacted to read as follows:

**§2225.2.3. Construction management at risk**

**A.(1) Notwithstanding any provisions of law to the contrary, the New Orleans Aviation Board, hereinafter referred to as the board, may award a public works contract for the initial construction of an airport terminal and related support facility, aviation facility, or any combination thereof by the construction management at risk method as set forth in this Section.**

**(2) However, the provisions of this Section shall not apply to the construction of any additions or modifications of an airport terminal and related support facility, aviation facility, or any combination thereof, constructed by the board following the completion of the initial construction of such terminal or facility.**

**(3) For purposes of this Section, the following terms shall be assigned the following definitions:**

**(a) "Construction management at risk method" shall mean a delivery method by which the board utilizes architects or engineers employed by the board or contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager-at-risk to serve as the general contractor and to provide consultation during the design and construction of a facility.**

**(b) "Construction manager-at-risk" shall mean a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for the initial construction of an airport terminal and related support facility, aviation facility, or any combination thereof at the contracted price as a general contractor and provides consultation to the board regarding construction during and after the design of the facility.**

**B.(1) Should the board choose to award a public works contract by the construction management at risk method, prior to the advertisement for such services, the board shall prepare a written statement justifying why the construction management at risk method is preferred over the design-bid-build, the design-build, or public bid methods allowed by statute for the particular project in question.**

**(2) The written statement shall identify the specific benefits to the public which the board determines will result from the use of the construction management at risk method.**

1           (3) This written statement shall be published by the board in the  
 2 advertisement required by Subsection C of this Section.

3           C. A request for proposals (RFP) to award a contract for construction  
 4 manager at risk services shall be advertised in the official journal of the board  
 5 and, if one exists, the Internet website of the board. Additionally, the board  
 6 may select other publications deemed appropriate by the board for  
 7 advertisement of the notice. All RFPs shall be advertised two times within a  
 8 thirty-day time period prior to the deadline for receipt of responses.

9           D. Construction Management at Risk Services. (1) Construction  
 10 management at risk proposers awarded a contract pursuant to this Section shall  
 11 act as the general contractor for the project and shall be properly licensed,  
 12 bonded, and insured.

13           (2) Construction management at risk services shall be for the  
 14 performance of the project work and shall guarantee the maximum price for  
 15 the project.

16           E. Guaranteed Maximum Price. (1) The guaranteed maximum price for  
 17 the project may be set by the board.

18           (2) If the board sets the guaranteed maximum price for the project, that  
 19 guaranteed maximum price shall be disclosed in the RFP and shall include the  
 20 maximum number of construction days required to complete the project.

21           (3) If the guaranteed maximum price will not be set by the board until  
 22 after the selection of the construction manager at risk, as provided in  
 23 Paragraph (2) of this Subsection, then the advertisement for the RFP shall  
 24 disclose this and proposals submitted in response to the RFP shall not be  
 25 required to include a guaranteed maximum price for the project.

26           F. Request for Proposals (RFP). (1) The RFP shall state the following as  
 27 well as any other pertinent information that a proposer would need to submit  
 28 to respond to an RFP:

- 29           (a) Requirements for the project.
- 30           (b) Procedures for construction of the project.
- 31           (c) Grading criteria of responses to the RFP.
- 32           (d) Scoring methodology of responses to the RFP.

33           (2) The RFP may request that proposers include the following in  
 34 response to the RFP, as well as any other appropriate factors that would  
 35 demonstrate the capability of the proposer to perform the role of construction  
 36 manager at risk for the project:

- 37           (a) Bonding capacity of the proposer.
- 38           (b) Competence of the proposer.
- 39           (c) Construction methodology previously utilized by the proposer on  
 40 other projects.
- 41           (d) Experience of the proposer with the construction management at risk  
 42 method and other methods of project delivery.
- 43           (e) Extent to which the proposer intends to self perform portions of the  
 44 work.
- 45           (f) Financial capacity of the proposer.
- 46           (g) Past performance by the proposer including timely completion of  
 47 other public works projects.
- 48           (h) Proposed management and staffing for the project.
- 49           (i) The proposer's last safety record.

50           (3) The responses to the RFPs shall include the following:

- 51           (a) A guaranteed maximum price if required by the advertisement as  
 52 published by the board.
- 53           (b) Total fees and compensation to be paid to the construction manager  
 54 at risk if selected by the board to receive the contract for the project.

55           G. (1) The proposals submitted shall be reviewed and graded by a review  
 56 committee comprised of at least five individuals appointed by the board,  
 57 including, but not limited to the following:

- 58           (a) One or more representatives of the board.
- 59           (b) One design professional not involved in the project.

1 (c) One construction industry representative not involved as a proposer  
 2 on the project.

3 (d) One representative of the Department of Transportation and  
 4 Development.

5 (e) One representative of the office of facility planning and control.

6 (2) The review committee shall evaluate, grade, and score the responses  
 7 to the RFP in the areas set out in the RFP. The portion of the response to the  
 8 RFPs addressing total fees and compensation to be paid to the construction  
 9 manager at risk will be considered by a review committee only after its  
 10 consideration of all other factors contained in the proposals.

11 (3) The results of the review committee, inclusive of its findings, grading,  
 12 score sheets and recommendations shall be available for review by all proposers  
 13 and shall also be subject to a public records request.

14 H. (1) Within forty five days after the deadline for responses to the RFP  
 15 to be submitted, the review committee shall make a recommendation to the  
 16 board as to which proposer it recommends should be awarded the contract. The  
 17 proposer recommended by the committee to serve as the construction manager  
 18 at risk shall work with the board's design professional for the project on  
 19 constructability, the construction phasing and sequencing prior to the board  
 20 awarding the contract.

21 I. (1) Any non-recommended proposers shall have the opportunity to  
 22 protest the review committee's recommendation and the board's award.

23 (2)(a) Any non-recommended proposer may ask for a hearing before the  
 24 board within ten days following the receipt of the review committee's  
 25 recommendation.

26 (b) The board shall then conduct a public hearing to consider any protest  
 27 or protests no later than ten days following the last request for a hearing by a  
 28 non-recommended proposer.

29 (c) Following any hearing required by Subparagraph (b) of this  
 30 Paragraph, any non-recommended proposer may seek legal review in the state  
 31 judicial district court where the project is to be constructed.

32 J. (1) If the guaranteed maximum price and maximum number of  
 33 construction days required to complete the project were set forth in the RFP  
 34 and the board and the recommended proposer agree on constructability, the  
 35 construction phasing and sequencing, the board shall award the construction  
 36 management at risk contract to the proposer recommended by the committee.

37 (2) If the guaranteed maximum price for the project was not set by the  
 38 board in the RFP, then within thirty days of the completion of the plans,  
 39 specifications and scope of the project, the recommended proposer shall furnish  
 40 the board a guaranteed maximum price for the project including the maximum  
 41 number of construction days required for completion of the project.

42 (3)(a) If the board and recommended proposer are able to agree upon  
 43 constructability, construction phasing and sequencing, a guaranteed maximum  
 44 price for the project, and the maximum number of construction days for  
 45 completion of the project, the board shall then award the construction  
 46 management at risk contract to the proposer recommended by the review  
 47 committee.

48 (4) If the guaranteed maximum price provided by the recommended  
 49 proposer exceeds the board's construction budget for the project, then the  
 50 board and recommended proposer shall enter into negotiations to establish an  
 51 agreed upon guaranteed maximum price.

52 (5) If the board and the recommended proposer are unable to agree upon  
 53 a guaranteed maximum price for the project, and the maximum number of  
 54 construction days for completion of the project, then the project will be  
 55 re-advertised and publicly bid as per this Section.

56 K. The provisions of this Section shall supercede any conflicting  
 57 provisions of any law, including, but not limited to the requirements of Chapter  
 58 10 of this Title. However, the provisions of this Section shall not relieve the  
 59 board from complying with Federal Aviation Administration guidelines or all

1 **other applicable provisions of this Title that do not conflict with the provisions**  
2 **of this Section.**"