
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Sharon F. Lyles.

DIGEST

Adley (SB 552)

Prior law prohibits a construction manager or any other third-party consultant employed by a public entity from managing a construction project as a general contractor or acting in the role of the general contractor to oversee, direct, or coordinate individual trade contractors on behalf of the public entity, or accepting bids or itself bid on the public work or components of the public work with respect to which the manager or consultant is employed or contracted to manage or consult.

Proposed law permits an owner who is a public entity to award a public works contract by the early contractor involvement (ECI) project delivery method.

Proposed law defines the "early contractor involvement (ECI) method" to mean a delivery method by which the owner utilizes a design professional, who is engaged by the owner for professional pre-design and design services. The owner contracts separately with a contractor to engage in the pre-construction phase as a consultant. The contractor may also provide construction services to build the project. Defines a "design professional" to be an engineer, architect, or landscape architect that has received a professional certification by an accredited registration board. Defines an "ECI contractor" to be a person, sole proprietorship, partnership, corporation or other legal entity, properly licensed, that assumes the risk for the construction at the contracted price as a general contractor, or provides consultation to the owner during the pre-construction phase of the facility, or both.

Proposed law requires the owner, prior to using the ECI method, to give written justification why such method is preferred to the design-bid-build, the design-build, or public bid methods provided by law for the particular project, and how its use benefits the public. Requires its inclusion in the advertisement of owner's request for qualifications (RFQ).

Proposed law requires the owner's design professional to submit its opinion of probable cost to construct the project when the project's final design is not more than 30% complete. Requires the owner to select the ECI contractor before the design professional proceeds to further design the project. Prohibits the project to proceed to final design until the owner selects the ECI contractor in order to use the ECI method.

Proposed law requires advertisement of the RFQ to award a contract for ECI services in the owner's official journal, and on the owner's Internet website, if available. Authorizes the owner to select other appropriate publications in which to also advertise the notice.

Proposed law lists specific items the owner shall include in the RFQ. Allows the owner to include other listed items in the RFQ. Requires review and grading of proposals by a review

committee identified in the RFQ. Provides that the review committee results, inclusive of its findings, grading, score sheets and recommendations are available for review by all proposers and shall be deemed public records.

Proposed law requires the review committee to make its recommendations to the owner within 90 days after the deadline for submission of responses to the RFQ. Requires the proposer recommended by the committee as the ECI contractor to work with the owner's design professional for the project on constructability and construction phasing and sequencing prior to the owner's award to construct the project.

Proposed law requires the owner to obtain an opinion of probable cost from the design professional and the ECI contractor when final project design is not more than 50% and 90% complete.

Proposed law requires the ECI contractor to provide the owner a fixed price before or upon completion of design, before or upon completion of the final design.

Proposed law provides that, if the owner and ECI contractor are able to negotiate, establish, and agree upon such fixed price for rendering construction services for portions of the project, or, with respect to constructing the entire project, such fixed price for constructing the entire project, and, in addition, constructability, construction phasing and sequencing, and the maximum number of construction days for completion of the project, the owner may then authorize and contract with the ECI contractor to render construction services for the construction phase of the project.

Proposed law provides that, if the owner and the ECI contractor are not able to reach a negotiated agreement on such matters, then the project must re-advertised and publicly bid utilizing the design-bid-build delivery method.

Proposed law provides that its provision do not supersede any conflicting provisions of any law, including but not limited to the requirements of Chapter 10 of Title 38, but that the provisions of that Chapter shall otherwise be applicable to such contracts.

Effective August 1, 2014.

(Adds R.S. 38:2225.2.4)