

2023 Regular Session

HOUSE BILL NO. 431

BY REPRESENTATIVE DESHOTEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROCUREMENT: Provides relative to procurement of information technology

1 AN ACT

2 To amend and reenact R.S. 24:673(A) and (C) and R.S. 39:198(B)(1), (C)(1), (D)(1) and (2),
3 (E)(introductory paragraph) and (4), and (M) and 199(A) and to enact R.S.
4 39:197(20), relative to the procurement of information technology; to provide for
5 authority of certain committees; to provide for methods of procurement; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 24:673(A) and (C) are hereby amended and reenacted to read as
9 follows:

10 §673. Budget requests and expenditure requests; technology funds, fees, and
11 donations; review

12 A. At the request of the Joint Legislative Committee on the Budget, the
13 committee shall review any budget request, ~~or expenditure request,~~ or procurement
14 request related to technology or cybersecurity. The committee shall perform its
15 review and submit its comments and recommendations regarding the request to the
16 Joint Legislative Committee on the Budget in a timely manner.

17 * * *

18 C. The committee may review ~~all~~ any technology fees and expenditures
19 related to information technology from ~~dedicated funds~~ any means of finance and
20 shall report its findings and recommendations as it deems appropriate.

1 Section 2. R.S. 39:198(B)(1), (C)(1), (D)(1) and (2), (E)(introductory paragraph) and
2 (4), and (M) and 199(A) are hereby amended and reenacted and R.S. 39:197(20) is hereby
3 enacted to read as follows:

4 §197. Definitions

5 For the purposes of this Part, the following words and phrases shall be
6 defined as follows:

7 * * *

8 (20) "Invitation to negotiate" means a written or electronically posted
9 solicitation for competitive sealed replies to select one or more vendors with which
10 to commence negotiations for the procurement of commodities or contractual
11 services.

12 §198. Types of contracts permitted

13 * * *

14 B. The office of technology services, through the state purchasing office,
15 may, on behalf of any state agency, enter into information technology systems
16 contracts in accordance with the following provisions:

17 (1) Contracts of this type shall be entered into through ~~a request for~~
18 ~~proposals as~~ methods provided in R.S. 39:199. An invitation to bid format may be
19 utilized with written approval from the state chief information officer.

20 * * *

21 C. The office of technology services, through the office of state procurement,
22 may on behalf of any state agency, enter into information technology services
23 contracts in accordance with the following provisions:

24 (1) Contracts of this type shall be entered into through ~~a request for~~
25 ~~proposals as~~ methods provided in R.S. 39:199. An invitation to bid format may be
26 utilized with written approval from the state chief information officer.

27 * * *

28 D. The office of technology services, through the office of state
29 procurement, may on behalf of any state agency, enter into a information technology

1 systems lease contract for an operating lease, installment purchase, or financed lease
2 for information technology systems in accordance with the following provisions:

3 (1) All contracts of this type shall be entered into through ~~a request for~~
4 ~~proposals~~ as methods provided in R.S. 39:199.

5 (2) The justification of such contracts must be approved by the office of
6 technology services prior to issuance of a request for proposals or an invitation to
7 negotiate. Such justification shall identify and consider all cost factors relevant to
8 that contract.

9 * * *

10 E. ~~Notwithstanding the provisions of R.S. 39:1615 to the contrary, the~~ The
11 use of a multi-year contract for information technology systems and information
12 technology services shall be in accordance with rules and regulations and under the
13 following conditions:

14 * * *

15 (4) A report of all multi-year contracts shall be provided to the Joint
16 Legislative Committee on the Budget and the Joint Legislative Committee on
17 Technology and Cybersecurity no later than ninety days after the end of each fiscal
18 year.

19 * * *

20 M. Any contract entered into for a period of more than three years as
21 authorized by this Section shall be subject to review by the Joint Legislative
22 Committee on Technology and Cybersecurity and prior approval of the Joint
23 Legislative Committee on the Budget.

24 §199. Methods of procurement

25 A. Method for procuring information technology systems, information
26 technology services, or both. The office of technology services, through the state
27 procurement office, may procure information technology systems, ~~and~~ information
28 technology services, or both by ~~a request for proposals to conform with the following~~
29 ~~requirements~~ through a request for proposals or an invitation to negotiate:

1 (1) If the request for a proposal method is utilized, all of the following shall
2 apply:

3 ~~(1)~~ (a) Public notice of the request for proposals shall be the same as for an
4 invitation to bid as provided in R.S. 39:1594(C).

5 ~~(2)(a)~~ (b)(i) The request for proposals shall indicate the relative importance
6 of all evaluation factors and shall clearly define the work, service, or solution to be
7 provided under the contract, the functional specifications, the criteria to be used in
8 evaluating the proposals, and the time frames within which the work must be
9 completed or the service provided.

10 ~~(b)~~ (ii) For information systems lease contracts, the request for proposals
11 shall require that proposals contain a declaration as to the maximum price for which
12 the system may be purchased following the termination of the lease contract. No
13 other basis of evaluation shall be used except that set out in the request for proposals.

14 ~~(3)~~ (c) The office of technology services shall evaluate all proposals to
15 determine the proposal most advantageous to the state, taking into consideration all
16 evaluation criteria set forth in the request for proposals, and shall make a
17 recommendation of award to the state procurement office.

18 ~~(4)~~ (d) The office of technology services may request that the state
19 procurement office reject all proposals when it is deemed that such action is in the
20 best interest of the state.

21 (2) If the invitation to negotiate method is utilized, all of the following shall
22 apply:

23 (a) Before issuing an invitation to negotiate, the head of an agency shall
24 determine and specify in writing the reasons that procurement by an invitation to bid
25 or a request for proposal is not practicable.

26 (b) The invitation to negotiate must describe the questions being explored,
27 the facts being sought, and the specific goals or problems that are the subject of the
28 solicitation.

Proposed law retains present law and adds the definition of invitation to negotiate.

Present law provides for the types of contracts permitted in the procurement of information technology systems, information technology services, and software. Provides for contracts to be entered into through a request for proposals.

Proposed law retains present law and adds invitation to negotiate as a method of procurement for information technology.

Present law provides for a report of all multi-year contracts to be provided to the Joint Legislative Committee on the Budget (JLCB) each fiscal year. Provides that any contract entered into for no more than three years is subject to approval by JLCB.

Proposed law retains present law and adds that the report shall also be provided to the Joint Legislative Committee on Technology and Cybersecurity. Adds that any contract entered into for more than three years is subject to review by the Joint Legislative Committee on Technology and Cybersecurity.

(Amends R.S. 24:673(A) and (C) and R.S. 39:198(B)(1), (C)(1), (D)(1) and (2), (E)(introductory paragraph) and (4), and (M) and 199(A); Adds R.S. 39:197(20))