

2023 Regular Session

HOUSE BILL NO. 512

BY REPRESENTATIVE HUGHES

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

PROCUREMENT: Provides relative to procurement of fiscal intermediary services

1 AN ACT

2 To amend and reenact R.S. 39:197(introductory paragraph), (13), and (16) and
3 198(G)(introductory paragraph) and (I), relative to state procurement; to provide
4 relative to the procurement of fiscal intermediary services contracts; to provide
5 relative to contracts ancillary to fiscal intermediary services contracts; to provide
6 relative to methods of procurement of certain contracts; to provide relative to the
7 maximum term of certain contracts in certain circumstances; to provide for
8 applicability; to provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 39:197(introductory paragraph), (13), and (16) and
11 198(G)(introductory paragraph) and (I) are hereby amended and reenacted to read as
12 follows:

13 §197. Definitions

14 For the purposes of this Part, the following ~~words and phrases shall be~~
15 ~~defined as follows~~ terms shall have the following meanings:

16 * * *

17 (13) "Multiyear contract" means contracts for a term of more than one year,
18 not to exceed ten years and includes ~~the following:~~

19 (a) ~~Contracts~~ contracts between a supplier of information technology
20 systems, information technology services, and software and the state or a state

1 agency through which information technology systems, information technology
2 services, and software, except for fiscal intermediary services, may be leased or
3 purchased for a term of more than one fiscal year, but the term shall not exceed sixty
4 months.

5 ~~(b) Contracts for fiscal intermediary services.~~

6 * * *

7 (16) "Related services" means and is limited to service activities affecting
8 the maintenance of information technology equipment or software and the providing
9 of fiscal intermediary services. ~~Notwithstanding any other provisions of law to the~~
10 ~~contrary, "related services" shall also mean~~ and shall also include those consulting
11 services ancillary to the procurement of information technology hardware or
12 software that would otherwise be governed by the provisions of professional,
13 personal, consulting, and social services procurement in Chapter 17 of Subtitle III
14 of this Title, ~~provided those~~ Except for consulting services ancillary to the
15 procurement of fiscal intermediary services by cooperative purchasing, such
16 consulting services contracts are shall be limited to the lesser of twenty percent of
17 the procurement amount or two hundred fifty thousand dollars.

18 * * *

19 §198. Types of contracts permitted

20 * * *

21 G. Multiyear contracts other than direct order contracts ~~and contracts for~~
22 ~~fiscal intermediary services~~. State agencies may enter into contracts for the lease or
23 purchase of information technology systems, information technology services, or
24 software when the term of such lease or purchase is greater than twelve months or
25 involves more than one fiscal year in accordance with the following provisions:

26 * * *

27 I. Contracts for fiscal intermediary services. State agencies may enter into
28 contracts for fiscal intermediary services either by competitive sealed proposals or
29 cooperative purchasing.

1 (1) If the agency uses the competitive sealed proposals procurement method,
2 the procurement shall be made in accordance with R.S. 39:1595 and the ~~The~~ term of
3 the contract shall be one hundred twenty months. If special circumstances, as
4 provided in ~~Paragraph (9)~~ Subparagraph (h) of this ~~Subsection~~ Paragraph,
5 necessitate, additional one-year extensions of the contract may be granted. The
6 award process and final contract shall include all of the following:

7 ~~(1) Contracts for fiscal intermediary services shall be awarded by~~
8 ~~competitive sealed proposals in accordance with R.S. 39:1595 or cooperative~~
9 ~~purchasing in accordance with R.S. 39:1702.~~

10 ~~(2)~~ (a) Justification for the contract shall be submitted to the state central
11 purchasing agency and shall be submitted to the Joint Legislative Committee on the
12 Budget at least forty-five days prior to the issuance of a solicitation for proposals.
13 Within thirty days of receipt of the justification by the Joint Legislative Committee
14 on the Budget, the committee may conduct a public hearing on the justification
15 which was submitted. This justification shall include identification and consideration
16 of all factors, including costs, relevant to the solicitation for proposals and the final
17 contract.

18 ~~(3)~~ (b) The one-hundred-twenty-month term of such contract shall be divided
19 into one period of between thirty-six months and sixty months, immediately followed
20 by successive twelve-month periods. The state shall have an option to renew such
21 contract for each of the twelve-month periods. If the state does not exercise its
22 option to renew, the contract shall be terminated. In the event special circumstances
23 occur, as provided in ~~Paragraph (9)~~ Subparagraph (h) of this ~~Subsection~~ Paragraph,
24 additional twelve-month extensions of the contract may be granted.

25 ~~(4)~~ (c) In addition to other provisions as required by law or in the best
26 interests of the state, such contract shall contain provisions setting forth, ~~(a)~~ all of the
27 following: (i) the amount and requirements of the contractor's performance bond, ~~(b)~~
28 (ii) penalty and enforcement provisions for the failure of the contractor to perform
29 in accordance with the contract documents, ~~(c)~~ (iii) conditions for optional renewal

1 of the contract by the state in accordance with the provisions of this Subsection, and
2 ~~(d)~~ (iv) requirements for termination of the contract by the state at any time, or for
3 cause, or upon the refusal of the state to exercise an option to renew such contract.

4 ~~(5)~~ (d) Issuance of specifications for a solicitation for proposals on a contract
5 for fiscal intermediary services shall be made at least twelve months prior to the
6 termination date of an existing contract, unless the contract termination is for cause
7 or due to the refusal of the state to exercise an option to renew.

8 ~~(6)~~ (e) No award of the contract shall be made until the Joint Legislative
9 Committee on the Budget has conducted a public hearing concerning the award.

10 ~~(7)~~ (f) No award of the contract shall be made later than eight months prior
11 to the termination date of an existing contract, unless the contract termination is for
12 cause or due to the refusal of the state to exercise an option to renew.

13 ~~(8)~~ (g) No option to renew the contract shall be exercised by the state until
14 the following criteria have been satisfied:

15 ~~(a)~~ (i) The Louisiana Department of Health has conducted a public hearing
16 concerning such renewal.

17 ~~(b)~~ (ii) The Louisiana Department of Health submits to the Joint Legislative
18 Committee on the Budget a notice of intention by the Louisiana Department of
19 Health to exercise the option to renew the contract and a copy of any public
20 testimony which was taken at the public hearing held by the Louisiana Department
21 of Health. The Joint Legislative Committee on the Budget may hold a public hearing
22 concerning the renewal within thirty days following the receipt of a notice of
23 intention by the Louisiana Department of Health to exercise the option to renew the
24 contract.

25 ~~(c)~~ (iii) The Joint Legislative Committee on the Budget has conducted a
26 public hearing concerning the renewal or thirty days have elapsed from the date the
27 Louisiana Department of Health submitted a notice of intention to renew the contract
28 to the Joint Legislative Committee on the Budget and the committee has not posted
29 a public notice of meeting concerning the renewal of the contract.

1 ~~(9)~~ (h) In the event the Louisiana Department of Health or the United States
2 Department of Health and Human Services, Centers for Medicare and Medicaid
3 Services proposes substantial changes in the operations of the Medicaid program that
4 would materially impact the services performed by the fiscal intermediary, the
5 Louisiana Department of Health may, subject to the approval of the Joint Legislative
6 Committee on the Budget, approve additional extensions of the contract until it is
7 practical to prepare a solicitation for proposals describing the revised services that
8 would be performed by the fiscal intermediary. During the time frame covered by
9 any extension beyond the original one-hundred-twenty-month period, the fiscal
10 intermediary may be required to perform additional functions to assist in preparing
11 the Louisiana Department of Health in the transition to the new program. These
12 functions may include existing fiscal intermediary services as well as efforts to
13 control fraud and abuse, program reports, beneficiary enrollment and program
14 information services, encounter data, and annual managed care negotiation data.

15 (2) Notwithstanding any provision of this Part to the contrary, if the agency
16 uses the cooperative purchasing procurement method, the procurement shall be
17 governed exclusively by the provisions of Part VII of Chapter 17 of Subtitle III of
18 this Title and the applicable rules and regulations. However, any such contract shall
19 be approved by the Joint Legislative Committee on the Budget prior to execution.

20 * * *

21 Section 2. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 512 Reengrossed

2023 Regular Session

Hughes

Abstract: Modifies requirements for procurement of fiscal intermediary services contracts.

Present law establishes the criteria and processes for state procurement of information technology (IT) equipment, related services, and software.

Present law provides definitions for terms in the laws governing such contracts. One such definition is for "multiyear contract", which present law defines to include contracts for fiscal intermediary services in addition to contracts between suppliers of IT systems, services, and software. Proposed law removes fiscal intermediary services from this definition. Present law further defines "related services" to include consulting services contracts ancillary to the procurement of IT hardware or software and places a cap on the maximum amount of such contracts at the lesser of 20% of the procurement amount or \$250,000. Proposed law removes this cap for consulting services contracts ancillary to the procurement of fiscal intermediary services obtained through cooperative purchasing pursuant to present law.

Present law authorizes fiscal intermediary services to be procured through competitive sealed proposals or cooperative purchasing, both through procedures provided for in present law. Present law sets forth requirements for such procurements, including submission of justification for the contract to the state central purchasing agency and the Joint Legislative Committee on the Budget (JLCB), the requirement that the contract have a 120-month term, and that no award shall be made until approval is received by JLCB, among others. Proposed law retains present law for the competitive sealed proposals procurements. With the exception that no award shall be made until approval is received by JLCB, Proposed law removes these requirements for procurements by cooperative purchasing and further requires them to be conducted through the non-IT procurement process (R.S. 39:1702).

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 39:197(intro. para.), (13), and (16) and 198(G)(intro. para) and (D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Require JLCB approval of any cooperative purchasing contract prior to execution.