

GREEN SHEET REDIGEST

HB 845

2024 Regular Session

Deshotel

PROCUREMENT: Provides relative to procurement of information technology.

DIGEST

Present law provides for the creation of the Joint Legislative Committee on Technology and Cybersecurity (JLCTC). Provides for the duties and functions of the committee, which include the authority to review budget or expenditure requests related to technology or cybersecurity.

Proposed law retains present law and adds the authority to review and approve procurement requests related to technology or cybersecurity.

Present law provides for definitions related to the procurement of information technology.

Proposed law retains present law and adds the definitions of "consulting service", "invitation to negotiate", and "professional service".

Proposed law further provides that the definition of "multiyear contract" does not include contracts for fiscal intermediary services.

Proposed law further provides that except for consulting services ancillary to the procurement of fiscal intermediary services by cooperative purchasing consulting services contracts shall be limited to the lesser of twenty percent of the procurement amount or two hundred fifty thousand dollars.

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 professional services contracts and consulting services contracts related to information technology to the types of contracts permitted in present law provisions that govern procurement of information technology. Adds competitive sealed bids, competitive sealed proposals, reverse auction, cooperative purchasing, and an invitation to negotiate as methods of procurement for information technology.

Present law provides for multi-year contracts in the procurement of information technology systems, information technology services, and software.

Proposed law retains present law and adds professional services contracts and consulting services contracts related to information technology to the types of contracts eligible for multi-year contracts. Provides that professional services contracts and consulting services contracts related to information technology shall not exceed an initial term of six years with two options for two-year extensions for a maximum of ten years. Provides that contracts for electronic benefit issuance system services shall be for an initial contract period of six years with an option for two options for two-year extensions up to a maximum of ten years.

Proposed law provides that any agency of a statewide elected official or the office of technology services, whether acting in their own capacity or on behalf of any other state agency, may enter into contracts for the lease or purchase of information technology systems, information technology services, software, and professional services contracts and consulting services contracts related to information technology.

Proposed law provides that any agency of a statewide elected official or the office of technology services that is engaged in an active multiyear contract as of August 1, 2024, shall have the option to extend those contracts through the office of state procurement.

Present law requires all multi-year contracts to contain language concerning the appropriation of funds to fulfill the requirements of the contracts. Proposed law retains present law and provides for when funds are not appropriated to continue a multi-year contract and the cost of cancellation of a contract.

Present law provides for the procurement of contracts for fiscal intermediary services. Provides for the term of the contract to be one hundred twenty months. Provides for additional one-year extensions.

Proposed law provides that additional extensions of the contract for up to three years may be granted.

Present law provides for contracts for fiscal intermediary services to be awarded by competitive sealed proposals or cooperative purchasing.

Proposed law provides that state agencies may enter into contracts for fiscal intermediary services either by competitive sealed proposals, cooperative purchasing, or invitation to negotiate.

Proposed law provides that if the agency uses the competitive sealed proposals procurement method, the procurement shall be made in accordance with present law.

Present law requires justification for a fiscal intermediary contract to be submitted to the Joint Legislative Committee on the Budget (JLCB). Further authorizes JLCB to conduct a public hearing on the justification which was submitted. Proposed law changes the authority of JLCB to JLCTC.

Present law requires certain provisions to be included in fiscal intermediary contracts. Proposed law retains present law.

Present law requires the issuance of specifications for a solicitation of proposals on a contract for fiscal intermediary services to be made at least 12 months prior to the termination of the existing contract. Proposed law removes this requirement for contracts for fiscal intermediary services when procured by competitive sealed proposals or cooperative purchasing with a total contract value of \$10 million or less. Proposed law limits the requirement regarding issuance of specifications to contracts procured by a competitive sealed proposal with a total contract value greater than \$10 million. Proposed law further requires contracts for fiscal intermediary services with a total contract value greater than \$10 million to be in compliance with all other provisions regarding multi-year contracts.

Present law provides for JLCB to review a notice of intention by the Louisiana Dept. of Health (LDH) to exercise an option to renew a fiscal intermediary contract. Further provides for JLCB to hold a public hearing concerning the renewal following the receipt of notice of intention. Proposed law changes the authority of JLCB to JLCTC.

Present law provides for a report of all multi-year contracts to be provided to JLCB each fiscal year. Provides that any contract entered into for 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 JLCTC. Proposed law requires that any contract entered into for more than three years, inclusive of contract extension options, and with a cost of more than \$10 million is subject to review and approval by JLCTC. Requires review and approval by JLCTC of an extension of such a contract if the extension would increase the total cost more than 5%. Provides a deadline for such review by JLCTC and provides for the referral of the contract to JLCB when JLCTC does not approve the contract prior to the deadline. Requires any contract approved by JLCTC to be reported to JLCB. Authorizes the chairman of JLCTC, at his discretion, to refer any contract for review and approval to JLCB. Requires a contract procured through an invitation to negotiate to be reviewed by JLCTC. Further requires the office of technology services to submit a monthly report of all multi-year contracts with a cost of more than \$1 million to JLCTC.

Proposed law provides for the invitation to negotiate and sets the parameters for the procurement method.

Present law requires certain contracts to be entered into with the assistance of a procurement support team. Requires assistance in the evaluation of bids and negotiation of contracts. Provides for the composition of the procurement support team.

Proposed law repeals present law.

(Amends R.S. 24:673(A) and (C) and R.S. 39:197(13) and (16), 198(A), (B)(intro. para.) and (1), (C)(1), (D)(intro. para.), (1), and (2), (E)(intro. para.) and (4), (G)(intro. para.) and (1)(a), (c), and (d), (I), and (M); Adds R.S. 39:197(20)-(22), 1556(63), 1593(6)(f), and 1600.2; Repeals R.S. 39:198(G)(4) and 200(I))

Summary of Amendments Adopted by House

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

1. Authorize the Joint Legislative Committee on Technology and Cybersecurity (JLCTC) to approve budget requests, expenditure requests, or procurement requests.
2. Remove language concerning items that may be procured with an invitation to negotiate. Remove commodities or contractual services and replace with information technology systems, information technology services, software, professional services, or consulting services.
3. Authorize the office of technology services to enter into multi-year contracts for up to ten years, with an initial contract period of six years and two options to extend a contract for two-year extensions.
4. Authorize the office of technology services to award a contract for fiscal intermediary services with a total contract value of \$10 million or less using competitive sealed proposals or cooperative purchasing. Require this type of contract to be reviewed by JLCTC prior to the award of a contract.
5. Authorize the office of technology services to award a contract for fiscal intermediary services with a total contract value greater than \$10 million using competitive sealed proposals. Require this type of contract to issue specification for a solicitation of proposals to be made at least 12 months prior to the termination date of an existing contract. Require this type of contract to be in compliance with the requirements for all other multi-year contracts.
6. Change the authority to review and approve a fiscal intermediary contract, the option to renew, or an extension of a contract from the Joint Legislative Committee on the Budget (JLCB) to JLCTC.
7. Authorize state agencies to limit a proposal for fiscal intermediary services to a limited list of pre-qualified suppliers when using a competitive sealed proposal with a total contract value greater than \$10 million that references a prior fiscal intermediary services procurement approved by CMS and the prior procurement resulted in multiple pre-qualified suppliers.
8. Change the threshold for a multi-year contract to be reviewed and approved from \$2 million to \$10 million.
9. Change the authority to review and approve a multi-year contract for a period of more than three years or with a cost of more than \$10 million from JLCB to JLCTC. Remove the provision that the review of this type of contract would also apply to the extension of the contract.

10. Require JLCTC to conduct a public hearing to consider the approval of a contract no later than 30 days after the contract is submitted by the issuing agency. Authorize any contract not approved within the 30 days shall automatically be referred by the chairman of JLCTC to JLCB for review and approval.
11. Require any contract approved by JLCTC to be reported to JLCB.
12. Authorize the chairman of JLCTC, at his discretion, to refer any request for review and approval directly to JLCB.
13. Remove the requirement that pending multi-year contracts be reported to JLCTC.
14. Remove the language that an invitation to negotiate may be utilized for the acquisition of materials, supplies, services of any type, products, equipment, or consulting services of any monetary amount, including small purchases. Add language that the invitation to negotiate may be utilized for procurement of any monetary amount, including small purchases.
15. Provide that auction techniques and disclosure of information derived from competing proposals are prohibited during negotiations.
16. Remove language regarding ranking proposals or offers resulting from an invitation to negotiate.
17. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Restore source selection methods for the procurement of maintenance services, software, software maintenance and support services, and the purchase of equipment being leased or rented.
2. Change the review and approval a multi-year contract from those executed for a period of more than three years or with a cost of more than \$10 million to those executed for a period of more than three years and with a cost of more than \$10 million.
3. Require review and approval by JLCTC of an extension of a contract executed for a period of more than 3 years and with a cost of more than \$10 million if the extension would increase the total cost more than 5%.
4. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the reengrossed bill

1. Make technical changes.
2. Provide for definitions.
3. Provide that any agency of a statewide elected official or the office of technology services may enter into contracts for the lease or purchase of information technology systems, information technology services, software, and professional services contracts and consulting services contracts related to information technology.
4. Provide that any agency of a statewide elected official or the office of technology services that is engaged in an active multiyear contract as of August 1, 2024, shall have the option to extend those contracts through the office of state procurement.
5. Provide that state agencies may enter into contracts for fiscal intermediary services either by competitive sealed proposals, cooperative purchasing, or invitation to negotiate.
6. Require justification for the contract to be submitted to the Joint Legislative Committee on Technology and Cybersecurity at least 45 days prior to the issuance of a solicitation for proposals.
7. Provide that no award of a contract shall be made until the Louisiana Department of Health submits a notice of intention to award the contract to the Joint Legislative Committee on Technology and Cybersecurity.
8. Provides that the Joint Legislative Committee on Technology and Cybersecurity may hold a public hearing concerning the award within 30 days following the receipt of a notice of intention to award the contract.