

2024 Regular Session

HOUSE BILL NO. 845

BY REPRESENTATIVE DESHOTEL

1 AN ACT

2 To amend and reenact R.S. 24:673(A) and (C) and R.S. 39:197(13) and (16), 198(A),
3 (B)(introductory paragraph) and (1), (C)(1), (D)(introductory paragraph), (1), and
4 (2), (E)(introductory paragraph) and (4), (G)(introductory paragraph) and (1)(a), (c),
5 and (d), (I), and (M), to enact R.S. 39:197(20) through (22), 1556(63), 1593(6)(f),
6 and 1600.2, and to repeal R.S. 39:198(G)(4) and 200(I), relative to the procurement
7 of information technology; to provide for authority of certain legislative committees;
8 to provide for review of certain contracts; to provide for methods of procurement;
9 to provide for invitation to negotiate as a method of procurement; to provide for the
10 types of contracts that may be procured by certain methods; to provide relative to
11 contract terms; to provide relative to procurement support; and to provide for related
12 matters.

13 Be it enacted by the Legislature of Louisiana:

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

16 §673. Budget requests and expenditure requests; technology funds, fees, and
17 donations; review

18 A. ~~At the request of the Joint Legislative Committee on the Budget, the~~
19 ~~committee shall review any budget request or expenditure request~~ The committee
20 may review any budget request, expenditure request, or procurement request related
21 to technology or cybersecurity. The committee shall review and approve a budget
22 request, expenditure request, or procurement request if required by law or requested
23 by the Joint Legislative Committee on the Budget. The committee shall perform its
24 review and submit its comments and recommendations ~~regarding the request~~ to the
25 Joint Legislative Committee on the Budget in a timely manner.

26 * * *

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

4 Section 2. R.S. 39:197(13) and (16), 198(A), (B)(introductory paragraph) and (1),
5 (C)(1), (D)(introductory paragraph), (1), and (2), (E)(introductory paragraph) and (4),
6 (G)(introductory paragraph) and (1)(a), (c), and (d), (I), and (M) are hereby amended and
7 reenacted and R.S. 39:197(20) through (22), 1556(63), 1593(6)(f), and 1600.2 are hereby
8 enacted to read as follows:

9 §197. Definitions

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

12 * * *

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

15 ~~(a) Contracts~~ between a supplier of information technology systems,
16 information technology services, and software and the state or a state agency through
17 which information technology systems, information technology services, and
18 software, except for fiscal intermediary services, may be leased or purchased for a
19 term of more than one fiscal year, but the term shall not exceed sixty months.

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

21 * * *

22 (16) "Related services" means and is limited to service activities affecting the
23 maintenance of information technology equipment or software and the providing of
24 fiscal intermediary services. ~~Notwithstanding any other provisions of law to the~~
25 ~~contrary, "related services" shall also mean~~ and shall also include those consulting
26 services ancillary to the procurement of information technology hardware or
27 software that would otherwise be governed by the provisions of professional,
28 personal, consulting, and social services procurement in Chapter 17 of Subtitle III
29 of this Title. Except for consulting services ancillary to the procurement of fiscal
30 intermediary services by cooperative purchasing, such ~~provided those~~ consulting
31 services are contracts shall be limited to the lesser of twenty percent of the
32 procurement amount or two hundred fifty thousand dollars.

33 * * *

1 to bid format may be utilized with written approval from the state chief information
2 officer:

3 * * *

4 D. The office of technology services, through the office of state
5 procurement, may on behalf of any state agency, enter into a an information
6 technology systems lease contract for an operating lease, installment purchase, or
7 financed lease for information technology systems in accordance with the following
8 provisions:

9 (1) All contracts of this type shall be entered into ~~through a request for~~
10 ~~proposals as provided in R.S. 39:199.~~ using one of the methods of source selection
11 provided in R.S. 39:199, 200, 1594, 1595, 1600(D), 1600.2, and 1702.

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

16 * * *

17 E. ~~Notwithstanding the provisions of R.S. 39:1615 to the contrary, the~~ The
18 use of a multi-year contract for information technology systems, and information
19 technology services, and professional services contracts and consulting services
20 contracts related to information technology shall be in accordance with rules and
21 regulations and under the following conditions:

22 * * *

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

27 * * *

28 G. Multiyear contracts other than direct order contracts ~~and contracts for~~
29 ~~fiscal intermediary services.~~ Any agency of a statewide elected official or the office
30 of technology services, whether acting in their own capacity or on behalf of any
31 other state agency, through the office of state procurement, may ~~State agencies may~~
32 enter into contracts for the lease or purchase of information technology systems,
33 information technology services, ~~or software,~~ and professional services contracts and

1 consulting services contracts related to information technology when the term of
2 such lease or purchase is greater than twelve months or involves more than one fiscal
3 year in accordance with the following provisions:

4 (1) General terms and conditions for multiyear contracts shall be as follows:

5 (a) All contracts of this type shall be entered into ~~through competitive sealed~~
6 bidding using one of the methods of source selection as provided in R.S. 39:199,
7 200, 1594, 1595, 1600(D), 1600.2, and 1702.

8 * * *

9 (c)(i) The term of such contract shall ~~not exceed sixty months~~ be in
10 accordance with Subsections B, C, and D of this Section.

11 (ii) Notwithstanding Item (i) of this Subparagraph, contracts for electronic
12 benefits issuance system services as required pursuant to R.S. 46:450.1 may be
13 entered into for periods of up to ten years. The contracts shall be for an initial
14 contract period of six years with the state having two options for two-year extensions
15 up to a maximum of ten years.

16 (iii) Notwithstanding Item (i) of this Subparagraph and Subsection I of this
17 Section, contracts of this type may be entered into for periods of up to ten years with
18 approval from the Joint Legislative Committee on Technology and Cybersecurity.
19 The contracts shall be for an initial contract period of no more than six years with the
20 state having two options for two-year extensions up to a maximum of ten years.

21 (iv) Any agency of a statewide elected official or the office of technology
22 services, whether acting in their own capacity or on behalf of any other state agency,
23 that is engaged in an active multiyear contract as of August 1, 2024, shall have the
24 option to extend those contracts through the office of state procurement, in
25 accordance with the provisions of Items (i) through (iii) of this Subparagraph.

26 (d)(i) All such contracts ~~must~~ shall contain the following annual
27 appropriation dependency clause:

28 "The continuation of this contract is contingent upon the continuation of an
29 appropriation of funds by the legislature to fulfill the requirements of the contract.
30 If the legislature fails to appropriate sufficient monies to provide for the continuation
31 of a contract or if such appropriation is reduced by the veto of the governor or by any
32 means provided in the Appropriation Act or Title 39 of the Louisiana Revised
33 Statutes of 1950 to prevent the total appropriations for the year from exceeding

1 revenues for that year or for any other lawful purpose and the effect of such
 2 reduction is to provide insufficient monies for the continuation of the contract, the
 3 contract shall terminate on the date of the beginning of the first fiscal year for which
 4 funds are not appropriated."

5 (ii) When funds are not appropriated or otherwise made available to support
 6 continuation of performance in the following fiscal year of a multiyear contract for
 7 professional or consulting services, the contract for the remaining term shall be
 8 cancelled and the contractor shall be reimbursed in accordance with the terms of the
 9 contract for the reasonable value of any nonrecurring costs incurred but not
 10 amortized in the price of services delivered pursuant to the contract. The cost of
 11 cancellation may be paid from appropriations made specifically for the payment of
 12 such cancellation costs or from unobligated funds of the using agency.

13 (iii) With respect to all multiyear contracts for professional services and
 14 consulting services pursuant to this Subsection, there shall be no provisions for a
 15 penalty to the state for cancellation or early payment of the contract.

16 * * *

17 I. Contracts for fiscal intermediary services. State agencies may enter into
 18 contracts for fiscal intermediary services either by competitive sealed proposals,
 19 cooperative purchasing, or invitation to negotiate. All contracts for fiscal
 20 intermediary services shall be subject to approval by the Joint Legislative Committee
 21 on the Budget.

22 (1) If the agency uses the competitive sealed proposals procurement method,
 23 the procurement shall be made in accordance with R.S. 39:1595 and the ~~The~~ term of
 24 the contract shall be one hundred twenty months. If special circumstances, as
 25 provided in Paragraph (9) of this Subsection Subparagraph (h) of this Paragraph,
 26 necessitate, additional one-year extensions of the contract for up to three years may
 27 be granted. The award process and final contract shall include all of the following:

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

31 ~~(2)~~(a) Justification for the contract shall be submitted to the state central
 32 purchasing agency and shall be submitted to the Joint Legislative Committee on ~~the~~
 33 ~~Budget~~ Technology and Cybersecurity at least forty-five days prior to the issuance

1 of a solicitation for proposals. Within thirty days of receipt of the justification by the
 2 Joint Legislative Committee on ~~the Budget~~ Technology and Cybersecurity, the
 3 committee may conduct a public hearing on the justification which was submitted.
 4 This justification shall include identification and consideration of all factors,
 5 including costs, relevant to the solicitation for proposals and the final contract.

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

13 ~~(4)~~(c) In addition to other provisions as required by law or in the best
 14 interests of the state, such contract shall contain provisions setting forth all of the
 15 following; ~~(a)~~(i) the amount and requirements of the contractor's performance bond,
 16 ~~(b)~~(ii) penalty and enforcement provisions for the failure of the contractor to perform
 17 in accordance with the contract documents, ~~(c)~~(iii) conditions for optional renewal
 18 of the contract by the state in accordance with the provisions of this Subsection, and
 19 ~~(d)~~(iv) requirements for termination of the contract by the state at any time, or for
 20 cause, or upon the refusal of the state to exercise an option to renew such contract.

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

25 ~~(6)~~(e) No award of the contract shall be made until the ~~Joint Legislative~~
 26 ~~Committee on the Budget~~ has conducted a public hearing concerning the award.
 27 following criteria have been satisfied:

28 (i) The Louisiana Department of Health submits to the Joint Legislative
 29 Committee on Technology and Cybersecurity a notice of intention to award the
 30 contract. The Joint Legislative Committee on Technology and Cybersecurity may
 31 hold a public hearing concerning the award within thirty days following the receipt
 32 of a notice of intention to award the contract.

1 (ii) The Joint Legislative Committee on Technology and Cybersecurity has
 2 conducted a public hearing concerning the award or thirty days have elapsed from
 3 the date the Louisiana Department of Health submitted a notice of intention to award
 4 the contract to the Joint Legislative Committee on Technology and Cybersecurity
 5 and the committee has not posted a public notice of meeting concerning the award
 6 of the contract.

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

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

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

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

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

28 ~~(9)~~(h) In the event the Louisiana Department of Health or the United States
 29 Department of Health and Human Services, Centers for Medicare and Medicaid
 30 Services proposes substantial changes in the operations of the Medicaid program that
 31 would materially impact the services performed by the fiscal intermediary, the
 32 Louisiana Department of Health may, subject to the approval of the Joint Legislative
 33 Committee on ~~the Budget~~ Technology and Cybersecurity, approve additional

1 extensions of the contract until it is practical to prepare a solicitation for proposals
 2 describing the revised services that would be performed by the fiscal intermediary.
 3 During the time frame covered by any extension beyond the original one-hundred-
 4 twenty-month period, the fiscal intermediary may be required to perform additional
 5 functions to assist in preparing the Louisiana Department of Health in the transition
 6 to the new program. These functions may include existing fiscal intermediary
 7 services as well as efforts to control fraud and abuse, program reports, beneficiary
 8 enrollment and program information services, encounter data, and annual managed
 9 care negotiation data.

10 (2) Notwithstanding any provision of this Part to the contrary, if the agency
 11 uses the cooperative purchasing procurement method, the procurement shall be
 12 governed exclusively by the provisions of Part VII of Chapter 17 of Subtitle III of
 13 this Title and the applicable rules and regulations and shall not be subject to protest
 14 under any provision of Chapter 17 of Subtitle III of this Title.

15 (3) Notwithstanding any provision of this Part to the contrary, if the agency
 16 uses the invitation to negotiate procurement method, the procurement shall be
 17 governed exclusively by the provisions of R.S. 39:1600.2 and the applicable rules
 18 and regulations.

19 * * *

20 ~~M.(1)(a) Any contract entered into for a period of more than three years as~~
 21 ~~authorized by this Section shall be subject to prior approval of the Joint Legislative~~
 22 ~~Committee on the Budget. No award of any contract procured for a period of more~~
 23 ~~than three years, inclusive of contract extension options, and with a cost of more than~~
 24 ~~ten million dollars shall be made until the contract is reviewed and approved by the~~
 25 ~~Joint Legislative Committee on Technology and Cybersecurity. If an extension of~~
 26 ~~any contract procured for a period of more than three years, inclusive of contract~~
 27 ~~extension options, and with a cost of more than ten million dollars would increase~~
 28 ~~the total contract cost more than five percent, then the extension shall not be~~
 29 ~~executed until after the extension is reviewed and approved by the Joint Legislative~~
 30 ~~Committee on Technology and Cybersecurity.~~

31 (b) The issuing agency shall submit the contract for review and approval by
 32 the Joint Legislative Committee on Technology and Cybersecurity. The Joint
 33 Legislative Committee on Technology and Cybersecurity shall conduct a public

1 hearing to consider approval of the award no later than thirty days after the contract
2 is submitted by the issuing agency. Any request not approved within thirty days
3 after the contract is submitted by the issuing agency shall automatically be referred
4 by the chairman of the Joint Legislative Committee on Technology and
5 Cybersecurity to the Joint Legislative Committee on the Budget for review and
6 approval.

7 (c) Any contract approved by the Joint Legislative Committee on
8 Technology and Cybersecurity pursuant to this Subsection shall be reported to the
9 Joint Legislative Committee on the Budget.

10 (d) The chairman of the Joint Legislative Committee on Technology and
11 Cybersecurity may, at his discretion, refer any request for review and approval
12 directly to the Joint Legislative Committee on the Budget.

13 (2) The office of technology services shall submit a monthly report of all
14 multiyear contracts with a cost of more than one million dollars to the Joint
15 Legislative Committee on Technology and Cybersecurity.

16 (3) No award of any contract procured through an invitation to negotiate
17 pursuant to this Part shall be made until after the contract has been reviewed by the
18 Joint Legislative Committee on Technology and Cybersecurity.

19 * * *

20 §1556. Definitions

21 As used in this Chapter, the words defined in this Section shall have the
22 meanings set forth below, unless the context in which they are used clearly requires
23 a different meaning or a different definition is prescribed for a particular Part or
24 provision:

25 * * *

26 (63) "Invitation to negotiate" means a written or electronically posted
27 solicitation for competitive sealed replies to select one or more vendors with which
28 to commence negotiations for the procurement of information technology systems,
29 information technology services, software, professional services, or consulting
30 services.

31 * * *

1 §1593. Methods of source selection

2 Unless otherwise authorized by law, all state contracts shall be awarded by
3 one of the following methods:

4 * * *

5 (6) R.S. 39:1600, other procurement methods:

6 * * *

7 (f) Invitation to negotiate.

8 * * *

9 §1600.2. Invitation to negotiate

10 A. Notwithstanding any other provision of law to the contrary, with the
11 written determination by the state chief procurement officer that the best interest of
12 the state would be served, especially where the business need is complex or requires
13 innovation, an invitation to negotiate may be utilized for procurements of any
14 monetary amount, including small purchases.

15 B. Before issuing an invitation to negotiate, the state chief procurement
16 officer shall determine and specify in writing that procurement by the other methods
17 of source selection provided in R.S. 39:199, 200, 1594, 1595, 1600(D), and 1702 are
18 not practicable.

19 C. The invitation to negotiate shall describe the questions being explored, the
20 facts being sought, and the specific goals or problems that are the subject of the
21 solicitation, and shall be subject to all of the following conditions:

22 (1) The solicitation shall specifically allow for the possibility of negotiation
23 and describe, with as much specificity as possible, how negotiations may be
24 conducted.

25 (2) Only those vendors whose proposals or offers are determined to be
26 acceptable, in accordance with criteria for negotiations set forth in the solicitation,
27 shall be candidates for negotiations.

28 (3) Negotiations shall be conducted with all acceptable candidates in
29 accordance with the terms of the solicitation.

30 (4) Auction techniques and disclosure of information derived from
31 competing proposals are prohibited while negotiations are underway.

32 (5) Any clarifications or changes resulting from negotiations shall be
33 documented in writing.

1 (6) If negotiations as provided for in this Section fail to result in a contract,
2 as determined by the office of state procurement, the solicitation may be canceled.

3 D. The office of state procurement may terminate negotiations at any time,
4 in the best interest of the state, and shall provide the reasons therefore in writing.

5 E. The contract file for the vendor selection through an invitation to
6 negotiate shall contain a short plain statement that explains the basis for the selection
7 of the vendor and that sets forth the vendor's deliverables and price, pursuant to the
8 contract, along with an explanation of how the deliverables and price provide the
9 best value to the state.

10 F. In accordance with the Administrative Procedure Act, the division of
11 administration, office of state procurement, is hereby authorized and directed to
12 adopt and promulgate rules necessary for the administration of the provisions of this
13 Section.

14 Section 3. R.S. 39:198(G)(4) and 200(I) are hereby repealed in their entirety.

15 Section 4. The Louisiana State Law Institute is hereby authorized and directed to
16 arrange in alphabetical order and renumber the definitions provided in R.S. 39:197 and 1556
17 as amended by this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____