
DIGEST

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HB 42 Reengrossed

2016 First Extraordinary Session

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Abstract: Requires a contracting entity to submit information and documents to the legislative auditor prior to entering into a contract with a state agency. Prohibits contracting entities from receiving monies and prohibits state agencies paying monies to or entering into contracts with contracting entities unless requirements are met.

Proposed law requires each contracting entity prior to entering into or renewing a contract with a state agency to submit the following information to the legislative auditor in an electronic format designated by the legislative auditor:

- (1) If a legal entity, the official name and domicile address of the contracting entity as reflected in documentation submitted to the secretary of state's office or if a natural person, the full name and address of the contracting entity.
- (2) If a legal entity, a complete and accurate listing of the owners of the contracting entity, whether in title or beneficial (unless it is publicly traded), and a complete and accurate listing of the board of directors or equivalent governing body, if any, and officers, if any, of the contracting entity.
- (3) Documentation certifying that all applicable federal, state, and payroll taxes owed by the contracting entity have been paid and are current.
- (4) Documentation certifying that the contracting entity has a financial statement for its most recent, completed fiscal year that has been compiled by or attested to by a certified public accountant, or if the contracting entity is a nonprofit organization, documentation certifying that the contracting entity has filed a current Form 990 as required by the Internal Revenue Code along with a copy of the financial statement or Form 990.
- (5) Information indicating the type or nature of the contract with the state agency, including how the contract was let, the value of the contract, and the name of each state agency which is a party to the contract.
- (6) If the contracting entity is currently subject to the audit requirements of present law (R.S. 24:513), documentation certifying the contracting entity has submitted the required reports to the legislative auditor.
- (7) The names and addresses of all agents, registered lobbyists, and persons lobbying (as defined

pursuant to the present law regarding executive branch and legislative branch lobbying) on behalf of the contracting entity relative to a contract or potential contract with the state or an appropriation or grant.

- (8) Any additional information required to determine compliance with the minimum qualifications to contract with a state agency or receive state monies (established by the Legislative Audit Advisory Council).
- (9) Documentation of the percentage of minority, women, veteran, and Louisiana-based ownership of the contracting entity (unless it is publicly traded).

Proposed law requires the legislative auditor to establish a system to evaluate information submitted subject to the approval of the Legislative Audit Advisory Council and to evaluate and determine whether the information submitted by a contracting entity is complete and accurate. Provides that if it is, he shall immediately place the name of the entity on the list of approved contracting entities and shall post and keep an updated list on his website. Proposed law further requires the legislative auditor to establish criteria to remove a contracting entity from the list of approved contracting entities, subject to the approval of the Legislative Audit Advisory Council.

Proposed law provides that a contracting entity which appears on the list of approved contracting entities on the legislative auditor's website shall be eligible to request and receive state monies and any entity which is not on the list is ineligible. Proposed law prohibits an agency from paying monies pursuant to a contract to a contracting entity unless the contracting entity is on the list of approved contracting entities on the legislative auditor's website. Further prohibits an agency from contracting with a contracting entity, unless the entity is on the list of approved contracting entities on the legislative auditor's website (provides a limited exception for certain contracts with the Dept. of Economic Development).

Proposed law defines "state agency", "contract", "contracting entity", "governmental entity", and "person" for its purposes. Specifically excludes governmental entities; any public, private, or parochial school, college, or university; and any electric power cooperative or provider or investor owned public utility that is regulated by the Public Service Commission (PSC) or by the governing authority of the city of New Orleans from the term "contracting entity". Specifically excludes from the term "contract" specified contracts entered into by the Dept. of Revenue and the Dept. of Economic Development.

Proposed law requires the legislative auditor to maintain the information submitted pursuant to proposed law on his website (excluding the financial statement or Form 990) and to provide for the ability for the public to easily obtain information regarding each contracting entity, including links to any relevant appropriation or capital outlay information and relevant contract information maintained by the commissioner of administration's website pursuant to present law (R.S. 39:6). Further requires the legislative auditor to work with the commissioner of administration as necessary to ensure compliance with proposed law.

Effective July 1, 2016; except provides that the requirements on contracting entities contained in

proposed law shall become effective on Jan. 1, 2017, and shall apply to contracts and renewals of contracts executed on or after Jan. 1, 2017; the prohibitions on contracting entities and state agencies contained in proposed law shall become effective on July 1, 2017. Provides that the legislative auditor, Legislative Audit Advisory Council, and the commissioner of administration shall take all actions necessary to provide for the orderly implementation of proposed law prior to Jan. 1, 2017.

(Adds R.S. 24:525 and R.S. 39:366.7)

Summary of Amendments Adopted by House

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

1. Require a contracting entity to submit documentation of the percentage of minority, women, and local ownership of a contracting entity to the Legislative Auditor.
2. Change the requirement regarding the submission of information for certain Dept. of Economic Development contracts from no later than 30 days after the contract is executed to no less than 30 days prior to execution of the contract.

The House Floor Amendments to the engrossed bill:

1. Change the requirement on the contracting entity to submit certain information to the auditor regarding ownership, to instead require a contracting entity to submit documentation of the percentage of minority, women, veteran, and Louisiana-based ownership of a contracting entity, unless it is a publicly traded entity.
2. Change the requirement regarding the submission of information for certain Dept. of Economic Development contracts from no less than 30 days prior to the executive of the contract to no later than 30 days after the execution of the contract.
3. Exclude a copy of the contracting entity's most recent financial statement or, if a nonprofit, a copy of its most recent Form 990 from the information the auditor is required to maintain on his website.