

2020 Regular Session

HOUSE BILL NO. 639

BY REPRESENTATIVE DUSTIN MILLER

HEALTH SERVICES: Provides with respect to fiscal intermediary services contracts in state information technology procurement

1 AN ACT

2 To amend and reenact R.S. 39:197(6) through (18) and 198(G)(introductory paragraph) and
3 (I)(introductory paragraph), (1), (5), and (9) and to enact R.S. 39:197(19), relative
4 to procurement of fiscal intermediary services contracts; to provide for definitions;
5 to provide with respect to multi-state procurement; to provide with respect to
6 procurement processes and requirements; to provide with respect to terms of such
7 contracts; to provide with respect to requirements of such contracts relative to
8 contract extensions; to provide for technical changes; and to provide for related
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 39:197(6) through (18) and 198(G)(introductory paragraph) and
12 (I)(introductory paragraph), (1), (5), and (9) are hereby amended and reenacted and R.S.
13 39:197(19) is hereby enacted to read as follows:

14 §197. Definitions

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

17 * * *

18 (6) "Fiscal Intermediary Services" includes, but is not limited to, enterprise
19 architecture, third-party liability, financial management, provider management

1 system, care management, health care claims and encounter processing, payment
2 integrity, data warehousing, and pharmacy benefit management.

3 (7) "Information technology service contract" means a contract for the
4 procurement of information technology services to include but not be limited to
5 software as a service, infrastructure as a service, platform as a service, application
6 hosting services, or installation and configuration services.

7 ~~(7)~~(8) "Information technology systems", which shall include information
8 technology equipment and related services, and "information technology services"
9 are limited to the equipment and services and means to provide:

- 10 (a) Server systems and services.
- 11 (b) Storage systems and services.
- 12 (c) Information technology security systems and services.
- 13 (d) Related peripheral systems and services.
- 14 (e) Software and software application services.
- 15 (f) Infrastructure and platform systems and services.
- 16 (g) Desktop computing systems and services.
- 17 (h) Geographic information systems and services.
- 18 (i) Mobile device systems and services.
- 19 (j) Any and all systems and services based on emerging and future
20 information technologies relating to Subparagraphs (a) through (i) of this Paragraph.

21 ~~(8)~~(9) "Information technology systems contract" means a contract for the
22 procurement of information technology systems including equipment and related
23 services to include but not be limited to installation and maintenance.

24 ~~(9)~~(10) "Information technology systems lease contract" means a contract
25 between a supplier of information technology systems and the division of
26 administration, office of technology services, or the procuring agency, through which
27 information technology systems may be procured for a term which shall not exceed
28 ten years. The contract may be either an operating lease, installment purchase, or a
29 financed lease without a balloon payment.

1 ~~(10)~~(11) "Installment-payment contract" means a contract which amends and
2 is incorporated into a purchase contract and is utilized to finance with the vendor the
3 purchase of certain equipment, including but not limited to information technology,
4 desktop computers, server systems, storage systems, mobile computing systems,
5 peripheral systems, software, related services, and related supplies or a contract
6 which itself alone is utilized to procure such equipment from a contractor and
7 provides therein for payment in a set of installments over a fixed period of time. An
8 installment payment contract shall arrange for a method of financing with payment
9 being made in a set of installment payments over a fixed period of time in
10 accordance with the provisions of the contract and shall provide for the vendor to
11 deliver title to the governmental body in accordance with such terms.

12 ~~(11)~~(12) "Master agreement" means an agreement between the state and a
13 vendor which specifies the general terms and conditions under which parties will
14 routinely conduct procurement business.

15 ~~(12)~~(13) "Multi-year contract" means contracts for a term of more than one
16 year, not to exceed ten years and includes the following:

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

23 (b) Contracts for fiscal intermediary services ~~for the processing of claims~~
24 ~~received from health care providers~~.

25 ~~(13)~~(14) "Procurement" means the selling, buying, purchasing, renting,
26 leasing, or otherwise obtaining information technology systems, information
27 technology services, or its related software, as well as all activities engaged in,
28 resulting in, or expected to result in the selling, buying, purchasing, renting, leasing,

1 or otherwise obtaining information technology systems, information technology
2 services, or its related software by the state or its agencies.

3 ~~(14)~~(15) "Purchase contract" means a contract that is utilized for the direct
4 acquisition of certain equipment, including but not limited to information
5 technology, desktop computers, server systems, storage systems, mobile computing
6 systems, peripheral systems, software, and related services. Such contract shall
7 contain the terms and conditions pertinent to the rights and obligations of both the
8 state and the vendor. Any purchase by direct acquisition under the terms of the
9 purchase contract will require one single payment, and title shall pass to the state
10 upon the date of purchase as defined in the contract unless the purchase contract is
11 amended by an installment payment contract.

12 ~~(15)~~(16) "Related services" means and is limited to service activities
13 affecting the maintenance of information technology equipment or software and the
14 providing of fiscal intermediary services ~~in processing claims of health care~~
15 ~~providers~~. Notwithstanding any other provisions of law to the contrary, "related
16 services" shall also mean those consulting services ancillary to the procurement of
17 information technology hardware or software that would otherwise be governed by
18 the provisions of professional, personal, consulting, and social services procurement
19 in Chapter 17 of this Title, provided those consulting services are limited to the
20 lesser of twenty percent of the procurement amount or two hundred fifty thousand
21 dollars.

22 ~~(16)~~(17) "Rental contract" means and includes contracts between a supplier
23 of information technology equipment and the state, or a state agency, through which
24 information technology equipment may be leased for a term not to exceed one fiscal
25 year, such contracts to include the right of termination by the state upon notice of
26 ninety days or less, and to be renewable, upon review and recommendations of the
27 procurement support team and review and approval by the office of technology
28 services, with such renewal to be limited to one additional term not to exceed twelve
29 months.

1 ~~(17)~~(18) "Software" means computer programs and documentation essential
 2 to and necessary for an information technology system or information technology
 3 service to perform productive operations.

4 ~~(18)~~(19) "Utility" means any information technology service provided by the
 5 office of technology services and used in the essential operations of a state agency,
 6 such as system authentication, data replication, and system utilization and
 7 performance management.

8 §198. Types of contracts permitted

9 * * *

10 G. Multiyear contracts other than direct order contracts and contracts for
 11 fiscal intermediary services ~~in processing claims of health care providers~~. State
 12 agencies may enter into contracts for the lease or purchase of information technology
 13 systems, information technology services, or software when the term of such lease
 14 or purchase is greater than twelve months or involves more than one fiscal year in
 15 accordance with the following provisions:

16 * * *

17 I. Contracts for fiscal intermediary services ~~in processing claims of health~~
 18 ~~care providers~~. State agencies may enter into contracts for fiscal intermediary
 19 services ~~in processing claims of health care providers~~. The term of such a contract
 20 shall be one hundred twenty months. In the event special circumstances, as provided
 21 in Paragraph (9) of this Subsection, necessitate, additional one-year extensions of the
 22 contract may be granted. The award process and final contract shall include the
 23 following:

24 (1) Contracts for fiscal intermediary services ~~in processing claims of health~~
 25 ~~care providers~~ shall be awarded by a competitive selection process which shall list
 26 in the solicitation for proposals the method by which the contract shall be awarded
 27 and include all criteria to be used and the weights assigned to each criterion.
 28 Notwithstanding any provision of law to the contrary, contracts for fiscal
 29 intermediary services may be procured through multi-state procurement, provided

1 such procurement meets the competitive selection process established in this
2 paragraph. The procedure for issuance of the solicitation for proposals shall be in
3 accordance with guidelines published by the state central purchasing agency. The
4 selection of the contractor shall be made by the head of the using agency only in
5 accordance with the method and criteria as set forth in the solicitation for proposals
6 and in accordance with the recommendation of the procurement support team.

7 * * *

8 (5) Issuance of specifications for a solicitation for proposals on a contract for
9 fiscal intermediary services ~~in processing claims of health care providers~~ shall be
10 made at least twelve months prior to the termination date of an existing contract,
11 unless the contract termination is for cause or due to the refusal of the state to
12 exercise an option to renew.

13 * * *

14 (9) In the event the Louisiana Department of Health or the United States
15 Department of Health and Human Services, Centers for Medicare and Medicaid
16 Services proposes substantial changes in the operations of the Medicaid program that
17 would materially impact the services performed by the fiscal intermediary, the
18 Louisiana Department of Health may, subject to the approval of the House and
19 Senate committees on health and welfare, approve additional extensions of the
20 contract until such time as it is practical to prepare a solicitation for proposals
21 describing the revised services that would be performed by the fiscal intermediary.
22 During the time frame covered by any extension beyond the original one-hundred-
23 twenty-month period, the fiscal intermediary may be required to perform additional
24 functions to assist in preparing the Louisiana Department of Health in the transition
25 to the new program. Such functions ~~shall~~ may include existing fiscal intermediary
26 services as well as efforts to control fraud and abuse, program reports, beneficiary
27 enrollment and program information services, encounter data, and annual managed
28 care negotiation data.

29 * * *

1 Section 2. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 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 639 Original

2020 Regular Session

Dustin Miller

Abstract: Expands the definition of "fiscal intermediary services" with respect to state information technology procurement.

Present law sets forth the procedures and regulations for state procurement of information technology systems and services. Proposed law retains present law.

Present law with respect to procurement of information technology systems and services restricts "fiscal intermediary services" to contracts for the processing of claims of health care providers. Proposed law expands the definition to include, for example, "enterprise architecture, third-party liability, financial management, provider management system, care management, health care claims and encounter processing, payment integrity, data warehousing, and pharmacy benefit management."

Present law authorizes multiyear contracts for fiscal intermediary services in processing claims of health care providers. Proposed law authorizes multiyear contracts for fiscal intermediary services as defined in proposed law.

Present law restricts contracts for fiscal intermediary services in processing claims of health care providers to terms of one hundred and twenty months. Proposed law authorizes one hundred and twenty-month terms for fiscal intermediary services contracts as defined in proposed law.

Present law authorizes award of a fiscal intermediary services contract upon completion of a competitive selection process outlined in present law. Proposed law retains present law and further authorizes contracts for fiscal intermediary contracts to be awarded through "multi-state procurement," provided the procurement process matches the competitive selection process in present law.

Present law requires the fiscal intermediary to perform certain functions after their original contract has expired and before a new contract is entered into. These functions include efforts to control fraud and abuse, program reports, encounter data, and enrollment and program information services. Proposed law changes this requirement from mandatory to permissive.

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

(Amends R.S. 39:197(6)-(18) and 198(G)(intro. para.) and (I)(intro. para.), (1), (5), and (9); Adds R.S. 39:197(19))