

RÉSUMÉ DIGEST

SB 132

2020 Regular Session

Henry

Present law provides for the conditions that shall be satisfied prior to the state procurement officer or an assistant approving professional, personal, consulting, or social services contracts:

- (1) All provisions of R.S. 39:1623 have been complied with.
- (2) The using agency has statutory authority to enter into the proposed contract.
- (3) The contract will not establish an employer/employee relationship between the state or the using agency and any prospective contractor.
- (4) No current state employee will engage in the performance of the proposed contract except as provided for in R.S. 39:1626.
- (5) No using agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract without appropriate written justification.
- (6) There has been appropriated or otherwise lawfully made available and ready for expenditure sufficient monies for payment of the services called for in the contract, at least for the applicable fiscal year.
- (7) The contracting using agency has specified the purpose, duration, specific goals and objectives, measures of performance, and a plan for monitoring the services to be provided under the contract.
- (8) The using agency has a written plan for the monitoring of the contract and such monitoring plan has been submitted in accordance with rules and regulations adopted by the office of state procurement.
- (9) The provisions of R.S. 12:25(E) have been complied with, if the contract is with a business corporation, the provisions of R.S. 12:205(E) have been complied with, if the contract is with a nonprofit corporation, or the provisions of R.S. 12:304(A)(11) have been complied with, if the contract is with a foreign corporation.
- (10) The prospective contractor is current in the filing of all applicable tax returns and reports, and in payment of all taxes, interest, penalties, and fees owed to the state and collected by the Department of Revenue in accordance with R.S. 47:1678.

Proposed law would retain present law and provide that, prior to the state chief procurement officer or an assistant approving any contract with a value greater than or equal to \$25 million annually, the state chief procurement officer or an assistant shall verify that the following has occurred:

- (1) The state agency entering into contract with a value greater than or equal to \$25 million annually has received the approval of the Joint Legislative Committee on the Budget (JLCB) to enter into the contract.
- (2) If the request for proposal process was utilized in the procurement process for a contract with a value greater than or equal to \$25 million annually, the state agency notified the JLCB of the potential cost of such contract prior to the issuance of the request for proposals, provided that such cost was reasonably anticipated at the time of issuance.

Proposed law would further provide that the provisions of present law apply to cooperative endeavor agreements for professional, personal, consulting, or social services that have a value of \$25 million or more.

Proposed law would prohibit application of proposed law during a state of emergency declared pursuant to present law.

Present law allows state agencies to enter into contracts for fiscal intermediary services in processing claims of health care providers. Requires the award process and the final contract to meet certain criteria, including approval by the House and Senate committees on health and welfare.

Proposed law would retain present law and moves the approval authority from the House and Senate committees on health and welfare to JLCB.

Would have been effective July 1, 2020.

(Proposed to amend R.S. 39:198(I)(2), (6), (8)(b) and (c), and (9); add R.S. 39:1624(C)-(E))

VETO MESSAGE: "Please be advised that I have vetoed Senate Bill 132 of the 2020 Regular Session.

Senate Bill 132 requires that the Joint Legislative Committee on the Budget (JLCB) approve any contract or cooperative endeavor agreement with a value greater than or equal to \$25 million. This requirement violates Article 2, Section 2 of the Louisiana Constitution in that it requires legislative approval of a purely executive branch function, namely, the execution of contracts and CEAs. However, this does not mean that the legislature does not have a significant role in oversight of executive branch functions, including contracts, as the legislature alone has the authority of appropriation. All executive branch contracts are subject to legislative appropriation. Further, I have ensured that my administration has fully cooperated with and respected the authority of the entire legislature and JLCB. I do not believe there has ever been a single instance where anyone in my administration has refused to appear before a legislative committee, including the JLCB. That will continue as long as I am Governor. However, I cannot support a bill that cedes a purely executive branch function to the legislature."