

RÉSUMÉ DIGEST

ACT 5 (SB 151)

2025 Regular Session

Mizell

Existing law establishes the La. Procurement Code (R.S. 39:1551, et seq.) to provide for procurement by public bodies, including provisions for procurement regulations, source selection for items to be purchased and methods for such purchases, bid procedures, types of contracts, specifications, contract modification, termination and contract clauses, legal and contractual remedies, administrative appeals, and cooperative purchasing. New law modifies the La. Procurement Code as detailed below:

Advertisement Requirements

Prior law required adequate public notice of an invitation for bids for small purchases at least 10 days prior to the date set for the opening of bids. New law reduces the time for adequate public notice from 10 days to five days and otherwise retains prior law.

Prior law required notice and advertising for small purchases in excess of \$25,000. New law eliminates the \$25,000 threshold for small purchases and authorizes the monetary threshold for small purchases to be set by executive order.

Prior law required public notice and advertising for competitive sealed bid procurement methods in the official journal of the state. New law removes this requirement and instead authorizes advertisement in the official journal of the state.

Prior law required competitive sealed proposals to be advertised in the official journal of the state at least 30 days before the last day proposals would be accepted. New law instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids. New law allows the agency to also advertise in the official journal of the state and other print media, depending upon the type of service being procured.

Prior law required the agency to provide written notice of certain competitive sealed proposals to persons, firms, or corporations in a position to furnish the required services at least 30 days before the last day proposals would be accepted. New law allows this contact to be made electronically.

Prior law required advertisements for requests for proposals (RFPs) for applicable consulting service contracts to be placed in national trade journals which served the particular contract for consulting services. New law removes this requirement and instead permits this method of advertisement and further requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids.

Prior law required certain social services contracts not qualifying under prior law to be advertised in the official journal of the state, in the official journal of the parish in which the services were to be performed and other media as appropriate in the circumstance at least once 30 days before the last day proposals will be accepted. New law instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids, and allows the agency to also advertise in the official journal of the state, in the official journal of the parish in which the services are to be performed, and other media as appropriate.

Prior law required consulting contracts entered into outside of DOTD with a maximum compensation of \$50,000 or more to be advertised in the official journal of the state and in one or more newspapers of general circulation in the state 30 days before the last day proposals would have been accepted. New law increases this threshold to \$150,000 or more and instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids.

Prior law required consulting contracts entered into by DOTD with a maximum compensation of \$50,000 or more to be advertised in the official journal of the state, with the first notice appearing at least 15 days before the last day proposals would have been

accepted. New law increases this threshold to \$150,000 or more and instead requires advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids.

Competitive Sealed Bid Process

Prior law authorized competitive sealed proposal procurement to be utilized in certain circumstances with the approval of the commissioner of administration and written determination by the state chief procurement officer. New law removes requirement of the approval of the commissioner of administration to proceed with competitive sealed proposal procurement and otherwise retains existing law.

Prior law required RFPs for all consulting, social, and professional services contracts not otherwise exempt by law or regulation to indicate relative importance of price and other evaluation factors and to clearly define the tasks to be performed under the contract and the criteria to be used in evaluating the proposals and the time frames within the work must be completed. Prior law further required all other RFPs to clearly state the technological or other outcome desired from the procurement of supplies, services, or major repairs, if applicable. New law makes these requirements uniform for all RFPs by removing the requirement that certain requests clearly state the technological or other outcome desired from the procurement of supplies, services, or major repairs, if applicable.

Existing law provides for a procedure in the negotiating and awarding of contracts.

New law allows contract bid proposals to be modified or withdrawn at any time prior to the conclusion of negotiations.

New law requires the using agency to negotiate a contract with the responsible proposer whose proposal is determined in writing by the using agency to be the most advantageous to the state, taking into consideration review of price and the evaluation factors set forth in the RFP.

New law requires contract negotiations be directed toward making certain the proposer has a clear understanding of the scope of work and the essential requirements involved in providing the required work, service, or supply, determining that the proposer will make available the necessary personnel and facilities to perform the services in the required time, and agreeing upon fair and reasonable compensation for the services rendered.

New law requires the contract to be awarded to the proposer if the contract can be agreed upon with the most advantageous proposer.

Existing law requires certain elements to be included in contracts entered into through RFP. New law adds a requirement that the commencement date of the contract must be at least 14 days after the notice of award is issued.

Existing law assigns full responsibility of administration and monitoring of the contract to the using agency and provides requirements on reporting the performance of the contract. New law retains existing law.

Existing law provides that no contract shall be valid until executed by the head of the using agency, or his designee, and the contractor, and has been approved in writing by the state chief procurement officer, or his designee, or the director of purchasing at a college or university, if applicable. New law retains existing law.

Existing law provides for a procedure for the head of a using agency to delegate authority to a subordinate to sign contracts on behalf of the agency. New law retains existing law.

New law requires the office of state procurement to send written notice of an award to the contractor and a copy of such notice to all other proposers upon approval of the contract by the state chief procurement officer.

New law provides a procedure for failure to negotiate a contract with an advantageous proposer that allows the using agency to enter into negotiations with the next most advantageous proposer.

New law further authorizes using agencies to select additional proposers to continue negotiations in certain circumstances.

New law authorizes proposals or other solicitations to be cancelled or other all proposals to be rejected if it is determined, based on the reasons provided in writing, that such action is in the best interest of the state. New law further requires reasons for the cancellation to be included in the contract file.

Prior law required a determination from the state chief procurement officer that other contract procurement methods are not practicable before issuing an invitation to negotiate procurement method. New law repeals prior law.

Prior law authorized consulting services contracts valued less than \$75,000 for a 12-month period to be awarded without the necessity of competitive bidding or competitive negotiation. New law increases this threshold to \$150,000 over a 12-month period and adds invitation to negotiate and cooperative purchasing as additional procurement methods available to use for consulting contracts.

Prior law authorized consulting services contracts valued at \$250,000 or more to be entered into with the assistance of a procurement support team provided in law and in accordance with guidelines created by the office of state procurement. New law removes the floor of \$250,000 and otherwise retains existing law.

Advertisement and Award of Lease Bids

Prior law required all contracts and agreements for lease or rental space be made in the name of and by the authorized representative or representative body of the agency and required commissioner of administration approval on any such agreement. New law retains existing law but removes the requirement of commissioner approval for leases or rental space of a storage unit that is 1,000 sq. ft. or less.

Prior law required every lease for the use of 5,000 sq. ft. or more of space in a privately owned building in which the state is a lessee be awarded by competitive sealed bid with certain requirements. New law increases this threshold to leases of 10,000 square feet or more.

Prior law authorized leases of less than 5,000 sq. ft. or less to be amended up to 4,999 square feet. New law increases this threshold to allow leases of less than 10,000 square feet to be amended up to 9,999 sq. ft.

Existing law authorizes existing leases for office or warehouse space to be renegotiated with the present lessor in certain circumstances. New law retains existing law but expands the authority to renegotiate with lessors to any existing lease.

Contract Controversies and Protests

Prior law prohibited the state from proceeding with solicitation or awarding of a contract under timely protest without a determination of the state chief procurement officer that the contract award is needed without delay.

New law repeals prior law and instead allows a protestor to obtain a stay of a contract solicitation or award if the following conditions are met:

- (1) The protestor has timely protested the solicitation or award during the applicable protest period of the contract solicitation or award.
- (2) The protestor posts a bond with a good and solvent surety or submits other security approved by the office of state procurement valued at 25% the estimated value of the contract.

New law requires the bond posted or other security to be returned to the person who posted the bond or security if the protest is upheld and the award is cancelled. New law requires the state chief procurement officer to hold an informal hearing on the claim to determine the amount owed. New law further provides that if the protest is rejected and the award is

upheld, the using agency may file a claim against the bond or security for the expenses incurred and other monetary losses suffered by the using agency resulting from the unsuccessful protest. New law further requires any money not awarded by the state chief procurement officer to be returned to the person who posted the bond or submitted the security.

Existing law requires the commissioner of administration or his designee to immediately render decisions on claims by or controversies between the state and a contractor arising out of a contract for professional, personal, consulting or social services. Existing law renders this decision final and conclusive unless the contractor institutes suit. New law retains existing law but specifies that a final decision of the commissioner may be made executory by the 19th JDC in accordance with existing law (C.C.P. Art. 2782).

Prior law provided the 19th JDC jurisdiction over claims arising from RFPs or awards of contract or other legal disputes surrounding contracts, given all administrative avenues have been exhausted. New law modifies this jurisdiction to having only appellate jurisdiction in these matters. New law further asserts that if the evidence, as reasonably interpreted, supports the commissioner of administration's initial decision, that his decision shall have great weight and not be reversed or modified unless there is clear showing that the decision was arbitrary or capricious.

Existing law provides a timeline in which filing appeals in protests to solicitations or awards of contracts can be made to the commissioner. Existing law establishes the commissioner's decision to be final unless either the decision is fraudulent or an appeal is filed in court. New law adds that if an appeal is filed in court, that if the evidence, as reasonably interpreted, supports the commissioner of administration's initial decision, the commissioner's decision shall have great weight and not be reversed or modified unless there is clear showing that the decision was arbitrary or capricious.

Existing law provides a procedure to appeal decisions on contracts and breach of contract controversies to the commissioner of administration for contracts other than professional, personal, consulting, and social services contracts. Existing law establishes the commissioner's decision to be final unless either the decision is fraudulent or an appeal is filed in court. New law adds that if an appeal is filed in court, that if the evidence, as reasonably interpreted, supports the commissioner of administration's initial decision, that the commissioner's decision shall have great weight and not be reversed or modified unless there is clear showing that the decision was arbitrary or capricious.

Existing law establishes the 19th JDC as the exclusive venue over an action between the state and a bidder, offerer, or contractor to determine if a solicitation or award of a contract is legal and provides for types of actions this entails. New law adds actions between the state and a person or proposer to the venue's exclusive jurisdiction. New law further limits jurisdiction of the 19th JDC to be appellate jurisdiction in such matters.

Existing law requires any action to be commenced within sixty days after receipt of the commissioner in decisions regarding contract controversies for contracts other than professional, personal, consulting, or social services contracts. New law adds controversies between the state and a contractor arising out of professional, personal, consulting, or social services contracts to the requirement of action to be commenced within 60 days and otherwise retains existing law.

Cooperative Purchasing

Existing law allows public procurement units to participate, sponsor, conduct, or administer cooperative purchasing agreements with other entities to purchase of any supplies, services, major repairs, or construction services. New law adds personal services, professional services, consulting services, and social services contracts to this list.

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

(Amends R.S. 39:1594(C)(1) and (3), 1595, 1621(A)-(C)(1) and (3), 1630, 1641(A), 1643(A), 1644(A)(1), (B), and (C), 1671(F), 1672.3, 1672.4(A), 1683(E)(2), 1685(E)(2), 1691 (heading), (A), (C), and (D), 1692(C), and 1702(A)(1); repeals R.S. 39:1600.2(B))