

Regular Session, 2014

SENATE BILL NO. 409

BY SENATORS MILLS AND THOMPSON

PROCUREMENT CODE. Provides for lowest available price for certain software procurement contracts. (7/1/14)

1 AN ACT

2 To amend and reenact R.S. 39:199(D), relative to methods of procurement; to provide for  
3 the lowest available price for certain software procurement contracts; to provide for  
4 an effective date; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 39:199(D) is hereby amended and reenacted to read as follows:

7 §199. Methods of procurement

8 \* \* \*

9 D.(1) Method for procuring software and software maintenance and support  
10 services. Notwithstanding any other provisions of this Part, any agency may procure  
11 data processing software, software maintenance, and support services without the  
12 need for competitive bidding. Such procurement must have the written advance  
13 approval of the state central purchasing agency and shall not be for a price greater  
14 than the vendor's published price.

15 **(2) Additionally, any agency seeking to procure a new contract, a**  
16 **contract extension of an existing contract, or any other contract modification**  
17 **for software, software maintenance, and support services shall show evidence**

1        **that the price received or negotiated is the lowest available price by exhibiting**  
2        **prices that may appear in a catalog, price list, schedule, on the Internet, or other**  
3        **form that:**

4                **(a) Is regularly maintained by a vendor or other contractor.**

5                **(b) Is either published or otherwise available for inspection by**  
6        **customers.**

7                **(c) Is available through inquiries with other states or local governments**  
8        **using similar products and services.**

9                **(d) Is available through statements of prices on the Internet and are**  
10       **currently or were last made to a significant number of buyers constituting the**  
11       **general buying public for the software or services involved.**

12               **(3) In the event that the lowest available price can not be obtained in the**  
13       **form or source as specified in Paragraph (2) of this Subsection, the agency**  
14       **seeking to procure a new contract, a contract extension of an existing contract,**  
15       **or any other contract modification for software, software maintenance, and**  
16       **support services shall require the vendor to certify in writing that the price**  
17       **received is the lowest price available to other states or local governments for**  
18       **similar products and services at the time the quote is submitted.**

19               **(4)** The procurement support team shall develop and deliver to the office of  
20       state purchasing and the office of information technology proposed rules establishing  
21       guidelines for procurement activities under this Part. Upon approval of the office of  
22       information technology, the office of state purchasing shall promulgate rules in  
23       accordance with the Administrative Procedure Act.

24               Section 2. This Act shall become effective on July 1, 2014; if vetoed by the  
25       governor and subsequently approved by the legislature, this Act shall become  
26       effective on July 1, 2014, or on the day following such approval by the legislature,  
27       whichever is later.

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The original instrument was prepared by Jay Lueckel. The following digest, which does not constitute a part of the legislative instrument, was prepared by Kari B. Couvillon.

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#### DIGEST

Mills (SB 409)

Present law provides for methods of data processing procurement.

Present law provides that any state agency may procure data processing software, software maintenance, and support services without competitive bidding, provided such procurement has written advance approval from the state central purchasing agency and is not for a price greater than the vendor's published price. Also provides for the use of a procurement support team in the promulgation of rules relative to such procurement.

Proposed law retains present law and further provides that any agency seeking to procure a new contract, a contract extension, or any other contract modification for software, software maintenance, and support services must show that the price received or negotiated is the lowest available price by exhibiting prices that may appear in a catalog, price list, schedule, Internet, or other form.

Proposed law further provides that such prices must be from a source that is regularly maintained by a vendor or other contractor, is either published or otherwise available for inspection by customers, is available through inquiries with other state or local governments using similar products and services, and is available through statements of prices on the Internet and are currently or were last made to a significant number of buyers constituting the general buying public for the software or services involved.

Proposed law further provides that in the event the lowest available price can not be obtained in the form or source specified in the proposed law, the agency seeking to procure a new contract, a contract extension of an existing contract, or any other contract modification for software, software maintenance, and support services shall require the vendor to certify in writing that the price received is the lowest price available to other states or local governments for similar products and services at the time the quote is submitted.

Effective July 1, 2014.

(Amends R.S. 39:199(D))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Finance to the original bill

1. Adds stipulation that in the event the lowest available price can not be obtained in the form or source specified in the proposed law, the agency seeking to procure a new contract, a contract extension of an existing contract, or any other contract modification for software, software maintenance, and support services shall require the vendor to certify in writing that the price received is the lowest price available to other states or local governments for similar products and services at the time the quote is submitted.
2. Corrects paragraph numbering.