

Prior law provided for procurement by public bodies, including provisions for a central purchasing agency, for procurement regulations, source selection for items to be purchased and methods for such purchases, for bid procedures, for types of contracts, for specifications, for contract modification, termination and contract clauses, for legal and contractual remedies and for administrative appeals, and for cooperative purchasing.

Prior law set forth the underlying purposes and policies of the procurement code, as well as the rules of construction and application to be used in interpreting the provisions of the code. New law retains prior law. New law repeals certain exclusions regarding the procurement of professional, personal, consulting and social services. New law further provides that contracts awarded by an agency for the benefit of an industry, payment of which comes from self-generated funds received from that industry, are exempt from the requirements of the procurement code provided that any such contract is awarded through a competitive process.

Prior law provided that procurement provisions shall not apply to professional services for engineering design contracts, construction contracts, or contracts for surveying for certain maintenance and construction projects entered into by the Department of Transportation and Development. New law further provides that procurement provisions shall not apply to consulting contracts with appraisers, foresters, economists, right-of-way agents, title abstractors, asbestos abatement inspectors, negotiators, accountants and cost consultants relating to acquisition of rights-of-way for maintenance and construction projects entered into by the DOTD. New law retains prior law.

Prior law further provided that procurement provisions shall not apply to grants or contracts or like business agreements between the state and its political subdivision or other governmental entities, or between higher education boards and institutions under their jurisdictions. New law retains prior law.

New law changes the "director of the office of contractual review" to the "state chief procurement officer" in regards to delegation of authority to procure services with private grant funds or federal funds specifically provided for contracts of an institution of higher education.

Prior law provided numerous definitions for purposes of the procurement code. New law adds definitions for the following terms and phrases: "central purchasing agency", "electronic", "information technology", "operating service", "services", "signature", and "state chief procurement officer".

Prior law defined a "private procurement unit" to mean any independent institution of higher education in this state. New law redefines "private procurement unit" to mean any regionally accredited independent college or university in the state that is a member of the La. Association of Independent Colleges and Universities.

New law removes existing definitions of "purchase description", "purchase request", and "sealed bidding".

New law defines "signature" to include a manual or electronic signature and that "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

Prior law provided for public access to procurement information. New law retains prior law.

Prior law provided for contract change orders and recording of such changes by the recorder of mortgages at the parish level. New law retains prior law, but changes "purchasing" to "procurement".

Prior law provided for written determinations to be retained in an official contract file in the central purchasing agency, other purchasing agencies, or by the governmental body administering the contract. New law retains prior law but provides for filing in the central procurement office.

Prior law authorized the commissioner of administration to promulgate regulations governing the procurement, management, and control of any and all supplies, services, major repairs, and personal, professional, consulting, or social services required to be procured by the state. New law retains these provisions.

Prior law provided for the central purchasing agency within the division of administration, to be headed by a director. New law retains prior law but provides that it is to be headed by the state chief procurement officer. Further provides for his qualifications, appointment, and authority, including the appointment of assistants and other employees, and adds to the prior law the duty to ensure compliance with the procurement code and implementing regulations by reviewing and monitoring procurements.

Prior law provided that the chief legal adviser to the state director of purchasing shall be the attorney general. New law retains prior law.

Prior law provided for appointment of assistants and delegation of authority by the state director of purchasing. New law retains prior law, but changes "director of purchasing" to "state chief procurement officer".

New law requires that the state chief procurement officer provide contractual forms and specifications to be used in confection of all contracts.

Prior law provided for reporting requirements for any reports deemed necessary by the commissioner of administration. New law retains prior law.

Prior law provided for mandatory information requirements for contracts let without competition under the authority of an executive order related to Hurricanes Katrina or Rita. New law retains prior law, but changes "purchasing" to "procurement".

Prior law provided for use of other types of contracts, such as brand name contracts and multiple award contracts. New law retains prior law.

Prior law provided for reporting on certain contract payments, subcontractors, and performance related to the Road Home Program. New law retains prior law, but specifies the reporting shall be for professional, personal, consulting, and social services contracts.

Prior law provided for reports of procurement actions. New law retains prior law but specifies such reports are for procurement actions related to professional, personal, consulting, and social services contracts.

Prior law provided for contract administration, including monitoring and reporting. New law retains prior law. New law further provides that no contract for professional, personal, consulting, or social services shall be entered into by a using agency with any contractor for which a delinquent final evaluation report remains outstanding for a contract with such using agency.

Prior law provided for centralization of procurement authority and for certain exemptions. New law retains prior law.

Prior law provided for exemptions to procurement regulations and provides certain exceptions for the DOTD and the Department of Education. New law retains prior law and further specifies that exemptions from central purchasing do not apply to professional services, personal services, consulting services, social services, information technology or vehicle acquisition.

Prior law exempted the Board of Trustees of State Colleges and Universities from central purchasing requirements. New law changes "Board of Trustees of State Colleges and Universities" to "University of Louisiana System".

Prior law provided for state procurement regulations to be promulgated by the commissioner of administration for all procurements except those regulations promulgated by the secretary of DOTD, the State Superintendent of Education, and certain exempted departments.

Prior law specified the promulgatory power of the commissioner or the secretary not be delegated.

New law retains the prohibition against the secretary delegating his power to promulgate regulations but authorizes the commission of administration to delegate power to promulgate regulations to the state chief procurement officer.

New law retains provisions that regulations promulgated not change existing contract rights, and that required clauses in contracts shall be incorporated only with consent of both parties.

Prior law required the commissioner of administration to maintain a close and cooperative relationship with the using agencies. Further provided for the Procurement Advisory Council and other advisory groups, including the Drug Procurement Advisory Council. New law retains prior law.

Prior law provided that all state contracts shall be awarded by competitive sealed bidding unless otherwise authorized by law. New law provides for the following methods of source selection:

- (1) Competitive sealed bids.
- (2) Competitive sealed proposals.
- (3) Small purchases.
- (4) Sole source.
- (5) Emergency procurements.
- (6) Other procurement methods:
 - (a) Unstable market conditions.
 - (b) Group purchasing organizations.
 - (c) Used equipment.
 - (d) Reverse auctions.
 - (e) Negotiation of noncompetitive contracts.

Prior law provided that contracts exceeding the amount established by executive order for small purchases shall be awarded by competitive sealed bidding. New law retains prior law. New law includes "purchasing agencies of" the state along with the division of administration as locations where evidence of agency, corporate, or partnership authority shall be required for submission of a bid. New law specifies the bidder submits or provides on request one of several official documents acceptable to the public entity, including registration on an electronic Internet database maintained by the public entity.

Prior law provided for certain circumstances whereby a competitive request for proposal may be used. New law retains prior law and specifies that approval and written determination requirements for such requests for proposal shall not apply to requests for proposal for professional, personal, consulting, or social services.

Prior law provided for requirements for requests for proposals. New law retains prior law and specifies that consulting, social, and professional services not otherwise exempt shall indicate the relative importance of price and other evaluation factors, shall clearly define the tasks to be performed under the contract, the criteria to be used in evaluating the proposals, and the time frames within which the work must be completed. New law further specifies that all other requests for proposals shall clearly state the technological or other outcome desired from the procurement of the supplies, services, or major repairs, if applicable, and shall indicate the relative importance of price and other evaluation factors, the criteria to be used in evaluating the proposals, and the time frames within which the work must be completed. New law further delineates certain conditions whereby written or oral discussions need not be conducted with responsible proposers who submit proposals.

Prior law described the minimum types of information needed to submit in requests for proposal. New law retains prior law and adds "performance measurements" and "monitoring plan" to those types of information.

Prior law provided for the validity of professional, personal, consulting, and social services contracts. New law retains prior law but changes approval from the director of the office of contractual review to the director of the office of state procurement.

Prior law provided for small purchases not exceeding the amounts established by executive order of the governor may be made in accordance with small purchase procedures prescribed by such executive order. New law retains prior law.

Prior law provided for sole source procurements and for emergency procurements. New law retains prior law.

Prior law provided for other procurement methods, including unstable market conditions, group purchasing, used equipment, reverse auction, and negotiation, and provides for rules and regulations of each method. New law retains prior law.

Prior law provided for multisource generic drug contracts, for the right to reject bids from Communist countries, and for limitations on consultants competing for contracts. New law retains prior law.

Prior law provided for preference in awarding contracts for all types of products produced, manufactured, assembled, grown, or harvested in Louisiana, with certain exceptions. New law retains prior law.

New law retains the preference in awarding contracts to in-state vendors; retains the preference in letting contracts for public work to contractors domiciled in the state; retains the preference in awarding contracts for certain services where state-owned facilities will be used for rodeos and livestock shows, with preference for in-state vendors; retains the preference for goods manufactured, or services performed, by severely handicapped individuals in sheltered workshops; law retains the preference for items purchased from Louisiana retailers; retains the preference for steel rolled in Louisiana; and retains the preference for items manufactured in the United States.

Prior law provided for cancellation of invitations for bids or requests for proposal, including qualifications and duties. New law retains prior law, but changes "offertory" to "proposers".

New law further changes the "office of contractual review" to the "state central purchasing agency" in regards to disclosure rules.

Prior law provided for prequalification of suppliers and for cost or pricing data as submitted by contractors. New law retains prior law.

Prior law provided for preference for types of contracts. Prior law provided that cost-plus-a-percentage-of-cost contracts shall not be used. New law retains prior law, but specifies that such contracts may be used in the case of a disaster or emergency declared by the governor.

Prior law provided for cost-reimbursement contracts. New law retains prior law.

Prior law provided for reimbursement of costs. New law retains prior law and specifies reimbursement of costs for professional, personal, consulting, and social services contracts.

Prior law provided for approval of the contractor's accounting system by the chief procurement officers. New law retains prior law.

Prior law provided for multi-year contracts. Prior law provided that any contract entered into for a period of not more than five years, but for more than three years shall be subject to prior approval of Joint Legislative Committee on the Budget (JLCB). New law retains prior law.

Prior law provided for installment-purchase contracts. New law retains prior law.

Prior law provided for professional service contracts without the necessity of competitive bidding or competitive negotiation. New law retains prior law.

Prior law provided for contractual attorney's fees to be submitted by sworn affidavit. New law retains prior law.

Prior law provided for contracts related to social services. New law retains prior law and specifies these contracts as "social services contracts". New law further provides definitions for social services, changes "retarded" to "mentally disabled", and changes "director of contractual review" to "state chief procurement officer".

Prior law provided for personal service contracts without the necessity of competitive bidding or competitive negotiation. New law retains prior law.

Prior law provided for consulting service contracts without the necessity of competitive bidding or competitive negotiation. New law retains prior law and specifies negotiation with the highest qualified persons for sole source or emergency procurement or for professional, personal, or those consulting contracts that have a maximum amount of compensation less than \$50,000 for a 12 month period. New law further changes "contractual review" to "state procurement".

Prior law provided for performance-based energy efficiency contracts. New law retains prior law.

Prior law provided for certification by using agency before entering into a proposed professional, personal, consulting, or social service contract in excess of \$5,000. New law retains prior law, but changes "director of the office of contractual review" to "chief procurement officer".

Prior law provided for approval of contracts and penalties for submission of faulty information by corporations. New law retains prior law, but changes "director of the office of contractual review" to "chief procurement officer" and changes "contractual review" to "state procurement".

Prior law provided for contract content, including minimum requirements and other specifications. New law retains prior law.

Prior law provided for professional, personal, and consulting contracts with state employees. New law retains prior law, but changes "contractual review" to "state procurement" and "office of contractual review" to "office of chief procurement officer".

Prior law provided for contract modifications and termination. Prior law provided for modification of professional, personal, consulting, and social services contracts. New law retains prior law, but changes "contractual review" to "state procurement."

Prior law provided for termination of professional, personal, consulting, and social services contracts for default of the contractor. New law retains prior law, but changes "contractual review" to "state procurement".

Prior law provided for inspection of plant and audit of records. Prior law provided for the right to inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the state. New law retains prior law. Prior law provided for the audit by the state of persons submitting cost or pricing data and also for contract audits. New law retains prior law.

Prior law provided for determinations and reports. Prior law provided for finality of determinations unless they are clearly erroneous, arbitrary, capricious, or contrary to law. New law retains prior law. Prior law provided for record of certain procurement actions for a minimum of six years. New law retains prior law.

Prior law provided for purchase of insurance. Prior law provided for direct purchase of insurance policies by the state covering any property or insurable interests or activities of the state directly from insurers or underwriters, without the necessity for signature or countersignature of such policies and in lieu thereof such policy shall be signed by an official

or designated representative of the company issuing the policy. New law retains prior law, but removes provision referring to R.S. 22:1171, which was repealed in 1996.

Prior law prohibited splitting of insurance commissions derived from the sale of insurance to the state by insurance agents, unless written authorization is provided by the commission of administration. New law retains prior law. Prior law provided that the written authorization provided by the commissioner of administration on certain split insurance commissions constitutes public record. New law retains prior law.

Prior law provided for acquisition of housing space by state agencies. Prior law provided all contracts and agreements for the lease or rental of space for the housing of state agencies, their personnel, operations, equipment, or activities shall be made in the name of and by the authorized representative or representative body of the state agency but shall be made and entered into only with the approval of the commissioner of administration. The cost of such housing shall be provided for in and defrayed from the budgets of the using agencies. New law retains prior law.

Prior law provided for uniform space standards for state agencies, including inventory and evaluation of budget unit space utilization, to be prepared by the division of administration. New law retains prior law.

Prior law provided for the advertisement and award of every lease bid for the use of five thousand square feet or more of space in a privately owned building entered into by a state agency as lessee. Prior law provided no such lease shall extend beyond a period of 10 years. New law retains prior law.

Prior law provided for the amendment of existing leases for office or warehouse space by renegotiation with the present lessor, only after the division of administration has entered into a competitive negotiation process involving discussions with offertory who submit written proposals. Prior law provided for other conditions pertaining to the renegotiation of an existing lease for office or warehouse space. New law retains prior law.

Prior law provided for the acquisition of motor vehicles by state agencies. Prior law provided for purchase or lease of motor vehicles by state agencies and further provides for minimum requirements for fuel efficiency and exceptions for law enforcement personnel, first responders and emergency personnel, and military vehicles, and other exceptions. New law retains prior law.

Prior law provided for specifications for supplies, services, and major repairs required by the state and further provides for the duties of the commissioner of administration in promulgating rules and regulations governing such supplies, services and major repairs. New law retains prior law.

Prior law provided for shrimp specifications by the commissioner of administration, specifically in reference to count size. New law retains prior law.

Prior law provided for the duties of the chief procurement officer, who is charged with preparing, issuing, revising, and monitoring the use of specifications for required supplies services, and major repairs. New law retains prior law.

Prior law provided for the chief procurement officer to establish a relationship with using agencies in the determination of needs and development of specifications and further provides he may delegate in writing to a using agency the authority to prepare and utilize its own specifications, subject to regulations. New law retains prior law.

Prior law provided for maximum practicable competition for all specifications, that they promote overall economy for the purposes intended and encourage competition in satisfying the needs of the state, and shall not be unduly restrictive. New law retains prior law.

Prior law specified that bid specifications may contain an escalation clause. New law retains prior law, and specifies such escalation or de-escalation shall be in accordance with a recognized price index, including but not limited to the U.S. Bureau of Labor Statistics, Consumer Price Index and Wholesale Price Index.

Prior law provided for specifications prepared by architects, engineers, designers, and draftsmen for public contracts. New law retains prior law.

Prior law provided for purchase of prostheses, orthoses, prosthetic services, and orthotic services by a state agency from an accredited facility, provided there are no prohibitions on a licensed occupational therapist or a licensed physical therapist from practicing within his scope of practice. Prior law exempted licensed optometrists, ophthalmologists, podiatrists, or orthopedists from these provisions. New law retains prior law.

Prior law provided for the modification and termination of contracts for supplies, services, and major repairs. Prior law provided for contract clauses providing for equitable adjustments in prices, time for performance, or other contract provisions including but not limited to:

- (1) The unilateral right of the state to order in writing changes in the work within the general scope of the contract in any one or more of the following:
 - (a) Drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the state in accordance therewith;
 - (b) Method of shipment or packing; or
 - (c) Place of delivery.
- (2) The unilateral right of the state to order in writing temporary stopping of the work or delaying of performance; and
- (3) Variations between estimated quantities of work in a contract and actual quantities.

Prior law provided for additional contract clauses, including but not limited to the following subjects:

- (1) Liquidated damages as appropriate.
- (2) Specified excuses for delay or nonperformance.
- (3) Termination of the contract for default.
- (4) Termination of the contract in whole or in part for the convenience of the state.
- (5) Manufacturers' design drawings shall be supplied in duplicate for all state buildings, to the appropriate state agency at the conclusion of contract.

New law retains prior law and provides that additional contract clauses include the following:

- (6) Security for contract performance.
- (7) Insurance requirements including as appropriate, but not limited to general liability, automobile coverage, workers compensation, and errors and omissions.
- (8) Beginning and ending dates of the contract.
- (9) Maximum compensation to be paid the contractor.

Prior law provided for cost principles rules and regulations required. New law retains prior law and changes the "office of contractual review" to the "office of state purchasing".

Prior law provided for legal and contractual remedies, including pre-litigation resolution of controversies. Prior law provided that the chief procurement officer has the right to resolve protests. New law retains prior law and specifies that contracts "issued by the office of state purchasing" for the grievance process under the right to protest.

Prior law provided for resolution of disputes between the director of the office of contractual review and using agencies. New law retains prior law and changes "contractual review" to "state procurement".

Prior law provided for the authority to debar or suspend, including applicability, authority, causes for debarment, decision, notice of decision, and finality of decision. New law retains prior law.

New law provides for legal and contractual remedies for professional, personal, consulting, and social services contracts, combining prior law which includes applicability, authority of the commissioner of administration, action on contract claims, and any other application to a claim by or controversy between the state and a contractor arising out of a contract for professional, personal, consulting, or social services.

New law provides for legal and contractual remedies for other than professional, personal, consulting, and social services contracts, combining prior law which includes authority to resolve contract and breach of contract controversies, applicability, authority, decision, notice of decision, finality of decision, and failure to render a timely decision.

Prior law provides for solicitations or awards in violation of law, including applicability, remedies prior to an award, remedies after an award, and damages. New law retains prior law.

Prior law provides for violations and penalties for violating the La. Procurement Code or any rule or regulation promulgated by the commissioner of administration with respect to purchasing. New law retains prior law.

Prior law provided for administrative appeals procedures, including authority of the commissioner of administration. New law retains prior law and changes "director of purchasing" to "chief procurement officer".

Prior law provided for the secretaries of exempted departments to have the same authority and responsibilities to review and determine appeals of decisions of the chief procurement officer of his department as are vested in the commissioner of administration. New law retains prior law.

Prior law provided for protest of solicitations or awards, including scope, time limitation on filing an appeal, decision, notice of decision, and finality of decision. New law retains prior law.

Prior law provided for suspension or debarment proceedings, including scope, time limitation on filing an appeal, decision, notice of decision, and finality of decision. New law retains prior law.

Prior law provided for contract and breach of contract controversies, including scope, time limitation on filing an appeal, decision, notice of decision, and finality of decision. New law retains prior law, but changes "director" to "state chief procurement officer".

Prior law provided for actions by or against the state in connection with contracts, including solicitation and award of contracts with the 19th Judicial District Court having exclusive venue over an action between the state and a bidder, offeror, or contractor, prospective or actual, to determine whether a solicitation or award of a contract is in accordance with the constitution, statutes, regulations, and the terms and conditions of the solicitation. Prior law further provided for debarment or suspension, actions under contracts or for breach of contract, limited finality for administrative determinations, writs or appeals and district court decisions. New law retains prior law.

Prior law provided for commencement of actions, including protested solicitations and awards, debarments and suspension for cause, and actions under contracts or for breach of contract controversies. New law retains prior law.

Prior law provided for delinquent payment penalties. Prior law further provided for late payments to business and penalties paid by state agency. New law retains prior law and

provides for interest on the amount due based on the judicial interest rate referenced in R.S. 13:4202(B).

Prior law provided for reporting requirements whenever a state agency is required to pay a penalty, including submission to the JLCB at its next regular meeting following the payment of such a penalty a report on the actions taken to correct the problem. New law retains prior law.

Prior law provided for disputed claims where a state agency states that payment is late due to reasonable cause, and said claim is disputed by the business owed payment, upon the request of a representative of the business the JLCB shall determine whether or not the circumstances constitute "reasonable cause" as used in R.S. 39:1695. New law retains prior law.

Prior law provided for cooperative purchasing and participation in federal General Services Administration vendor list. New law retains prior law and changes "purchasing" to "procurement".

Prior law provided for the sale, acquisition, or use of supplies by a public procurement unit. New law retains prior law.

Prior law provided for cooperative use of supplies or services. New law retains prior law.

Prior law provided for joint use of facilities. New law retains prior law.

Prior law provided for supply of personnel, information, and technical services. New law retains prior law.

Prior law provided for use of payments received by a supplying public procurement unit. New law retains prior law.

Prior law provided for public procurement units to be in compliance with code requirements. New law retains prior law.

Prior law provided for the chief procurement officer to review procurement requirements. New law retains prior law.

Prior law provided for local governing authorities purchasing from local vendors and payment of certain costs, such as shipping, preparation, and delivery of the item. Prior law provided that these costs shall not exceed the state bid price by seven percent on purchases up to \$10,000; five percent on purchases over \$10,000 and up to \$20,000; and three percent on purchases over \$20,000. New law retains prior law.

Prior law provided for contract controversies and resolutions under cooperative purchasing agreements. New law retains prior law.

Prior law provided for assistance to small and disadvantaged businesses and women-owned business; provides for definitions; procurement from small businesses, including set-aside, contract procedure, responsibility of bidder or offeror, preference to disadvantaged persons, preference to women, award of contracts after unsuccessful set-aside procedures, and conflict with other code provisions. Prior law also provided for assistance to small businesses. Prior law further provides for determination of disadvantaged businesses and annual reports submitted to the governor and the legislature by the commissioner of administration, among other services. New law retains prior law.

Prior law provided for telecommunications procurement, including application, definitions, types of contracts permitted, and methods of procurement. New law retains prior law.

Directs the La. Law Institute to review all statutes which contain the name of the office of contractual review and the office of state purchasing and make all changes it deems necessary to such references.

Directs the La. Law Institute to review all statutes which refer to Chapter 16 of Subtitle III of Title 39 of the La. Revised Statutes of 1950 and make all changes it deems necessary to such references.

New law requires that the commissioner of administration, prior to January 1, 2015, take necessary action to implement new law including promulgating necessary rules and regulations.

The above provision becomes effective upon the signature of the governor (June 23, 2014).

The remainder of the Act becomes effective January 1, 2015.

(Amends R.S. 36:4(B)(1)(b) and R.S. 39:1551-1554.1, 1556-1558, 1561-1569.1, 1571-1572, 1581, 1586-1587, 1593-1598, 1600-1608, 1611-1633, 1641-1644, 1646, 1651-1658, 1661-1662, 1671-1673, 1676-1679, 1681-1685, 1691-1692, 1695-1697, 1702-1710, 1716, 1731-1736, and 1751-1755; repeals R.S. 39:1481-1526)