

2017 Regular Session

HOUSE BILL NO. 554

BY REPRESENTATIVE SCHRODER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC CONTRACTS: Provides relative to public procurement methods

1 AN ACT

2 To amend and reenact R.S. 38:2212.1(A)(1)(b) and 2271(A)(1) and (2)(b), (B)(introductory
3 paragraph) and (C)(introductory paragraph) and R.S. 39:1600(D)(1), (2)(introductory
4 paragraph) and (3)(a) and to enact R.S. 38:2212.1(O) and R.S. 39:1600(D)(4),
5 relative to public contracts; to provide for the advertisement and letting of bidders
6 for certain purchases under the Public Bid Law; to provide for the requirements of
7 reverse auctions for certain purchases in the Procurement Code; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 38:2212.1(A)(1)(b) and 2271(A)(1) and (2)(b), (B)(introductory
11 paragraph) and (C)(introductory paragraph) are hereby amended and reenacted and R.S.
12 38:2212.1(O) is hereby enacted to read as follows:

13 §2212.1. Advertisement and letting to lowest responsible bidder; materials and
14 supplies; exemptions

15 A.(1)

16 * * *

17 (b)(i) However, purchases of ten thousand dollars or more, but less than
18 thirty thousand dollars, shall be made by obtaining not less than three telephone, ~~or~~
19 facsimile, email, or online quotations. A written confirmation of the accepted offer
20 shall be obtained and made a part of the purchase file. If quotations lower than the

1 accepted quotation are received, the reasons for their rejection shall be recorded in
2 the purchase file. An email, facsimile, or online quotation from a bidder shall satisfy
3 the requirement to obtain a written confirmation of the accepted offer.

4 (ii) Receipt of not less than three quotations as required in this Subparagraph
5 may be exclusively online at a time and in a manner specified in a request for quotes
6 to qualified vendors. The purchaser shall provide written confirmation that other
7 methods of receiving quotations will not be accepted. The online process used, the
8 quotations received, and the accepted offer shall be recorded in the purchase file.

9 * * *

10 O.(1) Notwithstanding any other provision of this Part to the contrary, any
11 municipality or local government unit affiliate of the Louisiana Municipal
12 Association may enter into an agreement with the Louisiana Municipal Association
13 through or in conjunction with the Louisiana Municipal Advisory and Technical
14 Services Bureau, to act as its qualified group purchasing organization for the
15 purchase of materials, equipment, and supplies, including any installation thereof,
16 that have been solicited in compliance with Louisiana law. Any such agreement
17 shall require that the qualified group purchasing organization submit a price list for
18 those materials, equipment, and supplies offered by it and that the prices quoted on
19 the list remain in effect for a stated period of time of not less than three months. Any
20 such price list shall be considered, for all purposes, to be a valid and binding bid by
21 the qualified group purchasing organization during the effective period of the
22 agreement, and no additional bid by the qualified group purchasing organization is
23 necessary.

24 (2) Price lists submitted herein are not public record and shall not be
25 available for public inspection. The agreement setting forth the existence of the price
26 list and the effective date thereof is, however, a public record, and that portion of the
27 price list setting forth the price of the materials or supplies being purchased shall
28 become a public record at the time of opening of bids for those materials or supplies.

1 (2) For the purposes of this Part:

2 * * *

3 (b) "Reverse auction" means a competitive online solicitation process on the
4 Internet for equipment, supplies, and other materials, including public works that do
5 not exceed the contract limit as defined in R.S. 38:2212, in which vendors compete
6 against each other online in real time in an open and interactive environment.

7 B. ~~Prior to the use of A~~ reverse auction solicitation authorized by this Part;
8 ~~the political subdivision shall develop policies and procedures that may require that:~~

9 * * *

10 C. Adequate public notice for the purchases of materials, supplies, or
11 equipment by a political subdivision using a reverse auction for a purchase of thirty
12 thousand dollars or more shall be given as follows:

13 * * *

14 Section 2. R.S. 39:1600(D)(1), (2)(introductory paragraph) and (3)(a) are hereby amended
15 and reenacted to read as follows and R.S. 39:1600(D)(4) is hereby enacted to read as
16 follows:

17 §1600. Other procurement methods

18 * * *

19 D. Reverse auction

20 (1) Notwithstanding the provisions of Subpart A of this Part, with the
21 approval of the state chief procurement officer ~~and the determination of the head of~~
22 ~~the using agency~~ that the best interests of the state would be served ~~and that~~
23 ~~electronic online bidding is more advantageous than other procurement methods~~
24 ~~provided in this Chapter~~, a reverse auction may be utilized for the acquisition of
25 materials, supplies, services of any type, products, or equipment of any monetary
26 amount, including small purchases.

27 (2) ~~Prior to the implementation of this Subsection,~~ use of any reverse
28 auction, the state chief procurement officer ~~shall develop policies, procedures, and~~

1 ~~promulgate regulations, in accordance with the Administrative Procedure Act. Such~~
2 ~~policies and procedures~~ may require in the solicitation language that:

3 * * *

4 (3) Adequate public notice for the purchase of materials, supplies, services,
5 or equipment using a reverse auction shall be given as follows:

6 (a) The advertisement or notice shall be published one time in the official
7 journal of the state at least ~~twenty~~ ten days before the opening date of the reverse
8 auction. For small purchases no published advertisement is required.

9 * * *

10 (4) For Fiscal Years 2017-2018 through 2019-2020, the office of state
11 procurement shall use reverse auctions a minimum of twenty-four times per fiscal
12 year and shall report annually to the legislature by September 1, on the use of reverse
13 auctions and any savings achieved.

14 * * *

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 554 Original

2017 Regular Session

Schroder

Abstract: Provides for the methods of obtaining online quotes and bids and reverse auctions for purchases made under the Public Bid Law and the Procurement Code.

Present law provides for the advertisement and letting to the lowest responsible bidder for purchases made under the Public Bid Law.

Present law requires that purchases for materials or supplies of more than \$30,000 are advertised and let to the lowest responsible bidder.

Present law requires that for purchases of \$10,000 or more, but less than \$30,000, are made by getting no less than 3 phone or fax quotations and further requires the purchaser to obtain a written confirmation of the accepted offer.

Proposed law authorizes the purchaser to also use email or online quotations as a means to getting the 3 required quotations.

Proposed law further allows the purchases to get the 3 required quotations exclusively from online in a time and manner specified in the request if they provide written confirmation that no other methods of quotations will be accepted.

Proposed law authorizes any municipality or local government unit affiliate of the Louisiana Municipal Association to enter into agreements with the association to act as its qualified group purchasing organization for the purchase of materials, equipment, and supplies.

Proposed law requires the group purchasing organization to submit a price list for the material, equipment, and supplies that will be considered to be a valid and binding bid.

Proposed law provides that price lists are not public record and shall not be available for public inspection, but further provides that portion of the price list setting forth the price of the materials or supplies being purchased shall become a public record at the time of opening of bids for those materials or supplies.

Present law provides for certain purchases under the Public Bid Law using reverse auctions when the determination by a political subdivision's procurement officer is made that the best interests of the political subdivision would be served and that online bidding is more advantageous than other procurement methods.

Proposed law repeals the qualification that to use revenue auctions political subdivisions must determine that online bidding is more advantageous than other procurement methods.

Present law defines "reverse auction" as a competitive online solicitation process for equipment, supplies, and other materials.

Proposed law retains present law and further adds that definition include public works that do not exceed the contract limit in present law.

Proposed law further authorizes the use of reverse auctions for material, supplies or equipment purchased by a political subdivision for a purchase of \$30,000 or more.

Present law provides for the methods of procurement that a state entity can use for contracts and purchases under the Procurement Code.

Present law authorizes the use of reverse auctions for purchases made under the Procurement Code with the approval of the state chief procurement officer and the determination of the head of the agency making the procurement that the method would be more advantageous than other procurement methods.

Proposed law deletes the requirement that the head of the agency making the purchase make a determination that the reverse auction method is more advantageous than other procurement methods.

Proposed law further authorizes the use of reverse auctions for any monetary amount, including small purchases, which are currently purchases not exceeding \$25,000.

Present law requires the advertisement or notice of the purchase be published in the official journal of the state at least 20 days before the opening date of the reverse auction.

Proposed law changes the number of days the advertisement or notice is required to be published from 20 days to 10 days. Further provides that there is no publishing requirement for small purchases.

Proposed law requires that for Fiscal Years 2018 through 2020, the office of state procurement shall use reverse auctions a minimum of 24 times per year and shall report annually on the use of the auctions and any savings achieved.

(Amends R.S. 38:2212.1(A)(1)(b) and 2271(A)(1) and (2)(b), (B)(introductory paragraph) and (C)(introductory paragraph) and R.S. 39:1600(D)(1), (2)(introductory paragraph) and (3)(a); Adds R.S. 38:2212.1(O) and R.S. 39:1600(D)(4))