

Regular Session, 1997

SENATE BILL NO. 1061

BY SENATORS HAINKEL, DARDENNE AND EWING

AN ACT

To amend and reenact R.S. 39:140, 141(A), 142, 143, 1751, 1752, 1753, 1754, and 1755, relative to telecommunications; to provide relative to the authority and duties of the office of telecommunications management; to provide relative to telecommunications procurement and procurement contracts; to revise definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:140, 141(A), 142, 143, 1751, 1752, 1753, 1754, and 1755 are hereby amended and reenacted to read as follows:

§140. Office of Telecommunications Management; creation and authority

There is hereby created, within the division of administration, the office of telecommunications management, headed by the state director of the office of telecommunications management, under the supervision and control of the commissioner of administration. The director of the office of telecommunications management may employ and supervise such assistants and other persons as may be necessary to discharge the duties of the office and may delegate authority to such designees or to any governmental body as the director may deem appropriate within the limitations of state law and regulations. Rules and regulations shall be promulgated as may be necessary to carry out the provisions of this Part.

§141. Duties of the office of telecommunications management

A. The office of telecommunications management shall have the following duties:

(1) To establish and coordinate all telecommunications systems and telecommunications services affecting the management and operations of the executive branch of state government. Telecommunications systems, including equipment and related services, and telecommunications services shall mean the equipment and services and means necessary to provide:

(a) Telecommunications transmission facilities and services.

(b) Voice telecommunications systems and services.

(c) Wireless systems and services to include, but not be limited to, cellular and personal communications services.

(d) Radio systems, to include but not be limited to two-way radio systems; however, the operational abilities and priorities of two-way communications of the departments in the executive branch shall not be impeded.

(e) Intercom and electro-mechanical paging systems.

(f) Any and all systems and services based on emerging and future telecommunications technologies relating to (a) through (e) above.

(2) To act as sole centralized customer for the acquisition, billing, and record keeping of all telecommunications systems or telecommunications services provided to state agencies. The ownership of such systems procured by the office of telecommunications management may vest in the respective agency, but control of the systems shall be retained by the office of telecommunications management.

(3) To charge respective user agencies for the cost of the

telecommunications systems and telecommunications services provided by office of telecommunications management including the cost of the operation of the office. These costs shall be charged in a consistent and equitable manner.

(4) To develop coordinated telecommunications systems or telecommunications services within and among all state agencies and require, where appropriate, cooperative utilization of telecommunications systems and telecommunications services by aggregating users. National Crime Information Center network usage is exempted from this Section.

(5) To review, coordinate, approve, or disapprove all requests by state agencies for the procurement of telecommunications systems or telecommunications services including telecommunications proposals, studies, and consultation contracts or services.

(6) To establish and define telecommunications systems and telecommunications services specifications and designs so as to assure compatibility of telecommunications systems and telecommunications services within state government.

(7) To promote, coordinate, or assist in the design and engineering of emergency telecommunications systems and telecommunications services within state government.

(8) To advise and provide consultation to agencies with respect to telecommunications management planning and related matters and to provide training to users within state government in telecommunications technology and system use.

(9) To develop policies, procedures, and long-range plans, consistent with the protection of citizens' rights to privacy and access to information, for the acquisition and use of telecommunications

systems, and to base such policies on current information about state telecommunications activities in relation to the full range of emerging technologies.

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§142. Duties of state agencies

State agencies shall be responsible for submitting data for planning purposes, upon request by the office of telecommunications management. State agencies shall be responsible for establishing and exercising cost control measures regarding usage of telecommunications systems and telecommunications services within the agency itself.

§143. Definitions

The following words and phrases shall be defined as follows:

(1) "Agency" for the purposes of this Part and Part V of Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1950, shall have the same meaning ascribed to it as provided in R.S. 36:3(1).

(2) "Telecommunications transmission facility" means any transmission medium, switch, instrument, wiring system, or other facility which is used, in whole or in part, to provide any transmission.

(3) "Utility" means any telecommunications service provided by the office of telecommunications management and used in the essential operations of a state agency, such as local dial tone.

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§1751. Application

A. The provisions of this Part shall be applicable to any agency, as defined in R.S. 36:3(1), within the executive branch of state government with respect to the procurement of all telecommunications systems and telecommunications services. However, nothing provided

in this Part shall be construed to preempt the authorities granted to the higher education boards in Article VIII of the Constitution of Louisiana.

B. The office of telecommunications management shall, subject to the provisions of this Part, have sole authority and responsibility for defining the specific telecommunications systems and telecommunications services to which the provisions of this Part shall be applicable. Rules and regulations shall be promulgated as may be necessary to carry out the provisions of this Part.

§1752. Definitions

For the purposes of this Part, the following words and phrases shall be defined as follows:

(1) "Telecommunications systems", which shall include telecommunications equipment and related services, and "telecommunications services" are limited to the equipment and services and means to provide:

(a) Telecommunications transmission facilities and services.

(b) Voice telecommunications systems and services.

(c) Wireless systems and services to include, but not be limited to, cellular and personal communications services.

(d) Radio systems, to include but not be limited to two-way radio systems; however, the operational abilities and priorities of two-way communications of the departments in the executive branch shall not be impeded.

(e) Intercom and electro-mechanical paging systems.

(f) Any and all systems and services based on emerging and future telecommunications technologies relating to Subparagraphs (a) through (e) of this Paragraph.

(2) "Telecommunications systems contract" means a contract for the procurement of telecommunications systems including equipment and related services to include, but not be limited to, installation and maintenance.

(3) "Telecommunications service contract" means a contract for the procurement of telecommunications services to include, but not be limited to, long distance, pay telephone, radio paging, and utility-type services such as local dial tone.

(4) "Telecommunications systems lease contract" means a contract between a supplier of telecommunications systems and the division of administration, office of telecommunications management, or the procuring agency, through which telecommunications systems may be procured for a term which shall not exceed ten years. The contract may be either an operating lease, installment purchase, or a financed lease without a balloon payment.

(5) "Competitive sealed bidding" means a method of procurement which strictly follows the requirements set forth in Chapter 17 of Title 39 of the Louisiana Revised Statutes of 1950 except for such variations as are specifically established in this Part.

(6) "Procurement" means the selling, buying, purchasing, renting, leasing, or otherwise obtaining telecommunications systems or telecommunications services, as well as all activities engaged in, resulting in, or expected to result in the selling, buying, purchasing, renting, leasing, or otherwise obtaining telecommunications systems or telecommunications services by the state or its agencies.

(7) "Agency" as used in this Part and in Part V of Chapter 1 of Title 39 of the Louisiana Revised Statutes of 1950 shall have the same meaning ascribed to it as provided in R.S. 36:3(1).

(8) "Telecommunications transmission facility" means any transmission medium, switch, instrument, wiring system, or other facility which is used, in whole or in part, to provide any transmission.

(9) "Utility" means any telecommunications service provided by the office of telecommunications management and used in the essential operations of a state agency, such as local dial tone.

(10) "Software" means computer programs and documentation essential to and necessary for a telecommunications system or telecommunications service to perform productive operations.

(11) "Multi-year contracts" are contracts for a term of more than one year, not to exceed ten years.

§1753. Types of contracts permitted

A. The types of contracts permitted in the procurement of telecommunications systems and telecommunications services are defined herein, and the provisions of this Part supplement the provisions of R.S. 39:1551 through R.S. 39:1736.

B. The office of telecommunications management, through the state purchasing office, may, on behalf of any state agency, enter into telecommunications systems contracts in accordance with the following provisions:

(1) Contracts of this type shall be entered into through a request for proposals as defined in this Part. An invitation to bid format may be utilized with written approval from the director of the office of telecommunications management.

(2) The term of such contracts shall not exceed five years.

C. The office of telecommunications management, through the state purchasing office, may on behalf of any state agency, enter into telecommunications services contracts in accordance with the following

provisions:

(1) Contracts of this type shall be entered into through a request for proposals as defined in this Part. An invitation to bid format may be utilized with written approval from the director of the office of telecommunications management.

(2) The term of such contracts shall not exceed ten years.

D. The office of telecommunications management, through the state purchasing office, may on behalf of any state agency, enter into a telecommunications systems lease contract for an operating lease, installment purchase, or financed lease for telecommunications systems in accordance with the following provisions:

(1) All contracts of this type shall be entered into through a request for proposals as defined in this Part.

(2) The justification of such contracts must be approved by the office of telecommunications management prior to issuance of a request for proposals. Such justification shall identify and consider all cost factors relevant to that contract.

(3) The term of such contracts shall not exceed ten years, except financed contracts shall be for a term not to exceed the economic life of the system or ten years, whichever is less.

(4) Upon the advance written approval of the office of telecommunications management, state agencies may extend operating leases of telecommunications systems on a month-to-month basis for a period not to exceed one calendar year for the stated lease prices.

E. Notwithstanding the provisions of R.S. 39:1615 to the contrary, the use of a multi-year contract for telecommunications systems and telecommunications services shall be in accordance with rules and regulations and under the following conditions:

(1) The director of the office of telecommunications management shall approve in writing the use of a multi-year contract over one year, not to exceed three years.

(2) The director of the state purchasing office shall approve in writing the use of a multi-year contract over three years, not to exceed five years.

(3) The commissioner of administration, or his designee, shall approve in writing the use of a multi-year contract over five years.

§1754. Methods of Procurement

A. The office of telecommunications management, through the state purchasing office, may procure telecommunications systems and telecommunications services by a request for proposals to conform with the following requirements:

(1) Public notice of the request for proposals shall be the same as for an invitation to bid as provided in R.S. 39:1594(C).

(2) The request for proposals shall indicate the relative importance of all evaluation factors and shall clearly define the work, service, or solution to be provided under the contract, the functional specifications, the criteria to be used in evaluating the proposals, and the time frames within which the work must be completed or the service provided. For telecommunications systems lease contracts, the request for proposals shall require that proposals contain a declaration as to the maximum price for which the system may be purchased following the termination of the lease contract. No other basis of evaluation shall be used except that set out in the request for proposals.

(3) The office of telecommunications management shall evaluate all proposals to determine the proposal most advantageous to the state, taking into consideration all evaluation criteria set forth in the

request for proposals, and shall make a recommendation of award to the state purchasing office.

(4) The office of telecommunications management may request the state purchasing office reject all proposals when it is deemed that such action is in the best interest of the state.

B. The office of telecommunications management may procure telecommunications systems and telecommunications services in accordance with the law or regulations, or both, which govern the state purchasing office, the division of administration.

#### §1755. General Provisions

The following general provisions shall apply to all procurements under this Part:

(1) No contracts entered into hereunder shall have an initial effective date earlier than the date on which such contract receives approval as required herein.

(2) All changes, modifications, and amendments to any contract hereunder shall be approved in advance by the office of telecommunications management and the state purchasing office, in addition to any other approvals required by law.

(3) Where written proposals or bids are submitted by vendors, the proposal or bid of the successful vendor shall be incorporated into the final contract consummated with that vendor.

(4) All contracts must contain the following annual appropriation dependency clause: "The continuation of this contract is contingent upon the continuation of an appropriation of funds by the Legislature to fulfill the requirements of the contract. If the Legislature fails to appropriate sufficient monies to provide for the continuation of a contract or if such appropriation is reduced by the veto of the

governor or by any means provided in the appropriations act to prevent the total appropriations for the year from exceeding revenues for that year or for any other lawful purpose and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the contract shall terminate on the last day of the fiscal year for which funds were appropriated."

(5) The provisions of this Part shall, with respect to the procurement of telecommunications systems or telecommunications services, supersede specifications of any contradictory or conflicting provisions of the following statutes: R.S. 38:2211 et seq. with respect to awarding of public contracts, and R.S. 39:1551 through R.S. 39:1736. The provisions of this Part do not relate to the procurement of services covered by R.S. 39:1481 through R.S. 39:1526.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_