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**HOUSE COMMITTEE AMENDMENTS**

2023 Regular Session

Amendments proposed by House Committee on Appropriations to Original House Bill No. 431 by Representative Deshotel

AMENDMENT NO. 1

On page 1, line 2, after "R.S. 24:673(A) and (C) and" delete "R.S. 39:198(B)(1)," insert "R.S. 39:198(A), (B)(1),"

AMENDMENT NO. 2

On page 1, line 3, after "(E)(introductory paragraph) and (4)," delete "and (M) and 199(A) and" and insert "(G)(introductory paragraph) and (1)(a), (c), and (d), and (M),"

AMENDMENT NO. 3

On page 1, line 4, after "R.S. 39:197(20)," and before "relative to" insert "(21), and (22), 1556(63), 1593(6)(f), and 1600(F), and to repeal R.S. 39:198(G)(4),"

AMENDMENT NO. 4

On page 1, line 12, after "A." delete the remainder of the line and delete line 13 in its entirety and insert the following:

"The committee may review, and shall review if provided by law or if requested by the Joint Legislative Committee on the Budget, any budget request, expenditure request, or procurement"

AMENDMENT NO. 5

On page 1, line 15, after "recommendations" delete "regarding the request"

AMENDMENT NO. 6

On page 1, line 19, after "technology" and before "from" insert "and cybersecurity"

AMENDMENT NO. 7

On page 2, delete lines 1 through 3 in their entirety and insert the following:

"Section 2. R.S. 39:198(A), (B)(1), (C)(1), (D)(1) and (2), (E)(introductory paragraph) and (4), (G)(introductory paragraph) and (1)(a), (c), and (d), and (M) are hereby amended and reenacted and R.S. 39:197(20), (21), and (22), 1556(63), 1593(6)(f), and 1600(F) are hereby enacted to read as follows:"

AMENDMENT NO. 8

On page 2, line 8, after "(20)" and before "Invitation" insert the following:

""Consulting service" shall have the same meaning as in R.S. 39:1556. (21)"

AMENDMENT NO. 9

On page 2, between lines 11 and 12 insert the following:

1 "(22) "Professional service" shall have the same meaning as in R.S. 39:1556."

2 AMENDMENT NO. 10

3 On page 2, delete line 13 and insert the following:

4 "A. The types of contracts permitted in the procurement of information technology  
5 systems, information technology services, ~~and software,~~ professional services  
6 contracts, and consulting services contracts related to information technology, are  
7 defined in this Part, and the provisions of this Part supersede, with respect to such  
8 procurements, any existing conflicting statutory provisions and supplement the  
9 provisions of R.S. 39:1551 through 1736."

10 AMENDMENT NO. 11

11 On page 2, delete line 16 in its entirety and insert in lieu thereof:

12 "contracts, as well as professional services contracts and consulting services contracts  
13 related to information technology, in accordance with the following provisions:"

14 AMENDMENT NO. 12

15 On page 2, line 17, after "into" delete the remainder of the line, and on line 18, delete  
16 "methods provided in R.S. 39:199." and insert "using one of the methods of source selection  
17 provided in R.S. 39:1593."

18 AMENDMENT NO. 13

19 On page 2, line 24, after "into" delete the remainder of the line, and on line 25, delete  
20 "methods provided in R.S. 39:199." and insert "using one of the methods of source selection  
21 provided in R.S. 39:1593."

22 AMENDMENT NO. 14

23 On page 3, line 3, after "into" delete the remainder of the line, and on line 4, delete "methods  
24 provided in R.S. 39:199." and insert "using one of the methods of source selection provided  
25 in R.S. 39:1593."

26 AMENDMENT NO. 15

27 On page 3, delete lines 11 through 13 and insert the following:

28 "use of a multi-year contract for information technology systems, ~~and information~~  
29 technology services, and professional services and consulting services related to  
30 information technology, shall be in accordance with rules and regulations and under  
31 the following conditions:"

32 AMENDMENT NO. 16

33 On page 3, between lines 19 and 20 insert the following:

34 "G. Multiyear contracts other than direct order contracts and contracts for fiscal  
35 intermediary services. The office of technology services, through the state  
36 purchasing office, may on behalf of any state agency ~~State agencies may~~ enter into  
37 contracts for the lease or purchase of information technology systems, information  
38 technology services, ~~or software,~~ and professional services and consulting services  
39 contracts related to information technology, when the term of such lease or purchase

1 is greater than twelve months or involves more than one fiscal year in accordance  
2 with the following provisions:

3 (1) General terms and conditions for multiyear contracts shall be as follows:

4 (a) All contracts of this type shall be entered into ~~through competitive sealed bidding~~  
5 using one of the methods of source selection provided in R.S. 39:1593.

6 \* \* \*

7 (c)(i) The term of such contract shall ~~not exceed sixty months~~ be in accordance with  
8 Subsections B, C, and D of this Section.

9 (ii) Notwithstanding Item (i) of this Subparagraph, contracts for electronic benefits  
10 issuance system services as required under R.S. 46:450.1 may be entered into for  
11 periods of up to ten years. The contracts shall be for an initial contract period of six  
12 years with the state having two options for two-year extensions up to a maximum of  
13 ten years.

14 (d)(i) All such contracts ~~must~~ shall contain the following annual appropriation  
15 dependency clause:

16 "The continuation of this contract is contingent upon the continuation of an  
17 appropriation of funds by the legislature to fulfill the requirements of the contract.  
18 If the legislature fails to appropriate sufficient monies to provide for the continuation  
19 of a contract or if such appropriation is reduced by the veto of the governor or by any  
20 means provided in the Appropriation Act or Title 39 of the Louisiana Revised  
21 Statutes of 1950 to prevent the total appropriations for the year from exceeding  
22 revenues for that year or for any other lawful purpose and the effect of such  
23 reduction is to provide insufficient monies for the continuation of the contract, the  
24 contract shall terminate on the date of the beginning of the first fiscal year for which  
25 funds are not appropriated."

26 (ii) When funds are not appropriated or otherwise made available to support  
27 continuation of performance in the following fiscal year of a multiyear contract for  
28 professional or consulting services, the contract for the remaining term shall be  
29 cancelled and the contractor shall be reimbursed in accordance with the terms of the  
30 contract for the reasonable value of any nonrecurring costs incurred but not  
31 amortized in the price of services delivered pursuant to the contract. The cost of  
32 cancellation may be paid from appropriations made specifically for the payment of  
33 such cancellation costs or from unobligated funds of the using agency.

34 (iii) With respect to all multiyear contracts under this Subsection, there shall be no  
35 provisions for a penalty to the state for cancellation or early payment of the contract.

36 \* \* \*

37 AMENDMENT NO. 17

38 On page 3, delete lines 20 through 29 in their entirety, delete page 4 in its entirety,  
39 and on page 5 delete lines 1 through 16 in their entirety and insert the following:

40 "M. ~~Any contract entered into for a period of more than three years as authorized~~  
41 ~~by this Section shall be subject to prior approval of the Joint Legislative Committee~~  
42 ~~on the Budget. (1)(a) No award of any contract procured for a period of more than~~  
43 ~~three years, inclusive of contract extensions, and with a cost of more than two~~  
44 ~~million dollars shall be made until reviewed by the Joint Legislative Committee on~~  
45 ~~Technology and Cybersecurity and approved by the Joint Legislative Committee on~~  
46 ~~the Budget.~~

1 (b) No award of any contract procured through an invitation to negotiate shall be  
2 made until reviewed by the Joint Legislative Committee on Technology and  
3 Cybersecurity.

4 (2) The issuing agency shall submit the award for review by the Joint Legislative  
5 Committee on Technology and Cybersecurity and approval by the Joint Legislative  
6 Committee on the Budget no later than sixty-five days prior to issuance. The Joint  
7 Legislative Committee on Technology and Cybersecurity shall conduct a public  
8 hearing to review the award and shall make recommendations to the Joint Legislative  
9 Committee on the Budget. Upon receiving the recommendations of the Joint  
10 Legislative Committee on Technology and Cybersecurity, the Joint Legislative  
11 Committee on the Budget shall conduct a public hearing to consider approval of the  
12 award.

13 §1556. Definitions

14 As used in this Chapter, the words defined in this Section shall have the meanings  
15 set forth below, unless the context in which they are used clearly requires a different  
16 meaning or a different definition is prescribed for a particular Part or provision:

17 \* \* \*

18 (63) "Invitation to negotiate" means a written or electronically posted solicitation for  
19 competitive sealed replies to select one or more vendors with which to commence  
20 negotiations for the procurement of commodities or contractual services.

21 \* \* \*

22 §1593. Methods of source selection

23 Unless otherwise authorized by law, all state contracts shall be awarded by one of  
24 the following methods:

25 \* \* \*

26 (6) R.S. 39:1600, other procurement methods:

27 \* \* \*

28 (f) Invitation to negotiate.

29 \* \* \*

30 §1600. Other procurement methods

31 \* \* \*

32 F. Invitation to negotiate. (1) Notwithstanding any other provision of this Section  
33 to the contrary, with the written determination by the state chief procurement officer  
34 that the best interest of the state would be served, an invitation to negotiate may be  
35 utilized for the acquisition of materials, supplies, services of any type, products,  
36 equipment, or consulting services of any monetary amount, including small  
37 purchases.

38 (2) Before issuing an invitation to negotiate, the head of an agency shall determine  
39 and specify in writing the reasons that procurement by an invitation to bid or a  
40 request for proposal is not practicable.

41 (3) The invitation to negotiate shall describe the questions being explored, the facts

1 being sought, and the specific goals or problems that are the subject of the  
2 solicitation.

3 (4) The criteria that will be used for determining the acceptability of the reply and  
4 guiding the selection of the vendors with which the agency will negotiate shall be  
5 specified. The evaluation criteria shall include consideration of prior relevant  
6 experience of the vendor.

7 (5) The agency shall evaluate replies against all evaluation criteria set forth in the  
8 invitation to negotiate in order to establish a competitive range of replies reasonably  
9 susceptible of award. The agency may select one or more vendors within the  
10 competitive range with which to commence negotiations. After negotiations are  
11 conducted, the agency shall award the contract to the responsible and responsive  
12 vendor that the agency determines will provide the best value to the state, based on  
13 the selection criteria.

14 (6) The contract file for a vendor selected through an invitation to negotiate shall  
15 contain a short plain statement that explains the basis for the selection of the vendor  
16 and that sets forth the vendor's deliverables and price, pursuant to the contract, along  
17 with an explanation of how the deliverables and price provide the best value to the  
18 state.

19 (7) In accordance with the Administrative Procedure Act, the division of  
20 administration, office of state procurement, is hereby authorized and directed to  
21 adopt and promulgate rules necessary for the administration of the provisions of this  
22 Subsection."

23 AMENDMENT NO. 18

24 On page 5, between lines 16 and 17, insert the following:

25 "Section 3. R.S. 39:198(G)(4) is hereby repealed in its entirety."

26 AMENDMENT NO. 19

27 On page 5, line 17, delete "Section 3." and insert "Section 4."