

2024 Regular Session

HOUSE BILL NO. 845

BY REPRESENTATIVE DESHOTEL

PROCUREMENT: Provides relative to procurement of information technology

1 AN ACT

2 To amend and reenact R.S. 24:673(A) and (C) and R.S. 39:198(A), (B)(introductory  
3 paragraph) and (1), (C)(1), (D)(introductory paragraph), (1), and (2),  
4 (E)(introductory paragraph) and (4), (G)(introductory paragraph) and (1)(a), (c), and  
5 (d), and (M), to enact R.S. 39:197(20) through (22), 1556(63), 1593(6)(f), and  
6 1600.2, and to repeal R.S. 39:198(G)(4) and 200(I), relative to the procurement of  
7 information technology; to provide for authority of certain legislative committees;  
8 to provide for review of certain contracts; to provide for methods of procurement;  
9 to provide for invitation to negotiate as a method of procurement; to provide for the  
10 types of contracts that may be procured by certain methods; to provide relative to  
11 contract terms; to provide relative to procurement support; and to provide for related  
12 matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 24:673(A) and (C) are hereby amended and reenacted to read as  
15 follows:

16 §673. Budget requests and expenditure requests; technology funds, fees, and  
17 donations; review

18 A. ~~At the request of the Joint Legislative Committee on the Budget, the~~  
19 ~~committee shall review any budget request or expenditure request~~ The committee  
20 may review any budget request, expenditure request, or procurement request related

1 to technology or cybersecurity. The committee shall review a budget request,  
2 expenditure request, or procurement request if required by law or requested by the  
3 Joint Legislative Committee on the Budget. The committee shall perform its review  
4 and submit its comments and recommendations ~~regarding the request~~ to the Joint  
5 Legislative Committee on the Budget in a timely manner.

6 \* \* \*

7 C. The committee may review ~~all~~ any technology fees and expenditures  
8 related to information technology and cybersecurity from ~~dedicated funds~~ any means  
9 of finance and shall report its findings and recommendations as it deems appropriate.

10 Section 2. R.S. 39:198(A), (B)(introductory paragraph) and (1), (C)(1),  
11 (D)(introductory paragraph), (1), and (2), (E)(introductory paragraph) and (4),  
12 (G)(introductory paragraph) and (1)(a), (c), and (d), and (M) are hereby amended and  
13 reenacted and R.S. 39:197(20) through (22), 1556(63), 1593(6)(f), and 1600.2 are hereby  
14 enacted to read as follows:

15 §197. Definitions

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

18 \* \* \*

19 (20) "Consulting service" shall have the same meaning as provided in R.S.  
20 39:1556.

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

25 (22) "Professional service" shall have the same meaning as provided in R.S.  
26 39:1556.

27 §198. Types of contracts permitted

28 A. The types of contracts permitted in the procurement of information  
29 technology systems, information technology services, ~~and software,~~ and professional

1 services contracts and consulting services contracts related to information  
2 technology, are defined in this Part, and the provisions of this Part supersede, with  
3 respect to such procurements, any existing conflicting statutory provisions and  
4 supplement the provisions of R.S. 39:1551 through 1736.

5 B. The office of technology services, through the ~~state purchasing office,~~  
6 office of state procurement, may, on behalf of any state agency, enter into  
7 information technology systems contracts, as well as professional services contracts  
8 and consulting services contracts related to information technology, in accordance  
9 with the following provisions:

10 (1) Contracts of this type shall be entered into ~~through a request for~~  
11 ~~proposals as provided in R.S. 39:199.~~ using one of the methods of source selection  
12 provided in R.S. 39:1594, 1595, 1600(D), 1600.2, and 1702. ~~An invitation to bid~~  
13 ~~format may be utilized with written approval from the state chief information officer.~~

14 \* \* \*

15 C. The office of technology services, through the office of state procurement,  
16 may on behalf of any state agency, enter into information technology services  
17 contracts in accordance with the following provisions:

18 (1) Contracts of this type shall be entered into ~~through a request for~~  
19 ~~proposals as provided in R.S. 39:199.~~ using one of the methods of source selection  
20 provided in R.S. 39:1594, 1595, 1600(D), 1600.2, and 1702. ~~An invitation to bid~~  
21 ~~format may be utilized with written approval from the state chief information officer.~~

22 \* \* \*

23 D. The office of technology services, through the office of state  
24 procurement, may on behalf of any state agency, enter into a an information  
25 technology systems lease contract for an operating lease, installment purchase, or  
26 financed lease for information technology systems in accordance with the following  
27 provisions:

1 (1) All contracts of this type shall be entered into ~~through a request for~~  
2 ~~proposals as provided in R.S. 39:199.~~ using one of the methods of source selection  
3 provided in R.S. 39:1594, 1595, 1600(D), 1600.2, and 1702.

4 (2) The justification of such contracts must be approved by the office of  
5 technology services prior to issuance of a request for proposals or an invitation to  
6 negotiate. Such justification shall identify and consider all cost factors relevant to  
7 that contract.

8 \* \* \*

9 E. ~~Notwithstanding the provisions of R.S. 39:1615 to the contrary, the~~ The  
10 use of a multi-year contract for information technology systems, and information  
11 technology services, and professional services contracts and consulting services  
12 contracts related to information technology shall be in accordance with rules and  
13 regulations and under the following conditions:

14 \* \* \*

15 (4) A report of all multi-year contracts shall be provided to the Joint  
16 Legislative Committee on the Budget and the Joint Legislative Committee on  
17 Technology and Cybersecurity no later than ninety days after the end of each fiscal  
18 year.

19 \* \* \*

20 G. Multiyear contracts other than direct order contracts and contracts for  
21 fiscal intermediary services. The office of technology services, through the office of  
22 state procurement, may on behalf of any state agency ~~State agencies may~~ enter into  
23 contracts for the lease or purchase of information technology systems, information  
24 technology services, ~~or software,~~ and professional services contracts and consulting  
25 services contracts related to information technology when the term of such lease or  
26 purchase is greater than twelve months or involves more than one fiscal year in  
27 accordance with the following provisions:

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

1 (a) All contracts of this type shall be entered into ~~through competitive sealed~~  
2 ~~bidding~~ using one of the methods of source selection as provided in R.S. 39:1594,  
3 1595, 1600(D), 1600.2, and 1702.

4 \* \* \*

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

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

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

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

24 (ii) When funds are not appropriated or otherwise made available to support  
25 continuation of performance in the following fiscal year of a multiyear contract for  
26 professional or consulting services, the contract for the remaining term shall be  
27 cancelled and the contractor shall be reimbursed in accordance with the terms of the  
28 contract for the reasonable value of any nonrecurring costs incurred but not  
29 amortized in the price of services delivered pursuant to the contract. The cost of

1 cancellation may be paid from appropriations made specifically for the payment of  
2 such cancellation costs or from unobligated funds of the using agency.

3 (iii) With respect to all multiyear contracts for professional services and  
4 consulting services pursuant to this Subsection, there shall be no provisions for a  
5 penalty to the state for cancellation or early payment of the contract.

6 \* \* \*

7 M.(1)(a) Any contract entered into for a period of more than three years as  
8 authorized by this Section shall be subject to prior approval of the Joint Legislative  
9 Committee on the Budget. No award of any contract procured for a period of more  
10 than three years, inclusive of contract extension options, and with a cost of more than  
11 two million dollars shall be made until the contract is reviewed by the Joint  
12 Legislative Committee on Technology and Cybersecurity and approved by the Joint  
13 Legislative Committee on the Budget. The provisions of this Subparagraph shall  
14 also apply to the extension of any such contract.

15 (b) The issuing agency shall submit the contract for review by the Joint  
16 Legislative Committee on Technology and Cybersecurity and approval by the Joint  
17 Legislative Committee on the Budget. The Joint Legislative Committee on  
18 Technology and Cybersecurity shall conduct a public hearing to review the contract  
19 and shall make recommendations to the Joint Legislative Committee on the Budget  
20 no later than thirty days after the submission of the contract by the issuing agency.  
21 Upon receiving the recommendations of the Joint Legislative Committee on  
22 Technology and Cybersecurity, the Joint Legislative Committee on the Budget shall  
23 conduct a public hearing to consider approval of the award no later than thirty days  
24 after receipt of recommendations from the Joint Legislative Committee on  
25 Technology and Cybersecurity.

26 (2) The office of technology services shall submit a monthly report of all  
27 multiyear contracts with a cost of more than one million dollars to the Joint  
28 Legislative Committee on Technology and Cybersecurity. The report shall include

1 all pending multiyear contracts with a cost of more than one million dollars that may  
2 be executed within thirty days of the reporting period.

3 (3) No award of any contract procured through an invitation to negotiate shall  
4 be made until after it has been reviewed by the Joint Legislative Committee on  
5 Technology and Cybersecurity.

6 \* \* \*

7 §1556. Definitions

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

12 \* \* \*

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

17 \* \* \*

18 §1593. Methods of source selection

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

21 \* \* \*

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

23 \* \* \*

24 (f) Invitation to negotiate.

25 \* \* \*

26 §1600.2. Invitation to negotiate

27 A. Notwithstanding any other provision of law to the contrary, with the  
28 written determination by the state chief procurement officer that the best interest of  
29 the state would be served, especially where the business need is complex or requires

1 innovation, an invitation to negotiate may be utilized for the acquisition of materials,  
2 supplies, services of any type, products, equipment, or consulting services of any  
3 monetary amount, including small purchases.

4 B. Before issuing an invitation to negotiate, the head of the agency shall  
5 determine and specify in writing that procurement by the other methods outlined in  
6 R.S. 39:1594, 1595, 1600(D), and 1702 are not practicable.

7 C. The invitation to negotiate shall describe the questions being explored, the  
8 facts being sought, and the specific goals or problems that are the subject of the  
9 solicitation, and shall be subject to all of the following conditions:

10 (1) The solicitation shall specifically allow for the possibility of negotiation  
11 and describe, with as much specificity as possible, how negotiations may be  
12 conducted.

13 (2) Submissions shall be evaluated and ranked based on the evaluation  
14 criteria in the formal solicitation.

15 (3) Only those vendors whose proposals or offers are determined to be  
16 acceptable, in accordance with criteria for negotiations set forth in the solicitation,  
17 shall be candidates for negotiations.

18 (4) Negotiations shall be conducted first with the vendor that is the apparent  
19 highest ranked responsible vendor, unless concurrent negotiations are permissible,  
20 in accordance with the terms of the solicitation.

21 (5) Auction techniques and disclosure of information derived from  
22 competing proposals are prohibited.

23 (6) Any clarifications or changes resulting from negotiations shall be  
24 documented in writing.

25 (7) If the parties to negotiations are unable to agree, the office of state  
26 procurement shall formally terminate negotiations and may undertake negotiations  
27 with the next ranked vendor.

28 (8) If negotiations as provided for in this Section fail to result in a contract,  
29 as determined by the office of state procurement, the solicitation may be canceled.



1           D. The office of state procurement may terminate negotiations at any time,  
2           in the best interest of the state, and shall provide the reasons therefor in writing.

3           E. The contract file for the vendor selection through an invitation to negotiate  
4           shall contain a short plain statement that explains the basis for the selection of the  
5           vendor and that sets forth the vendor's deliverables and price, pursuant to the  
6           contract, along with an explanation of how the deliverables and price provide the  
7           best value to the state.

8           F. In accordance with the Administrative Procedure Act, the division of  
9           administration, office of state procurement, is hereby authorized and directed to  
10          adopt and promulgate rules necessary for the administration of the provisions of this  
11          Section.

12          Section 3. R.S. 39:198(G)(4) and 200(I) are hereby repealed in their entirety.

13          Section 4. The Louisiana State Law Institute is hereby authorized and directed to  
14          arrange in alphabetical order and renumber the definitions provided in R.S. 39:197 and 1556  
15          as amended by this Act.

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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)]

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HB 845 Original

2024 Regular Session

Deshotel

**Abstract:** Provides for methods of procurement for information technology.

Present law provides for the creation of the Joint Legislative Committee on Technology and Cybersecurity (JLCTC). Provides for the duties and functions of the committee, which include the authority to review budget or expenditure requests related to technology or cybersecurity.

Proposed law retains present law and adds the authority to review procurement requests related to technology or cybersecurity.

Present law provides for definitions related to the procurement of information technology.

Proposed law retains present law and adds the definitions of consulting service, invitation to negotiate, and professional service.

Present law provides for the types of contracts permitted in the procurement of information technology systems, information technology services, and software. Provides for contracts to be entered into through a request for proposals.

Proposed law retains present law and adds professional services contracts and consulting services contracts related to information technology to the types of contracts permitted in present law provisions that govern procurement of information technology. Adds competitive sealed bids, competitive sealed proposals, reverse auction, cooperative purchasing, and an invitation to negotiate as the methods of procurement for information technology.

Present law provides for multi-year contracts in the procurement of information technology systems, information technology services, and software.

Proposed law retains present law and adds professional services contracts and consulting services contracts related to information technology to the types of contracts eligible for multi-year contracts. Provides that professional services contracts and consulting services contracts related to information technology shall not exceed five years. Provides that contracts for electronic benefit issuance system services shall be for an initial contract period of six years with an option for two options for two-year extensions up to a maximum of ten years.

Present law requires all multi-year contracts to contain language concerning the appropriation of funds to fulfill the requirements of the contracts. Proposed law retains present law and provides for when funds are not appropriated to continue a multi-year contract and the cost of cancellation of a contract.

Present law provides for a report of all multi-year contracts to be provided to the Joint Legislative Committee on the Budget (JLCB) each fiscal year. Provides that any contract entered into for more than three years is subject to approval by JLCB.

Proposed law retains present law and adds that the report shall also be provided to JLCTC. Adds that any contract entered into for more than three years, inclusive of initial contract extension options and later executed contract extensions, and has a cost of more than \$2 million or procured through an invitation to negotiate is subject to review by JLCTC and approval of JLCB. Provides deadlines for such review. Further requires the office of technology services to submit a monthly report of all multiyear contracts, including pending contracts, with a cost of more than \$1 million to JLCTC.

Proposed law provides for the invitation to negotiate and sets the parameters for the procurement method.

Present law requires certain contracts to be entered into with the assistance of a procurement support team. Requires assistance in the evaluation of bids and negotiation of contracts. Provides for the composition of the procurement support team.

Proposed law repeals present law.

(Amends R.S. 24:673(A) and (C) and R.S. 39:198(A), (B)(intro. para.) and (1), (C)(1), (D)(intro. para.), (1), and (2), (E)(intro. para.) and (4), (G)(intro. para.) and (1)(a), (c), and (d), and (M); Adds R.S. 39:197(20)-(22), 1556(63), 1593(6)(f), and 1600.2; Repeals R.S. 39:198(G)(4) and 200(I))