

SENATE BILL NO. 151

BY SENATOR MIZELL

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

1 AN ACT

2 To amend and reenact R.S. 39:1594(C)(1) and (3), 1595, 1621(A), (B), and (C)(1) and (3),  
3 1630, 1641(A), 1643(A), 1644(A)(1), (B), and (C), 1671(F), 1672.3, 1672.4(A),  
4 1683(E)(2), 1685(E)(2), the heading of 1691 and (A), (C), and (D), 1692(C), and  
5 1702(A)(1) and to repeal R.S. 39:1600.2(B), relative to the Louisiana Procurement  
6 Code; to provide for advertisement and notice requirements for procurement and  
7 exceptions; to provide for competitive sealed proposals; to provide for negotiation  
8 and award of contracts; to provide for methods of procurement; to provide for the  
9 utilization requirements of certain procurement methods; to establish procedures for  
10 contract negotiations; to provide for the authority and duties of the commissioner of  
11 administration with respect to procurement and protests; to provide for certain  
12 exemptions; to provide relative to lease contracts; to provide for amendment of lease  
13 contracts; to provide for legal and contractual remedies; to provide relative to  
14 administrative appeals; to provide for cooperative purchasing; to provide for an  
15 effective date; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 39:1594(C)(1) and (3), 1595, 1621(A), (B), (C)(1) and (3), 1630,  
18 1641(A), 1643(A), 1644(A)(1), (B), and (C), 1671(F), 1672.3, 1672.4(A), 1683(E)(2),  
19 1685(E)(2), the heading of 1691 and (A), (C), and (D), 1692(C), and 1702(A)(1) are hereby  
20 amended and reenacted to read as follows:

21 §1594. Competitive sealed bids

22 \* \* \*

23 C. Public notice.

24 (1) Adequate public notice of the invitation for bids shall be given at least ~~ten~~  
25 **five** days prior to the date set forth therein for the opening of bids on all matters  
26 except those made for housing of state agencies, their personnel, operations,  
27 equipment, or activities pursuant to R.S. 39:1643, for which such notice shall be

1 given at least twenty days prior to the opening of bids. Notice shall be in writing and  
2 to persons in a position to furnish the supplies, services, or major repairs required,  
3 as shown by its records, and by advertising if the amount of the purchase is  
4 ~~twenty-five thousand dollars or more~~ **exceeds the amount provided by the small**  
5 **purchase executive order issued in accordance with R.S. 39:1596.**

6 \* \* \*

7 (3) Each advertisement ~~shall~~ **may** be published in the official journal of the  
8 state. In the case of any purchase to meet the needs of a single budget unit the  
9 advertisement shall be published also in a newspaper of general circulation printed  
10 in the parish in which the budget unit is situated or, if there is no newspaper printed  
11 in the parish, in a newspaper printed in the nearest parish, which has a general  
12 circulation in the parish in which the budget unit is situated.

13 \* \* \*

14 §1595. Competitive sealed proposals

15 A.(1) Notwithstanding any other provision of this Section to the contrary,  
16 with the ~~approval of the commissioner and the~~ written determination by the state  
17 chief procurement officer that the best interests of the state would be served, a  
18 competitive request for proposals process as provided in this Subsection may be used  
19 in the following circumstances:

20 (a) For the procurement of supplies, services, or major repairs, including but  
21 not limited to the procurement of high technology acquisitions or of complex  
22 services.

23 (b) Through a contract with a group purchasing organization, for the  
24 procurement of medical and laboratory supplies and medical equipment required for  
25 the purpose of diagnosis or direct treatment of a patient by a health care provider in  
26 a hospital or clinical setting, provided the commissioner determines the total cost to  
27 be less than the state procurement prices and in the best interest of the state.

28 (c) The ~~approval and written determination requirements~~ **requirement** of this  
29 Paragraph shall not apply to a request for proposals for professional, personal,  
30 consulting, or social services.

(2) For a contract to be let under the provisions of this Subsection, the agency shall give adequate public notice of the request for proposals by advertising ~~in the official journal of the state~~ through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids as provided in this Section at least thirty days before the last day that proposals will be accepted. The agency may also advertise in the official journal of the state. In addition, the agency shall provide written or electronic notice to persons, firms, or corporations who are known to be in a position to furnish the required services at least thirty days before the last day that proposals will be accepted. The agency shall also notify the Board of Regents of the request for proposals at least thirty days before the last day that proposals will be accepted.

B. Requests for proposals.

(1) For consulting service contracts with a total maximum compensation of one hundred fifty thousand dollars or more, except for such contracts entered into by the Department of Transportation and Development, adequate public notice of the request for proposals shall be given by advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids as provided in this Section. The agency may also advertise in the official journal of the state and in one or more newspapers of general circulation in the state ~~at least once~~. The electronic advertisement shall appear at least thirty days before the last day that proposals will be accepted. When available, advertisements ~~shall~~ may be placed in those national trade journals which serve the particular type of contractor desired. In addition, written or electronic notice shall be provided to persons, firms, or corporations who are known to be in a position to furnish such services, at least thirty days before the last day that proposals will be accepted. The agency shall also notify the Board of Regents of the request for proposals at least thirty days before the last day that proposals will be accepted.

(2) For social service contracts not qualifying under R.S. 39:1619(B),

adequate public notice of the request for proposals shall be given by advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids as provided in this Section. The agency may also advertise in the official journal of the state, in the official journal of the parish in which the services are to be performed and such other newspapers, bulletins, or other media as are appropriate in the circumstances. ~~Such advertisements shall appear at least once in the official journal of the state and once in the official journal of the parish. If the services are to be performed in or made available to residents of a multiparish area, advertising in the official journal of the state and in one or more newspapers of general circulation in the state at least once shall be sufficient to meet this requirement.~~ In all cases, the electronic advertisement shall appear at least fourteen days before the last day that the proposals will be accepted. In addition, written or electronic notice shall be provided to persons, firms, or corporations who are known to be in a position to furnish such services, at least fourteen days before the last day that proposals will be accepted. This last requirement is subject to reasonable limitation at the discretion of the using agency. The agency shall also notify the Board of Regents of the request for proposals at least fourteen days before the last day that proposals will be accepted.

(3) For consulting service contracts entered into by the Department of Transportation and Development with a total maximum compensation of fifty one hundred fifty thousand dollars or more, adequate public notice of the request for proposals shall be given by advertising through a centralized electronic interactive environment administered by the division of administration and on the electronic website accepting the electronic bids as provided in this Section. The agency may also advertise in the official journal of the state ~~at least once~~. The first notice or advertisement shall appear at least fifteen days before the last day that proposals will be accepted. In addition, written or electronic notice shall be provided to persons, firms, or corporations who are known to be in a position to furnish such services, at least fifteen days prior to the last day that proposals will be accepted. The

1 agency shall also notify the Board of Regents of the request for proposals at least  
2 fifteen days before the last day that proposals will be accepted.

3 (4) All requests for proposals shall be advertised through a centralized  
4 electronic interactive environment administered by the division of administration and  
5 on the electronic website accepting the electronic bids as provided in this Section.  
6 The **electronic** advertisement ~~or written notice~~ required by this Section shall contain  
7 the name and address of the using agency and shall establish the specific date, time,  
8 and place by which the request for proposals must be received.

9 (5) The requests for proposals:

10 ~~(a) For consulting, social, and professional services not otherwise exempt by~~  
11 ~~law or regulation shall indicate the relative importance of price and other evaluation~~  
12 ~~factors, shall clearly define the tasks to be performed under the contract, the criteria~~  
13 ~~to be used in evaluating the proposals and the time frames within which the work~~  
14 ~~must be completed.~~

15 ~~(b) For all others, it shall clearly state the technological or other outcome~~  
16 ~~desired from the procurement of the supplies, services, or major repairs, if~~  
17 ~~applicable, and shall indicate the relative importance of price and other evaluation~~  
18 ~~factors, the criteria to be used in evaluating the proposals, and the time frames within~~  
19 ~~which the work must be completed, **if applicable**.~~

20 (6)(a) Proposals shall be submitted in writing in accordance with the  
21 requirements set forth in the request for proposals or electronically through a  
22 uniform and secure electronic interactive environment.

23 ~~(b) Public entities shall provide, as an additional option for submission of~~  
24 ~~proposals, a uniform and secure electronic interactive system for the submission of~~  
25 competitive sealed proposals as provided for in this Section. Any public entity  
26 providing a secure electronic interactive system shall follow the standards for the  
27 receipt of electronic bids adopted by the office of the governor, division of  
28 administration, and the office of information technology as provided for in LAC  
29 4:XV.701. Any special condition or requirement for the submission shall be  
30 specified in the advertisement of the request for proposals required by this Section.

1 (c) The requirements of Subparagraph (b) of this Paragraph shall not apply  
2 to the following public entities:

3 (i) Public entities that are currently without high-speed Internet access, until  
4 high-speed Internet access becomes available.

5 (ii) Any parish with a police jury form of government and a population of less  
6 than twenty thousand.

7 (iii) Any city or municipality with a population of less than ten thousand.

8 (iv) Any public entity that is unable to comply with the electronic proposal  
9 submission provisions of this Subsection without securing and expending additional  
10 funding.

11 (7) Written or oral discussions shall be conducted with all responsible  
12 proposers who submit proposals determined in writing to be reasonably susceptible  
13 of being selected for award. ~~Discussions~~ **The state** shall not disclose any information  
14 derived from proposals submitted by competing proposers **until after the contract**  
15 **is awarded**. Discussions need not be conducted:

16 (a) If prices are fixed by law or regulation, except that consideration shall be  
17 given to competitive terms and conditions.

18 (b) If time of delivery or performance will not permit discussions.

19 (c) If it can be clearly demonstrated and documented from the existence of  
20 adequate competition or accurate prior cost experience with the particular service  
21 that acceptance of an initial offer without discussion would result in fair and  
22 reasonable prices, and the request for proposals notifies all proposers of the  
23 possibility that award may be made on the basis of the initial offers.

24 ~~(8)(a) Award shall be made to the responsible proposer whose proposal is~~  
25 ~~determined in writing by the using agency to be the most advantageous to the state,~~  
26 ~~taking into consideration review of price and the evaluation factors set forth in the~~  
27 ~~request for proposals.~~

28 ~~(b) A request for proposals or other solicitation may be cancelled or all~~  
29 ~~proposals may be rejected only if it is determined, based on reasons provided in~~  
30 ~~writing, that such action is taken in the best interest of the state.~~

1                   ~~(9) A request for proposals or other solicitation may be cancelled or all~~  
2                   ~~proposals may be rejected only if it is determined, based on reasons provided in~~  
3                   ~~writing, that such action is taken in the best interest of the state.~~

4                   ~~(10) Each contract entered into pursuant to this Subsection shall contain as~~  
5                   ~~a minimum:~~

6                   ~~(a) Description of the work to be performed or objectives to be met, when~~  
7                   ~~applicable.~~

8                   ~~(b) Amount and time of payments to be made.~~

9                   ~~(c) Description of reports or other deliverables to be received, when~~  
10                  ~~applicable.~~

11                  ~~(d) Date of reports or other deliverables to be received, when applicable.~~

12                  ~~(e) Responsibility for payment of taxes, when applicable.~~

13                  ~~(f) Circumstances under which the contract can be terminated either with or~~  
14                  ~~without cause.~~

15                  ~~(g) Remedies for default.~~

16                  ~~(h) A statement giving the legislative auditor the authority to audit records~~  
17                  ~~of the individual or firm.~~

18                  ~~(i) Performance measurements.~~

19                  ~~(j) Monitoring plan.~~

20                  ~~(11)(a) Upon entering into a contract, the using agency shall have full~~  
21                  ~~responsibility for the diligent administration and monitoring of the contract. The~~  
22                  ~~state chief procurement officer may require the using agency to report at any time~~  
23                  ~~on the status of any such outstanding contracts to which the using agency is a party.~~  
24                  ~~After completion of performance under a contract, the using agency shall evaluate~~  
25                  ~~contract performance and the utility of the final product. This evaluation shall be~~  
26                  ~~delivered to the state chief procurement officer or his designee or the director of~~  
27                  ~~purchasing at a college or university, as applicable, within one hundred twenty days~~  
28                  ~~after completion of performance and shall be retained in the official contract file.~~

29                  ~~(b)(i) No contract shall be valid, nor shall the state be bound by the contract,~~  
30                  ~~until it has first been executed by the head of the using agency, or his designee,~~

1        ~~which is a party to the contract and the contractor and has been approved in writing~~  
2        ~~by the state chief procurement officer or his designee or the director of purchasing~~  
3        ~~at a college or university, as applicable.~~

4                ~~(ii) In cases where the head of the using agency wants to delegate authority~~  
5        ~~to one or more of his subordinates to sign contracts on behalf of the agency, this~~  
6        ~~delegation shall be made in accordance with regulations of the commissioner and~~  
7        ~~shall be subject to the approval of the state chief procurement officer.~~

8                **(8) Modification or withdrawal of proposals. Proposals may be modified**  
9        **or withdrawn at any time prior to the conclusion of discussions.**

10              **(9) Negotiation and award of contract. The using agency shall negotiate**  
11        **a contract with the responsible proposer whose proposal is determined in**  
12        **writing by the using agency to be the most advantageous to the state, taking into**  
13        **consideration review of price and the evaluation factors set forth in the request**  
14        **for proposals.**

15              **(10) Elements of negotiation. Contract negotiations shall be directed**  
16        **toward:**

17              **(a) Making certain that the proposer has a clear understanding of the**  
18        **scope of the work, services, or supplies, specifically, the essential requirements**  
19        **involved in providing the required work, services, or supplies.**

20              **(b) Determining that the proposer will make available the necessary**  
21        **personnel and facilities to perform the services within the required time.**

22              **(c) Agreeing upon compensation which is fair and reasonable, taking into**  
23        **account the estimated value of the required work, services, or supplies, and the**  
24        **scope, complexity, and nature of such work, services, or supplies.**

25              **(11) Successful negotiation of contract with most advantageous proposer.**  
26        **If compensation, contract requirements, and contract documents can be agreed**  
27        **upon with the most advantageous proposer, the contract shall be awarded to**  
28        **that proposer. Each contract entered into pursuant to this Subsection shall**  
29        **contain at a minimum:**

30              **(a) The commencement date which is at least fourteen days after the**



1 notice of award is issued.

2 (b) A description of the work to be performed or objectives to be met,  
3 when applicable.

4 (c) The amount and time of payments to be made.

5 (d) A description of reports or other deliverables to be received, when  
6 applicable.

7 (e) The date of reports or other deliverables to be received, when  
8 applicable.

9 (f) Responsibility for payment of taxes, when applicable.

10 (g) Circumstances under which the contract can be terminated either  
11 with or without cause.

12 (h) Remedies for default.

13 (i) A statement giving the legislative auditor the authority to audit  
14 records of the individual or firm.

15 (j) Performance measurements.

16 (k) A monitoring plan.

17 (12)(a) Upon entering into a contract, the using agency shall have full  
18 responsibility for the diligent administration and monitoring of the contract.  
19 The state chief procurement officer may require the using agency to report at  
20 any time on the status of any such outstanding contracts to which the using  
21 agency is a party. After completion of performance under a contract, the using  
22 agency shall evaluate the contract performance and the utility of the final  
23 product. This evaluation shall be delivered to the state chief procurement  
24 officer, or his designee, or the director of purchasing at a college or university,  
25 as applicable, within one hundred twenty days after completion of performance  
26 and shall be retained in the official contract file.

27 (b)(i) No contract shall be valid, nor shall the state be bound by the  
28 contract, until it has first been executed by the head of the using agency, or his  
29 designee, on behalf of the using agency, which is a party to the contract and the  
30 contractor and has been approved in writing by the state chief procurement

1 officer, or his designee, or the director of purchasing at a college or university,  
2 as applicable.

3 (ii) The head of the using agency may delegate authority to one or more  
4 of his subordinates to sign contracts on behalf of the using agency in accordance  
5 with and subject to regulations of the commissioner and shall be subject to the  
6 approval of the state chief procurement officer.

7 (iii) Upon approval of the contract by the state chief procurement officer,  
8 or his designee, the office of state procurement shall send written notice of the  
9 award to the contractor and a copy of such notice to all other proposers.

10 (13) Failure to negotiate contract with most advantageous proposer.

11 (a) If compensation, contract requirements, or contract documents  
12 cannot be agreed upon with the most advantageous proposer, a written record  
13 stating the reasons therefore shall be placed in the contract file. The office of  
14 state procurement shall advise such proposer of the termination of negotiations  
15 and confirm the termination by written notice within three business days.

16 (b) Upon failure to negotiate a contract with the most advantageous  
17 proposer, the using agency may enter into negotiations with the next most  
18 advantageous proposer. If compensation, contract requirements, and contract  
19 documents can be agreed upon, then the contract shall be awarded to that  
20 proposer. If negotiations again fail, negotiations shall be terminated as provided  
21 in Subparagraph (a) of this Paragraph and commenced with the next most  
22 advantageous proposer.

23 (c) If the using agency is unable to negotiate a contract with any of the  
24 proposers initially selected as the most advantageous to the state, additional  
25 proposers may be selected based on original, acceptable submissions in the  
26 order of their respective evaluation score and negotiations may continue in  
27 accordance with this Paragraph until an agreement is reached and a contract  
28 awarded.

29 (14) A request for proposals or other solicitation may be cancelled or all  
30 proposals may be rejected if it is determined, based on reasons provided in

1 writing, that such action is taken in the best interest of the state. A copy of the  
2 determination shall be maintained in the contract file.

3 ~~(12)~~**(15)** Requests for proposals shall not be required for "interagency  
4 contracts" as defined in R.S. 39:1556.

5 ~~(13)~~**(16)** Notwithstanding the provisions of this Chapter, all relevant federal  
6 statutes and regulations shall be followed by the using agency in procuring services.  
7 The burden of complying with these federal statutes and regulations shall rest with  
8 the using agency and shall be documented in the contract record submitted to the  
9 office of state procurement.

10 \* \* \*

11 §1621. Consulting service contracts

12 A. Contracts for consulting services which have a total maximum amount of  
13 compensation less than ~~seventy-five~~ **one hundred fifty** thousand dollars for a  
14 twelve-month period may be awarded without the necessity of competitive bidding  
15 or competitive negotiation.

16 B. Contracts for consulting services which have a total maximum amount of  
17 compensation of ~~seventy-five~~ **one hundred fifty** thousand dollars or more for a  
18 twelve-month period shall be awarded through a request for proposal, ~~or~~ reverse  
19 auction process, **invitation to negotiate, or cooperative purchasing** under rules and  
20 regulations issued by the office of state procurement. Service requirements shall not  
21 be artificially divided so as to exempt contracts from the request for proposal  
22 process.

23 C.(1) All contracts for consulting services ~~which have a total maximum~~  
24 ~~amount of compensation of two hundred twenty-five thousand dollars or more~~ may  
25 be entered into with the assistance of a procurement support team as provided herein,  
26 and in accordance with guidelines promulgated and published by the office of state  
27 procurement.

28 \* \* \*

29 (3) Participation of the procurement support team ~~must~~ **may** include, at a  
30 minimum, assistance in development or review of the request for proposals,

1 evaluation of responses received to the request for proposals, and formulation of  
2 recommendations to be submitted to the state chief procurement officer concerning  
3 the final contract.

4 \* \* \*

5 §1630. Finality of determinations

6 The determinations required by R.S. 39:1568.1, R.S. 39:1597, R.S.  
7 39:1598(C), R.S. 39:1605, R.S. 39:1606, R.S. 39:1608(C), R.S. 39:1612(A), ~~and R.S.~~  
8 39:1614, **and R.S. 39:1671(F)** are final and conclusive unless they are clearly  
9 erroneous, arbitrary, capricious, or contrary to law.

10 \* \* \*

11 §1641. Budget for acquisition of housing space and leases by budget units

12 A.~~(1)~~ Contracts and agreements by and in name of state agencies. All  
13 contracts and agreements for the lease or rental of space for the housing of state  
14 agencies, their personnel, operations, equipment, or activities shall be made in the  
15 name of and by the authorized representative or representative body of the state  
16 agency but shall be made and entered into only with the approval of the  
17 commissioner of administration. The cost of such housing shall be provided for in  
18 and defrayed from the budgets of the using agencies.

19 **(2) All contracts and agreements for the lease or rental space of one**  
20 **thousand or less square feet of a storage unit shall not require the approval of**  
21 **the commissioner of administration.**

22 \* \* \*

23 §1643. Advertisement and award of lease bids

24 A. Every lease for the use of ~~five~~ **ten** thousand square feet or more of space  
25 in a privately owned building entered into by a state agency as lessee shall be  
26 awarded pursuant to R.S. 39:1594 in accordance with the conditions for use set forth  
27 in that Section and only after evaluation of the bids in accordance with the specific  
28 criteria contained in the invitation for bids as authorized by R.S. 39:1594(F)(2). No  
29 such lease shall extend beyond a period of ten years.

30 \* \* \*

§1644. Amendment of leases

A.(1) An existing lease ~~for office or warehouse space~~ may be renegotiated with the present lessor, but only after the division of administration has entered into a competitive negotiation process involving discussions with at least three, unless there are less than three, proposers who submit written proposals. Such proposals shall be solicited by advertising as in R.S. 39:1594(C).

\* \* \*

B. Any lease for ~~office or warehouse~~ space for under ~~five~~ **ten** thousand square feet may be amended up to but not to exceed a maximum of ~~four~~ **nine** thousand nine hundred ninety-nine square feet.

C. Existing leases ~~for office or warehouse space~~ between a single state agency, a single lessor and affecting a single building or buildings immediately adjacent to each other which leases have different termination dates, may be renegotiated by the division of administration to perfect a single lease for the whole of the ~~office or warehouse~~ space utilized under the existing leases. The renegotiated lease shall not extend beyond the termination date of the latest existing lease, nor shall the price per square foot paid under the new lease result in a total payment in excess of the total of the combined payments under the preexisting leases.

\* \* \*

§1671. Authority to resolve protested solicitations and awards

\* \* \*

F. ~~Stay of procurements during protests~~ **Protest bond to stay procurement during protest.** ~~In the event of a timely protest under Subsection A of this Section, the state shall not proceed further with the solicitation or with the awarding of the contract unless the chief procurement officer makes a written determination that the awarding of the contract is necessary without delay to protect the substantial interests of the state. Upon such determination by the chief procurement officer, no court shall enjoin progress under the award except after notice and hearing~~ **(1) A protester who has timely protested a solicitation or an award may only apply for a stay during the time period provided in Subsection A of this Section to protest a solicitation**

1           or an award.

2                   (2) A protester may obtain a stay of an award upon posting a bond  
3                   during the protest period with a good and solvent surety authorized to do  
4                   business in this state or submit other security, in a form approved by the office  
5                   of state procurement by rule or regulation, to the office of state procurement,  
6                   who shall hold the bond or other security until a final determination is made on  
7                   the protest. A bond posted or other security submitted with a protest shall be  
8                   in an amount equal to twenty-five percent of the maximum amount of the  
9                   protested awarded contract. If the total value of the awarded contract cannot  
10                  be determined because the total requirements for the contract are estimated as  
11                  of the date of the award, a bond posted or other security submitted with a  
12                  protest shall be in an amount equal to twenty-five percent of the estimated total  
13                  value of the contract. Upon request, the state chief procurement officer shall  
14                  provide the estimated total value of the contract or the method for determining  
15                  the estimated total value of the contract, based on records of past experience  
16                  and estimates of anticipated requirements furnished by the using agency.

17                  (3) If the protest is upheld and the award is cancelled, the bond posted  
18                  or other security submitted with the protest shall be returned to the person who  
19                  posted the bond or submitted the security. If the protest is rejected and the  
20                  award is upheld, a claim may be made against the bond or other security by the  
21                  using agency to the office of state procurement in an amount equal to the  
22                  expenses incurred and other monetary losses suffered by the state resulting  
23                  from the unsuccessful protest. The state chief procurement officer shall hold an  
24                  informal hearing on the claim. Any money not awarded by the state chief  
25                  procurement officer shall be returned to the person who posted the bond or  
26                  submitted the security.

27   \*       \*       \*

28           §1672.3. Action on contract claims

29                   This Section applies to a claim by or controversy between the state and a  
30           contractor arising out of a contract for professional, personal, consulting, or social

1 services. If such a claim or controversy is not resolved by mutual agreement, the  
2 commissioner of administration, or his designee, shall promptly issue a decision in  
3 writing. A copy of that decision shall be mailed or otherwise furnished to the  
4 contractor, shall state the reasons for the action taken, and shall inform the contractor  
5 of his right to judicial relief as provided in this Subpart. The decision shall be final  
6 and conclusive unless fraudulent, or unless the contractor ~~institutes suit~~ **appeals the**  
7 **decision** pursuant to this Subpart. If the commissioner of administration, or his  
8 designee, does not issue a written decision within one hundred twenty days after  
9 written request for a final decision, or within such longer period as may be  
10 established in writing by the parties to the contract, then the contractor may proceed  
11 as if an adverse decision had been received. **A final decision of the commissioner**  
12 **may be made executory by the Nineteenth Judicial District Court in accordance**  
13 **with Code of Civil Procedure Article 2782.**

14 §1672.4. Jurisdiction; actions in certain cases

15 A. The Nineteenth Judicial District Court, subject to appeal or review by the  
16 First Circuit Court of Appeal or by the supreme court, as otherwise permitted in civil  
17 cases by law and the state constitution, shall have **only appellate** jurisdiction over  
18 any claims arising out of a request for proposal or award of a contract, any  
19 controversies involving the state, or any other matters in connection with a petition  
20 for review of a decision made pursuant to this Chapter, following the exhaustion of  
21 administrative remedies as provided by law or regulation. **If the evidence, as**  
22 **reasonably interpreted, supports the commissioner's decision, then the**  
23 **commissioner of administration's decision is given great weight and shall not be**  
24 **reversed or modified in the absence of a clear showing that the decision was**  
25 **arbitrary or capricious.**

26 \* \* \*

27 §1683. Protest of solicitations or awards

28 \* \* \*

29 E. Finality of decision. A decision under Subsection C of this Section shall  
30 be final and conclusive unless one of the following applies:

\* \* \*

(2) The person adversely affected by the decision has timely appealed to the court in accordance with R.S. 39:1691(A). If the evidence, as reasonably interpreted, supports the commissioner's decision, then the commissioner of administration's decision is given great weight and shall not be reversed or modified in the absence of a clear showing that the decision was arbitrary or capricious.

\* \* \*

§1685. Contract and breach of contract controversies

\* \* \*

E. Finality of decision. A decision under Subsection C of this Section shall be final and conclusive unless one of the following applies:

\* \* \*

(2) The contractor has timely appealed an adverse decision of the commissioner to the court in accordance with R.S. 39:1691(C). If the evidence, as reasonably interpreted, supports the commissioner's decision, then the commissioner of administration's decision is given great weight and shall not be reversed or modified in the absence of a clear showing that the decision was arbitrary or capricious.

§1691. ~~Actions~~ Venue of actions by or against the state in connection with contracts

A. Solicitation and award of contracts. The Nineteenth Judicial District Court shall have exclusive venue over an action between the state and a **person**, bidder, **proposer**, offerer, 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. Such actions shall ~~extend to all kinds of actions, whether for monetary damages or for declaratory, injunctive, or other equitable relief~~ invoke the appellate jurisdiction of the court.

\* \* \*

C. Actions under contracts or for breach of contract. The Nineteenth Judicial District Court shall have exclusive venue and only appellate jurisdiction over an



1 action between the state and a contractor who contracts with the state, for any cause  
2 of action which arises under or by virtue of the contract, whether the action is on the  
3 contract or for a breach of the contract ~~or whether the action is for declaratory,~~  
4 ~~injunctive, or other equitable relief.~~

5 D. Limited finality for administrative determinations. In any judicial action  
6 under this Section, factual or legal determination by employees, agents, or other  
7 persons appointed by the state shall have no finality and shall not be conclusive,  
8 notwithstanding any contract provision, regulation, or rule of law to the contrary,  
9 except to the extent provided in: R.S. 39:1630, R.S. 39:1671(E), R.S. 39:1672(F),  
10 R.S. 39:1672.3, R.S. 39:1673(E), R.S. 39:1683(E), R.S. 39:1684(E), and R.S.  
11 39:1685(E).

12 \* \* \*

13 §1692. Commencement of actions

14 \* \* \*

15 C. Actions under contracts or for breach of contract controversies. Any action  
16 under R.S. 39:1691(C) shall be commenced within sixty days after receipt of the  
17 decision of the commissioner under R.S. 39:1685(C) or R.S. 39:1672.3.

18 \* \* \*

19 §1702. Cooperative purchasing authorized; participation in federal General Services

20 Administration vendor list

21 A.(1) Any public procurement unit may either participate in, sponsor,  
22 conduct, or administer a cooperative purchasing agreement for the acquisition of any  
23 supplies, services, personal, professional, consulting, and social services, major  
24 repairs, or construction with one or more public procurement units or external  
25 procurement activities or one or more private procurement units in accordance with  
26 an agreement entered into between the participants. Such cooperative purchasing  
27 may include but is not limited to joint or multi-party contracts between public  
28 procurement units and open-ended state public procurement unit contracts which are  
29 made available to local public procurement units.

30 \* \* \*

1           Section 2. R.S. 39:1600.2(B) is repealed in its entirety.

2           Section 3. This Act shall become effective upon signature by the governor or, if not

3 signed by the governor, upon expiration of the time for bills to become law without signature

4 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

5 vetoed by the governor and subsequently approved by the legislature, this Act shall become

6 effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

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