

2018 Regular Session

# ACT No. 585

HOUSE BILL NO. 754

BY REPRESENTATIVES FOIL, ARMES, STEVE CARTER, COX, CREWS, GAINES, GISCLAIR, HAZEL, HOWARD, TERRY LANDRY, AND PIERRE AND SENATORS ALARIO, APPEL, BARROW, BISHOP, CARTER, CHABERT, CORTEZ, DONAHUE, ERDEY, FANNIN, GATTI, JOHNS, LAFLEUR, LONG, LUNEAU, MILKOVICH, MILLS, MIZELL, MORRELL, PEACOCK, PERRY, PETERSON, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD, AND WHITE

1

## AN ACT

2

To amend and reenact R.S. 39:2002(3) and (7), 2005(2), (5), and (6), 2007(D)(1), 2171(B),  
3 2172(3) and (7), 2173, 2175(2), (5), and (6), 2176(A)(4), and 2177(D), relative to  
4 entrepreneurship of the Hudson Initiative and the Veteran Initiative; to provide  
5 relative to maximum gross receipts thresholds for such entrepreneurship; to provide  
6 relative to the percent of evaluation points awarded to certain veterans in requests for  
7 proposals; to provide relative to competitive source selection; to provide for  
8 definitions; to provide for effectiveness; and to provide for related matters.

9

Be it enacted by the Legislature of Louisiana:

10

Section 1. R.S. 39:2002(3) and (7), 2005(2), (5), and (6), 2007(D)(1), 2171(B),  
11 2172(3) and (7), 2173, 2175(2), (5), and (6), 2176(A)(4), and 2177(D) are hereby amended  
12 and reenacted to read as follows:

13

### §2002. Definitions

14

As used in this Chapter, the following words and phrases shall have the  
15 meanings ascribed to them in this Section, unless the context clearly indicates  
16 otherwise:

17

\* \* \*

18

(3) "Contract" or "public contract" means all types of state agreements,  
19 regardless of what they may be called, for personal services, professional services,  
20 consulting services, or social services, or the purchase of materials, supplies,  
21 services, or major repairs, or for the making of any public works. It includes awards

1 and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or  
2 incentive type; contracts providing for the issuance of job or task orders; leases;  
3 letter contracts; and purchase orders. It also includes supplemental agreements with  
4 respect to any of the foregoing.

5 \* \* \*

6 (7) "Procurement" means the buying, purchasing, renting, leasing, or  
7 otherwise obtaining any materials, supplies, services, or major repairs, personal  
8 services, professional services, consulting services, or social services. It also  
9 includes all functions that pertain to the obtaining of any public procurement,  
10 including description of requirements, selection and solicitation of sources,  
11 preparation and award of contract, and all phases of contract administration.

12 \* \* \*

13 §2005. Competitive source selection

14 Methods of source selection which may be utilized by an agency to satisfy  
15 a state goal for contracting with small entrepreneurship shall include but not be  
16 limited to:

17 \* \* \*

18 (2) The purchase of goods, operating services, major repairs, personnel  
19 personal services, professional services, consulting services, social services, and  
20 public works ~~directly~~ from a certified small entrepreneurship ~~under an agency's~~  
21 ~~discretionary purchasing authority.~~

22 \* \* \*

23 (5) ~~An allowance for at least~~ No more than ten percent of the total evaluation  
24 points in a request for proposal shall be awarded to an offeror demonstrating a good  
25 faith effort to use small entrepreneurship as subcontractors.

26 (6) ~~An allowance for ten~~ Ten percent of the total evaluation points in a  
27 request for proposal shall be awarded to an offeror who is a certified small business  
28 entrepreneurship.

29 \* \* \*

## 1 §2007. Responsibilities of the commissioner of administration; training; reporting

\* \* \*

D.(1) The commissioner shall conduct a training program at least semiannually to acquaint small entrepreneurship with state procurement and public contract proposal and bidding practices. This shall include all state procurements which are governed by Chapter 10 of Title 38, ~~Chapters 16 and~~ Chapter 17 of this Title, and Parts XIII and XIII-A of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950. The commissioner shall also secure the assistance of staff from either the Department of Transportation and Development, Department of Natural Resources, or Department of Environmental Quality who are knowledgeable about state procurements undertaken pursuant to Chapter 10 of Title 38 and Parts XIII and XIII-A of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950, for the purpose of providing practical advice to small entrepreneurship relative to procurements and public contracts governed by such law.

\* \* \*

§2171. Louisiana Initiative for Veteran and Service-Connected Disabled Veteran-Owned Small Entrepreneurships; intent

\* \* \*

B. The provisions of this Chapter are intended to encourage business opportunities for veteran and service-connected disabled veteran-owned small entrepreneurship. The criteria for certification as a veteran and service-connected disabled veteran-owned small entrepreneurship for the purposes of the initiative shall be as established in R.S. 39:2006 39:2176, and as may be additionally refined by administrative rule.

\* \* \*

## §2172. Definitions

As used in this Chapter, the following words and phrases shall have the meanings ascribed to them in this Section, unless the context clearly indicates otherwise:

\* \* \*

9 \* \* \*

\* \* \*

### §2173. Application of Chapter

18                   Notwithstanding any other provision of law to the contrary, the provisions of  
19                   this Chapter apply to procurements and public contracts which are governed by  
20                   Chapter 10 of Title 38, ~~Chapters 16 and~~ Chapter 17 of this Title, and Parts XIII and  
21                   XIII-A of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950. This  
22                   Chapter shall not apply to agency expenditures for amortization of debt, debt service,  
23                   depreciation, employee benefits, per diem, relocation expenses, salaries, postage, and  
24                   transfers of charges. This Chapter shall not apply to contracts for sole-source items,  
25                   contracts with other governmental entities, and those contracts that are prohibited by  
26                   federal law from inclusion in this Chapter.

27 \* \* \*

1                   §2175. Competitive source selection

2                   Methods of source selection which may be utilized by an agency to satisfy  
3                   a state goal for contracting with veteran and service-connected disabled  
4                   veteran-owned small entrepreneurship shall include but not be limited to:

5   \*           \*           \*

6                   (2) The purchase of goods, operating services, major repairs, ~~personnel~~  
7                   personal services, professional services, consulting services, social services, and  
8                   public works ~~directly~~ from a certified veteran and service-connected disabled  
9                   veteran-owned small entrepreneurship ~~under an agency's discretionary purchasing~~  
10                   authority.

11   \*           \*           \*

12                   (5) ~~An allowance for at least ten~~ No more than twelve percent of the total  
13                   evaluation points in a request for proposal shall be awarded to an offeror  
14                   demonstrating a good faith effort to use veteran and service-connected disabled  
15                   veteran-owned small entrepreneurship as subcontractors.

16                   (6) ~~Ten~~ Twelve percent of the total evaluation points in a request for  
17                   proposal shall be awarded to an offeror who is a certified veteran ~~and~~ or  
18                   service-connected disabled veteran-owned small business entrepreneurship. The  
19                   mandatory award of evaluation points required by this Paragraph shall be included  
20                   in all requests for proposals, unless the inclusion jeopardizes funding for the  
21                   procurement or violates any other provision of law. Any request for an exemption  
22                   from the requirements of this Paragraph shall be submitted in writing to the  
23                   commissioner of administration who shall either deny or approve the request. The  
24                   provisions of this Paragraph shall not apply to design-build or construction manager  
25                   at risk methods of construction.

26                   §2176. Certification of businesses by Department of Economic Development;  
27                   listing of veteran and service-connected disabled veteran-owned small  
28                   entrepreneurships; reporting

29                   A. The secretary of the Department of Economic Development, hereinafter  
30                   referred to in this Section as the "department", shall certify businesses as veteran and

1 service-connected disabled veteran-owned small entrepreneurships for the purposes  
2 of this Chapter. "Veteran-owned small entrepreneurship" and "service-connected  
3 disabled veteran-owned small entrepreneurship" means any corporation, partnership,  
4 individual, sole proprietorship, joint stock company, joint venture, or any other legal  
5 entity which meets all of the following criteria:

6 \* \* \*

7 (4) Together with any of its affiliate entities, has fewer than fifty full-time  
8 employees with average annual gross receipts not exceeding ten million dollars per  
9 year for construction operations and ~~five~~ six million dollars per year for  
10 nonconstruction operations, for each of the previous three tax years.

11 \* \* \*

12 §2177. Responsibilities of the commissioner of administration; training; reporting

13 \* \* \*

14 D. The commissioner shall conduct a training program at least semiannually  
15 to acquaint veteran and service-connected disabled veteran-owned small  
16 entrepreneurships with state procurement and public contract proposal and bidding  
17 practices. This shall include all state procurements which are governed by Chapter  
18 10 of Title 38, ~~Chapters 16 and~~ Chapter 17 of this Title, and Parts XIII and XIII-A  
19 of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950. The  
20 commissioner shall also secure the assistance of staff from the Louisiana Department  
21 of Veterans Affairs for veteran-specific information and data, and either the  
22 Department of Transportation and Development, Department of Natural Resources,  
23 or Department of Environmental Quality who are knowledgeable about state  
24 procurements undertaken pursuant to Chapter 10 of Title 38 and Parts XIII and XIII-  
25 A of Chapter 1 of Title 48 of the Louisiana Revised Statutes of 1950, for the purpose  
26 of providing practical advice to veteran and service-connected disabled veteran-  
27 owned small entrepreneurships relative to procurements and public contracts  
28 governed by such law.

29 \* \* \*

1           Section 2. This Act shall become effective upon signature by the governor or, if not  
2 signed by the governor, upon expiration of the time for bills to become law without signature  
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
4 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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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

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