SLS 21RS-246

ORIGINAL

2021 Regular Session

SENATE BILL NO. 207

BY SENATOR WHITE

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

TRANSPORTATION/DEV DEPT. Provides relative to the subpoena of DOTD contractors. (8/1/21)

1	AN ACT
2	To amend and reenact R.S. 38:2212(B)(2), R.S. 48:255.4, 256.1(A)(1), and 950, to enact
3	R.S. 39:1554(D)(9)and 2212(A)(1)(c), and to repeal R.S. 48:252 through 255, and
4	255.6 through 256, relative to public contracts and the Department of Transportation
5	and Development; to provide for exemptions from the procurement code; to provide
6	for information required for competitive bids; to remove certain exceptions to
7	prohibition of cost-plus contracts; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 38:2212 (B)(2) is hereby amended and reenacted and R.S.
10	38:2212(A)(1)(c) is hereby enacted to read as follows:
11	§2212. Advertisement and letting to lowest responsible and responsive bidder;
12	public work; electronic bidding; participation in mentor-protégé
13	program; exemptions <u>; subpoena</u>
14	A.(1) * * * *
15	(c) The provisions of this Section shall not apply to the Department of
16	Transportation and Development contracts.
17	* * *

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1	B. * * *
2	(2) Any public entity advertising for public work shall use only the Louisiana
3	Uniform Bid Form as promulgated in accordance with the Administrative Procedure
4	Act by the division of administration, office of facility planning and control. The
5	bidding documents shall require only the following information and documentation
6	to be submitted by a bidder at the time designated in the advertisement for bid
7	opening: Bid Security or Bid Bond, Acknowledgment of Addenda, Base Bid,
8	Alternates, Signature of Bidder, Name, Title, and Address of Bidder, Name of Firm
9	or Joint Venture, Corporate Resolution or written evidence of the authority of the
10	person signing the bid, and Louisiana Contractors License Number, and
11	Acknowledgment of Compliance with Legislative Subpoena of the Louisiana
12	House of Representatives, Louisiana State Senate, Legislative Committees, Joint
13	Legislative Committees, or Legislative Sub-Committees, and on public works
14	projects where unit prices are utilized, a section on the bid form where the unit price
15	utilized in the bid shall be set forth including a description for each unit; however,
16	unit prices shall not be utilized for the construction of building projects, unless the
17	unit prices and their extensions are incorporated into the base bid or alternates.
18	* * *
19	Section 2. R.S. 48:255.4, 256.1(A)(1), and 950 are hereby amended and reenacted
20	to read as follows:
21	§255.4. Cost-plus contracts prohibited; exceptions
22	Except for a duly certified emergency, no contract of the department shall be
23	let on a cost-plus basis. Plan changes which that cannot be negotiated and for which
24	no item was provided in the original contract may be ordered on a cost-plus basis,
25	if such the basis was specified in the original contract as advertised.
26	* * *
27	§256.1. Highway construction contracts; retained amounts; retainage bonds
28	A.(1) The Department of Transportation and Development shall insert a
29	clause in the specifications of all contracts let and awarded as a result of public

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1	lettings for the construction, improvement, maintenance, or repair of any road,
2	highway, bridge, or appurtenance thereto or any other Department of Transportation
3	and Development facility, providing for the retainage of amounts constituting a
4	percentage of the gross value of the completed work as may be provided for in the
5	contract. Retained amounts for projects which cost less than five hundred thousand
6	dollars shall not exceed ten percent of the gross value of the completed work.
7	Retained amounts for projects which cost five hundred thousand dollars or more
8	shall not exceed five percent of the gross value of the completed work.
9	* * *
10	§950. Letting of bridge contracts
11	All bridges constructed by the Department of Transportation and
12	Development pursuant to this Part shall be by public contract let to the lowest
13	responsible bidder pursuant to the provisions of R.S. 48:252. All contracts entered
14	into by the Department of Transportation and Development in connection with the
15	building of these bridges shall be in writing and in conformity with the requirements
16	of the department.
17	* * *
18	Section 3. R.S. 39:1554(D)(9) is hereby enacted to read as follows:
19	§1554. Application of this Chapter
20	* * *
21	D. Exclusions. * * *
22	* * *
23	(9) The provisions of this Chapter shall not apply to the Department of
24	Transportation and Development contracts.
25	* * *
26	Section 4. R.S. 48:252 through 255 and 255.6 through 256 are hereby repealed in
27	their entirety.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

SB 207 Original

DIGEST 2021 Regular Session

White

<u>Present law</u> requires public work, including labor and materials, exceeding the contract limit undertaken by a public entity to be advertised and awarded by written contract to the lowest responsible bidder who bids according to the bidding documents as advertised.

<u>Proposed law</u> excludes the La. Dept. of Transportation and Development (DOTD) from the provisions of advertising and awarding to the lowest bidder for public work contracts.

<u>Proposed law</u> provides that an acknowledgment of compliance with a legislative subpoena, shall be submitted with bidding documents for all public work contracts.

Present law prohibits cost-plus contracts, except for a duly certified emergency.

Proposed law prohibits cost-plus contracts even in duly certified emergencies.

Proposed law excludes DOTD from Louisiana Procurement Code.

Effective August 1, 2021.

(Amends R.S. 38:2212(B)(2), 48:255.4, 256.1(A)(1) and 950; adds R.S. 39:1554(D)(9) and 2212(A)(1)(c); repeals R.S. 48:252 - 255, and 255.6 - 256)