
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alan Miller.

DIGEST

Donahue (SB 83)

Present law provides for the purchase of materials, supplies, services, products, and equipment by public entities. Includes procedure for advertisement for, receipt of, and opening of public bids.

Present law relative to the La. Public Bid Law, provides for procuring of materials, supplies, or equipment by political subdivisions, among other public entities, through the lowest advertised bid.

Proposed law authorizes the use of reverse auction by political subdivisions based on the determination of the procurement officer of such entity that the best interest of that entity would be served by using such electronic procurement method.

Defines "reverse auction" as a competitive online solicitation process on the Internet for materials, supplies, services, products, or equipment in which vendors compete against each other online in real time in an open and interactive environment.

Provides that in a reverse auction, the political subdivision may require, among other things, that:

- (1) Vendors register before the opening date and time.
- (2) Vendors be prequalified prior to placing bids.
- (3) The solicitation designate an opening date and time and the closing date and time.
- (4) At the opening date and time, the using agency begin accepting online bids and continue accepting bids until the bid is officially closed.
- (5) Bidders' identities not be revealed during the bidding process.
- (6) All bids be posted electronically and updated on a real-time basis.
- (7) The using political subdivision retains the right to cancel the solicitation if it determines that it is in the political subdivision's best interest.
- (8) The using political subdivision retain its existing authority to determine the criteria that will be used as a basis for making awards.

Proposed law requires that adequate public notice for purchases of materials, supplies, or equipment by a political subdivision using a reverse auction be given as follows:

- (1) The advertisement or notice shall be published twice in a newspaper in the locality, the first advertisement to appear at least 15 days before the opening date of the reverse auction. In addition to the newspaper advertisement, a political subdivision may also publish an advertisement by electronic media available to the general public.
- (2) The first publication of the advertisement shall not occur on a Saturday, Sunday, or legal holiday.

Present law relative to the La. Procurement Code, provides for procurement by state agencies of material, supplies, services, products, or equipment.

Proposed law provides that with the approval of the state director of state purchasing and the determination of the head of the using agency that the best interests of the state would be served and that electronic online bidding is more advantageous than other procurement methods provided in the La. Procurement Code, a reverse auction may be utilized for the acquisition of materials, supplies, services, products, or equipment.

Authorizes the state director of purchasing to promulgate regulations, in accordance with the APA, prior to implementation of proposed law.

Proposed law also authorizes the state director of purchasing to promulgate regulations relative to contract clauses and award protests necessary to implementation of reverse auctions.

Proposed law requires that adequate public notice for the purchase of materials, supplies, services, or equipment by state agencies using a reverse auction be given as follows:

- (1) The advertisement or notice shall be published in the official journal of the state at least 20 days before the opening date of the reverse auction.
- (2) In the case of any purchase to meet the needs of a single budget unit, the advertisement shall be published also in a newspaper of general circulation printed in the parish in which the budget unit is situated, or, if there is not a newspaper printed in the parish, in a newspaper printed in the nearest parish that has a general circulation in the parish in which the budget unit is situated.

Proposed law further authorizes all political subdivisions not subject to the La. Procurement Code to adopt proposed law and its accompanying regulations and to conduct reverse auctions. Requires that such reverse auctions be conducted in the manner provided in the La. Procurement Code.

Effective July 1, 2011.

(Amends R.S. 39:1554(E); adds R.S. 38:2271 and R.S. 39:1598.1, 1661(D) and 1671(H))