

2016 Regular Session

HOUSE BILL NO. 726

BY REPRESENTATIVE JAY MORRIS

CONTRACTS: Provides relative to consulting, professional, personal, and social services contracts that are not competitively bid or negotiated

1 AN ACT

2 To amend and reenact R.S. 39:1597, 1600(E), and 1621 and to repeal R.S. 39:1617, 1619(B)
3 and (C), and 1620, relative to professional, personal, consulting, and social services
4 contracts; to repeal provisions that allow for the award of certain contracts without
5 competitive bid or negotiation; to provide for determinations of sole source
6 procurement; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:1597, 1600(E), and 1621 are hereby amended and reenacted to
9 read as follows:

10 §1597. Sole source procurements

11 A contract may be awarded for a required supply, service, or major repair
12 without competition when, under regulations, the chief procurement officer or his
13 designee above the level of procurement officer determines in writing that there is
14 only one source for the required supply, service, or major repair item. The chief
15 procurement officer shall cause to be available on the office of state procurement
16 website any such written determination and a description of any contract awarded as
17 a result of the written determination. The description of the contract shall include the
18 information required in R.S. 39:6(C)(2). The commissioner of administration shall
19 provide a procedure to review the determination and to terminate the contract
20 awarded in the event a person or entity other than the contractor awarded the contract

1 notifies the commissioner that the person or entity is also a source of the supply,
2 service, or major repair item.

3 * * *

4 §1600. Other procurement methods

5 * * *

6 E. Negotiation of noncompetitive contracts.

7 The head of the using agency or the agency procurement officer shall
8 negotiate with the highest qualified persons for sole source or emergency
9 procurements ~~or for professional, personal, or those consulting services for less than~~
10 ~~fifty thousand dollars, or those social services qualifying under R.S. 39:1619(B) at~~
11 ~~compensation which the head of the using agency determines in writing to be fair~~
12 ~~and reasonable to the state.~~ In making this determination, the head of the using
13 agency shall take into account, in the following order of importance, the professional
14 or technical competence of proposers, the technical merits of proposals, and the
15 compensation for which the services are to be rendered, including fee. ~~Negotiation~~
16 ~~of consulting services for fifty thousand dollars or more or social services not~~
17 ~~qualifying under R.S. 39:1619(B) shall be conducted in accordance with R.S.~~
18 ~~39:1595(B) hereof.~~

19 * * *

20 §1621. Consulting service contracts

21 A. ~~Contracts for consulting services which have a total maximum amount~~
22 ~~of compensation less than fifty thousand dollars for a twelve-month period may be~~
23 ~~awarded without the necessity of competitive bidding or competitive negotiation.~~

24 ~~B. Contracts for consulting services which have a total maximum amount of~~
25 ~~compensation of fifty thousand dollars or more for a twelve-month period shall be~~
26 ~~awarded through a request for proposal process under rules and regulations issued~~
27 ~~by the office of state procurement. Service requirements shall not be artificially~~
28 ~~divided so as to exempt contracts from the request for proposal process.~~

1 ~~B. C.~~ (1) All contracts for consulting services which have a total maximum
2 amount of compensation of one hundred forty thousand dollars or more may be
3 entered into with the assistance of a procurement support team as provided herein,
4 and in accordance with guidelines promulgated and published by the office of state
5 procurement.

6 (2) For each such consulting contract the office of state procurement may
7 establish a procurement support team which shall include one or more
8 representatives from each of the following:

9 (a) The office of state procurement.

10 (b) The using agency initiating the contract.

11 (c) The office of the attorney general.

12 (d) The legislative fiscal office.

13 (3) Participation of the procurement support team must include, at a
14 minimum, assistance in development or review of the request for proposals,
15 evaluation of responses received to the request for proposals, and formulation of
16 recommendations to be submitted to the state chief procurement officer concerning
17 the final contract.

18 Section 2. R.S. 39:1617, 1619(B) and (C), and 1620 are hereby repealed in their
19 entirety.

20 Section 3. This Act shall become effective upon signature by the governor or, if not
21 signed by the governor, upon expiration of the time for bills to become law without signature
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become
24 effective on the day following such approval.

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)]

HB 726 Original

2016 Regular Session

Jay Morris

Abstract: Provides for certain provisions related to professional, personal, consulting and social services contracts that are not competitively bid or negotiated.

Present law provides relative to state contracts for the procurement of supplies and services.

Present law (R.S. 39:1597) provides for the award of required supplies, services, or major repairs without competition when the chief procurement officer of the state determines there is only one source for the supply, service, or major repair.

Proposed law retains present law and requires the chief procurement officer make available on the office of state procurement website any contract awarded as a result of the written determination of only one source and the written determination. Further requires the commissioner of administration to provide a procedure to review the determination and contract awarded in the event a person or entity other than the contractor awarded the contract reports to the commissioner that they are also a source of the supply, service, or major repair item.

Present law (R.S. 39:1617) authorizes contracts for professional services to be awarded without competitive bid or negotiation. Proposed law repeals present law.

Present law (R.S. 39:1619(B) and (C)) authorizes contracts for social services to be awarded without competitive bid or negotiation if the chief procurement officer determines that any of the following conditions are present:

- (1) Services are available only from one source.
- (2) The legislature has made an appropriation for the contractor via the appropriations bill.
- (3) A quasi-public or non-profit has been established in coordination with the state to provide the contracted service.
- (4) Local matching funds of greater than 10% of the contract amount are required to be contributed by the contractor.
- (5) The nature of the services being provided necessitates that a continuity of contractors be maintained.
- (6) An emergency exists which will not permit the delay in procurement necessitated by the request for proposal procedure.
- (7) The total contract amount is less than \$250,000 per twelve-month period.
- (8) The contract is with another governmental entity or governmental body.
- (9) Funds are specifically designated by the federal government for a particular private or public contractor or political subdivision.

(10) The contract is with a social service contractor who supplies services under a contract in existence as of November 30, 1985, as long as such contractor continues to supply substantially the same services and the using agency certifies:

(a) The services are satisfactory.

(b) They intend to continue contracting with that contractor.

Proposed law repeals present law.

Present law (R.S. 39:1620) authorizes contracts for personal services to be awarded without competitive bid or negotiation. Proposed law repeals present law.

Present law (R.S. 39:1621(A)) authorizes consulting service contracts that are less than \$50,000 for a 12-month period to be awarded without competitive bid or negotiation. Proposed law repeals present law.

(Amends R.S. 39:1597, 1600(E), and 1621; Repeals R.S. 39:1617, 1619(B) and (C), and 1620)