

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 717**

Introduced by Brewer, 43.

Read first time January 23, 2019

Committee:

- 1 A BILL FOR AN ACT relating to state contracts for services; to amend
- 2 sections 73-501, 73-502, and 73-506, Reissue Revised Statutes of
- 3 Nebraska; to restate intent; to redefine a term; to provide
- 4 requirements for use of computers under certain contracts as
- 5 prescribed; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 73-501, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 73-501 The purposes of sections 73-501 to 73-510 are to establish a  
4 standardized, open, and fair process for selection of contractual  
5 services, using performance-based contracting methods to the maximum  
6 extent practicable, and to create an accurate reporting of expended funds  
7 for contractual services. This process shall promote a standardized  
8 method of selection for state contracts for services, assuring a fair  
9 assessment of qualifications and capabilities for project completion.  
10 There shall also be an accountable, efficient reporting method of  
11 expenditures for these services and a process to prevent fraud.

12 Sec. 2. Section 73-502, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 73-502 For purposes of sections 73-501 to 73-510:

15 (1) Contract for services means any contract that directly engages  
16 the time or effort of an independent contractor whose purpose is to  
17 perform an identifiable task, study, or report rather than to furnish an  
18 end item of supply, goods, equipment, or material;

19 (2) Division means the materiel division of the Department of  
20 Administrative Services;

21 (3) Emergency means necessary to meet an urgent or unexpected  
22 requirement or when health and public safety or the conservation of  
23 public resources is at risk;

24 (4) Occasional means seasonal, irregular, or fluctuating in nature;

25 (5) Sole source means of such a unique nature that the contractor  
26 selected is clearly and justifiably the only practicable source to  
27 provide the service. Determination that the contractor selected is  
28 justifiably the sole source is based on either the uniqueness of the  
29 service or sole availability at the location required;

30 (6) State agency means any agency, board, or commission of this  
31 state. State agency does not include ~~other than~~ the University of

1 Nebraska, the Nebraska state colleges, the courts, the Legislature, or  
2 any officer or state agency established by the Constitution of Nebraska;  
3 and

4 (7) Temporary means a finite period of time with respect to a  
5 specific task or result relating to a contract for services.

6 Sec. 3. Section 73-506, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 73-506 (1) State agency contracts for services shall be subject to  
9 the following requirements:

10 (a) ~~(1)~~ Payments shall be made when contractual deliverables are  
11 received or in accordance with specific contractual terms and conditions;

12 (b) ~~(2)~~ State agencies shall not enter into contracts for services  
13 with an unspecified or unlimited duration, and no contract for services  
14 shall be amended to extend the duration of the contract for a period of  
15 more than fifty percent of the initial contract term. Following the  
16 adoption of any amendment to extend the contract for a period of fifty  
17 percent or less of the initial contract term, no further extensions of  
18 the original contract shall be permitted. This subdivision does not  
19 prohibit the exercise of any renewal option expressly provided in the  
20 original contract;

21 (c) ~~(3)~~ State agencies shall not structure contracts for services to  
22 avoid any of the requirements of sections 73-501 to 73-510; and

23 (d) ~~(4)~~ State agencies shall not enter into contracts for services  
24 in excess of fifteen million dollars unless the state agency has complied  
25 with section 73-510.

26 (2)(a) This subsection applies only to a contract by or on behalf of  
27 a state agency for professional or technical services in excess of one  
28 hundred thousand dollars.

29 (b) A contract subject to this subsection shall require a contractor  
30 to use a third-party software to verify that hours billed for work under  
31 the contract that are performed on a computer are legitimate. The

1 contract shall specify that the agency will not pay for hours worked on a  
2 computer unless those hours are verifiable by the software or by data  
3 collected by the software. The software must do the following:

4 (i) Permit the state agency or an auditor of the state agency to  
5 have real-time or retroactive access to data collected or provided by the  
6 software;

7 (ii) Automatically gather verification data of state-funded activity  
8 by tracking total keystroke and mouse event frequency and taking a  
9 screenshot at least once every three minutes;

10 (iii) Provide to the state agency or an auditor of the state agency  
11 automated real-time cost status of each task;

12 (iv) Provide to the state agency professional biographical  
13 information that is not private or confidential on individuals performing  
14 government-funded work;

15 (v) Protect all data that is private or confidential on individuals,  
16 consistent with existing privacy laws; and

17 (vi) Permit the state agency to provide immediate feedback to the  
18 contractor on work in progress.

19 (c) The data collected by the software shall be considered  
20 accounting records belonging to the contractor. The contractor shall  
21 store, or contract with another to store, the data collected by the  
22 software for a period of seven years and provide the access to the  
23 contracting agency or the Auditor of Public Accounts upon request.

24 (d) The contractor shall not charge the state agency or an auditor  
25 of the state agency for access to or use of the work verification  
26 software or for access to or retrievals of data collected by the  
27 software.

28 Sec. 4. Original sections 73-501, 73-502, and 73-506, Reissue  
29 Revised Statutes of Nebraska, are repealed.