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§3390. Private nonprofit corporations which support public higher education institutions; findings; status; private funds

A. The legislature finds that private support enhances the programs, facilities, and research and educational opportunities offered by public institutions of higher education in Louisiana. Therefore, each higher education management board and institution is hereby encouraged to promote the activities of alumni associations, foundations, and other private, nonprofit organizations that raise private funds for the support of public institutions of higher education. Further, it is recognized that private, nonprofit organizations under the direction and control of private individuals who support institutions of higher education are effective in obtaining private support for those institutions.

B. A nonprofit corporation, whose principal purpose is to support one or more programs, facilities, or research or educational opportunities offered by public institutions of higher education, including but not limited to any nonprofit corporation whose primary purpose is to finance the design, construction, renovation, or equipping of facilities to be leased to such public institutions of higher learning, shall be a private entity that shall not be deemed to be a public or quasi public corporation or an administrative unit, public servant, employee, or agent of any institution of higher education for any purpose whatsoever if it meets all of the following criteria:

- (1) The majority of the voting members of the corporation's board of directors are not members or employees of a higher education management board.
- (2) The corporation is under the management and control of a board of directors elected by the members or shareholders of the corporation.
- (3) The corporation reimburses, either directly or through in-kind services, the cost of housing, personnel, which personnel shall remain public servants for all purposes, and other support furnished to the corporation by any institution of higher education, if any such support is furnished.

C. The receipt, investment, or expenditure of public funds shall not affect the private status of any corporation meeting the criteria set forth in Subsection B of this Section; however, books and records of any such corporation, to the extent that such books and records directly pertain to the receipt, investment, or expenditure of public funds, shall be subject to R.S. 44:1 et seq. No other books and records of any such corporation shall be subject to R.S. 44:1 et seq.

D.(1) Alumni associations, alumni foundations, and other private, nonprofit alumni organizations that raise private funds for the support of public institutions of higher education, and nonprofit corporations whose primary purpose is to finance the design, construction, renovation, or equipping of facilities to be leased to such public institutions of higher education, shall have a financial accounting system established pursuant to customary and current accepted accounting standards. The financial affairs of the organizations shall be audited annually in accordance with generally accepted auditing standards by an independent professional auditor who shall furnish to the legislative auditor copies of his annual audit.

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RS 41:1215 — Opening of bids; execution of leases; exceptions; public benefit corporations; negotiated lease to nonprofit organizations

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§1215. Opening of bids; execution of leases; exceptions; public benefit corporations; negotiated lease to nonprofit organizations

A.(1) At the date and hour mentioned in the advertisement for the consideration of bids, the bids shall be publicly opened by the lessor at its office. The lessor shall accept only the highest bid submitted to it by a person or persons who meet all the conditions of this Part except in the case where the lessor is a public benefit corporation as authorized and defined in Subsection B hereof. The lessor shall have the right to reject all bids.

(2) Successful bidders shall pay for their leases by a certified check. In all other respects, the lessor may execute any lease granted under such terms and conditions as it deems proper or as otherwise provided in this Part.

(3) All leases signed by the lessor shall be executed in triplicate and shall be disposed of as follows: one copy shall be furnished to the lessee; one copy shall be recorded in the conveyance records of the parish or parishes in which the land lies; and one copy shall be retained in the records of the lessor.

B. For the purposes of this Part a "public benefit corporation" is defined to be a nonprofit corporation formed pursuant to the general nonprofit corporation law of the state of Louisiana, except those formed pursuant to specific constitutional or statutory authority, by a political subdivision of the state of Louisiana through its chief executive officer for the purposes of owning, leasing, developing, and operating properties owned by such political subdivision or by such public benefit corporation, including but not limited to planning, renovating, constructing, leasing, subleasing, managing, and promoting such properties, which activity is declared to constitute a public purpose, and which shall meet each of the following requirements:

(1) The corporation must not be organized for profit except to the extent of retiring indebtedness;

(2) The corporate income must not inure to any private person except for operating expenses, salaries;

(3) The political subdivisions must have a beneficial interest in the corporation while the indebtedness issued by the corporation to finance the acquisition, construction or improvement of property remains outstanding and it must obtain full legal title to the property of the corporation with respect to which the indebtedness was incurred upon retirement of such indebtedness;

(4) Nonprofit corporations which meet the requirements of a public benefit corporation as set forth herein and which own, lease, sublease, or control immovable property shall not be required to advertise for and receive bids as provided for in this Part, provided that any lease or sublease entered into by and between such nonprofit corporation and a third party be approved by the governing body of such political subdivision on behalf of which the corporation exercises its powers. Such leases or subleases be negotiated and let in accordance with objective criteria relating to a balance of factors including but not limited to highest rent or highest percentage of gross profits, quality control of products, financial stability, architectural design, uniqueness of operation, and overall economic importance to the primary objective of stimulating other industrial or commercial activity within such development;

(5) In the event that any person or other entity be unsuccessful in the bid for the lease or sublease of immovable property owned, leased or controlled by a public benefit corporation such person or other entity may, not later than thirty days following the occurrence of such event, appeal to the district court in which the political subdivision is located for such relief as may be provided by law. If no appeal is taken within said thirty day period, any such claim shall be prescribed;

(6) The corporation must be approved by the political subdivision creating it and any specific obligations issued or made by the corporation must also be approved by said political subdivision;

(7) All leases or subleases executed by a public benefit corporation under the provisions of this Part shall be for a period not exceeding thirty years and shall provide for a monthly rental payable in cash; and

(8) Notwithstanding the provisions of Paragraph (7) herein and R.S. 41:1217, any lease or sublease executed by a public benefit corporation under the provisions of this Part, in a municipality with a population in excess of four hundred seventy-five thousand, shall be for a period not exceeding ninety-nine years and shall provide for a monthly rental payable in cash.

C. Notwithstanding any other provision of law to the contrary, in the event that a state property designated as nonessential in accordance with R.S. 41:140 has been offered unsuccessfully for lease or sale through public bid due either to lack of receipt of bids or to rejection of all bids received, the commissioner of administration is authorized to negotiate the lease of such property to any nonprofit organization qualified as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1954 and organized for a public purpose. Such negotiated lease shall provide that the lessee assumes responsibility for proper maintenance and upkeep of the property for the term of the lease and provide that the state shall be held harmless for any liability arising, in tort or otherwise, from the lease of the property or any use thereof. A notice stating the amount of the lease, the property to be leased and the date, time, and place of the execution of the proposed lease shall be published in the official state journal at least twice within a fifteen-day period before such execution date with the last publication at least seven days prior to the proposed execution date. Publication of the notice shall be the responsibility of the proposed nonprofit lessor.

Acts 1967, No. 33, §2; Acts 1976, No. 693, §1; Acts 1984, No. 807, §1; Acts 1989, 2nd Ex. Sess., No. 3, §1, eff. July 14, 1989; Acts 1990, No. 737, §1, eff. July 24, 1990; Acts 1991, No. 289, §13; Acts 1991, No. 899, §1.

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RS 37:2163 — Bid procedures; penalty

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§2163. Bid procedures; penalty

A.(1) It is the intent of this Section that only contractors who hold an active license be awarded contracts either by bid or through negotiation. All architects, engineers, and awarding authorities shall place in their bid specifications the requirement that a contractor shall certify that he holds an active license under the provisions of this Chapter and show his license number on the bid envelope. In the case of an electronic bid proposal, a contractor may submit an authentic digital signature on the electronic bid proposal accompanied by the contractor's license number in order to meet the requirements of this Paragraph. Except as otherwise provided herein, if the bid does not contain the contractor's certification and show the contractor's license number on the bid envelope, the bid shall be automatically rejected, shall be returned to the bidder marked "Rejected" and shall not be read aloud.

(2) Any bid that does not require the contractor to hold an active license shall state the exemption on the bid envelope and shall be treated as a lawful bid for the purpose of this Section.

(3) On any project that has been classified by the architect or engineer, prior to the bid, as a plumbing project, bids may only be accepted from those who have as a qualifying party a person who has complied with the provisions of Chapter 16 of this Title, R.S. 37:1361 et seq.

(4) Any contractor who submits a bid for a type of construction for which he does not hold an active license to perform shall be acting in violation of this Section and shall be subject to all provisions for violations and penalties thereof.

(5) Any subcontractor who submits a bid or quotes a price to any unlicensed prime contractor shall be subject to all provisions for violations and penalties thereof.

B. Where bids are to be received or forms furnished by the awarding authority, no proposal forms or specifications shall be issued to anyone except a licensed contractor who holds an active license or his authorized representatives. In no event shall proposal forms be issued later than twenty-four hours prior to the hour and date set for receiving proposals.

C. Nothing in this Section shall be construed as prohibiting the issuance of plans and specifications to recognized plan rooms, or material suppliers, or both when said plans and specifications will be used only to prepare proposals which will be incorporated in the bid prepared by the contractor or the issuance of plans to the contractor except in connection with federal aid or other projects as set forth in R.S. 37:2157(A)(6).

D. It shall be the obligation of the architect, engineer, or awarding authority to classify public projects. Once the project is classified, any interested person may object by sending a certified letter to both the board and to the architect, engineer, or awarding authority. Said objection shall be received by the board and by the architect, engineer, or awarding authority at least ten working days prior to the date on which bids are to be opened. The objection shall state with particularity the reasons for the objection. The objection shall be submitted to a committee for determination. The chairman of the board shall appoint the committee which shall consist of board members. The committee shall have the power to approve the project classification or add an additional classification by vote

of a majority of the members of the committee. The matter shall be resolved and the board shall notify the architect, engineer, and awarding authority no less than five days prior to the time when bids are to be opened, unless all parties agree that a delay will not cause harm to others.

E.(1) Any awarding authority or its agent who violates the provisions of this Section shall be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine of not less than one hundred dollars or more than two hundred dollars or imprisonment in the parish jail for not less than thirty days nor more than sixty days, or both, such fine and imprisonment at the discretion of the court.

(2) In addition, the board may, after notice and a hearing, impose a fine upon any awarding authority or its agent who intentionally violates the provisions of this Section. The board may not impose any fine as authorized by this Paragraph on the state, its agencies, boards, or commissions, or any political subdivision thereof.

Added by Acts 1956, No. 233 §13. Amended by Acts 1962, No. 184, §1; Acts 1964, No. 113, §13; Acts 1976, No. 377, §1; Acts 1980, No. 606, §1, eff. July 23, 1980; Acts 1981, No. 668, §1; Acts 1988, No. 635, §1, eff. Jan. 1, 1989; Acts 1991, No. 865, §1, eff. July 23, 1991; Acts 1992, No. 681, §1, eff. July 6, 1992; Acts 1995, No. 478, §1; Acts 1997, No. 1299, §1; Acts 2001, No. 802, §1; Acts 2001, No. 1072, §1.

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