

Regular Session, 2003

ACT No. 989

SENATE BILL NO. 1011

BY SENATORS MICHOT AND SCHEDLER AND REPRESENTATIVE
CAZAYOUX

AN ACT

To amend and reenact R.S. 39:1496.1(A) and (B) and to enact R.S. 39:1496.1(E), relative to performance-based energy efficiency contracts; to provide for the award of such contracts; to provide for audit; to provide for review, approval, and oversight of such contracts; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:1496.1(A) and (B) are hereby amended and reenacted and R.S. 39:1496.1(E) is hereby enacted to read as follows:

§1496.1. Performance-based energy efficiency contracts

A. ~~Any state agency, board, or commission may enter into a performance-based energy efficiency contract for services and equipment. Any such agency, board, or commission shall contact the division of administration's for assistance in preparation of the requests for proposals, analysis of the proposals, and development of the contract.~~ **as defined in R.S. 39:2** may enter into a performance-based energy efficiency contract for services and equipment **as provided in this Section. The commissioner of administration shall adopt and promulgate rules and regulations necessary to implement the provisions of this Section, which rules shall be consistent with the Energy Management Act of 2001. Any such rules and regulations**

shall be adopted and promulgated only after consultation with the Department of Natural Resources and the review and approval of the Joint Legislative Committee on the Budget. The commissioner of administration shall submit the proposed rules and regulations to the Joint Legislative Committee on the Budget thirty days prior to the review and approval of such rules and regulations by the committee.

B. The contract shall be considered a consulting services contract under the provisions of this Chapter. ~~B.~~ Performance-based energy efficiency contracts shall be awarded through a request for proposal process under the provisions of this Chapter and specifically the provisions of Subsection E of this Section.

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R.S. 39:1496.1(E) is all new law.

E.(1) Prior to award of any performance-based energy efficiency contract, the response to the requests for proposals shall be evaluated as follows:

(a) The initial evaluation of the submitted proposals shall be conducted by the Department of Natural Resources. The Department of Natural Resources shall forward the results of its evaluation of each such proposal to the commissioner of administration. The commissioner of administration shall select an independent third party evaluation consultant to review and evaluate the submitted proposals together with the evaluation of the Department of Natural Resources. The consultant shall submit the result of his evaluation to the commissioner of administration who shall review the initial evaluation by the Department of Natural Resources and the evaluation of the

independent third party evaluation consultant. Upon completion of such review, the commissioner of administration shall notify the agency as to whether the contract has been approved or disapproved. If such contract is disapproved, the commissioner shall provide the reasons therefor in writing to the agency.

(b) An independent third party evaluation consultant shall have no present, contemplated, or future conflict of interest as to the agency, the proposals which the consultant is to evaluate, or to any proposer. Prior to the selection of such consultant, the legislative auditor shall certify that the consultant has no present, contemplated, or future conflict of interest as to the agency, the proposals which the consultant is to evaluate, or to any proposer.

(2) The legislative auditor shall conduct performance audits of performance-based energy efficiency contracts. The legislative auditor shall establish a schedule for execution of such performance audits, which schedule shall provide for periodic audits during the term of such contracts and for an audit upon the completion of any such contract. The results of any such performance audits shall be published no later than thirty days prior to the commencement of each Regular Session of the Legislature.

(3) In order to fund the cost of the evaluation, review, approval, oversight, and performance audits as provided in this Section, the request for proposal for the award of a performance-based energy efficiency contract shall require the proposer to pay a sum not to exceed two and one-half percent of the total value of the performance-based energy efficiency contract. The determination of the sum to be paid shall be made by the commissioner of administration according to the

rules and regulations adopted herein.

Section 2. The initial rules and regulations adopted pursuant to the Act shall be adopted no sooner than February 1, 2004 and no later than the convening of the 2004 Regular Session of the Legislature.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____