

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 717

Introduced by Brewer, 43.

Read first time January 23, 2019

Committee: Government, Military and Veterans Affairs

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.