



Strong Families Make a Strong Kansas

House Committee on Federal and State Affairs

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HB 2201

Written Testimony by:

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Kansas Department for Children and Families

Testimony of:

Daniel Klucas, Deputy Secretary of Operations
Kansas Department for Children and Families

Testimony on:

HB 2201

Chair Barker, Vice Chair Highland, Ranking Member Ruiz, and Members of the Committee:

Thank you for the opportunity to provide neutral testimony regarding HB 2201.

The Kansas Department for Children and Families (DCF) currently oversees around 300 contracts. The contracts DCF administers range from Janitorial to IT services to services for clients. Current Department of Administration (DofA) and DCF policies, as well as current State of Kansas statutes, require all purchases over \$5,000.00 must be competitively bid with administration costs capped at ten percent. This can be handled several ways, but typically a negotiated procurement process is handled through the use of a Request for Proposal (RFP). The following process is the method by which an RFP is started:

Agency submits the following as attachments to a SMART requisition sent to DofA:

- Request letter to Director of Purchases to establish the Procurement Negotiating Committee (PNC) – see template below
- Specifications document, which details the service or items requested
- List of suggested bidders, including name, address and e-mail address if available
- How many copies of the proposals the agency will need
- Non-disclosure agreements for all committee members and reviewers
- Include a pricing structure that the agency would like to see, such as a firm, fixed fee or a payment schedule tied to deliverables, or a combination of the two
- Any additional language that is not in the RFP boilerplate (pp. xx –xx)
- Any additional attachments you may require to be inserted into the bid document

Per K.S.A. 75-37,102, the **PNC** consists of:

- Director of Purchases, or designee
 - The Director of Purchases representative will shepherd the project through the procurement process.
- Secretary of Administration, or designee
- Agency Head, or designee

Others may be involved in bid evaluation, negotiations, program planning, but the three designated members are statutorily responsible for the final decision.

A Non-Disclosure and Conflict of Interest Agreement: PNC members, reviewers of the bid responses and anyone with access to the RFP or bid responses before award are required to sign a Non-Disclosure and Conflict of Interest Agreement. The signed agreements must be sent to the Procurement and Contracts Procurement Officer before the bid responses will be released to the agency. The Procurement Officer will maintain the signed agreements with the bid file. Agencies may submit the signed documents either in hard copy or scanned copy.

This form documents the specified individual:

- Will keep the RFP bid responses confidential,
- Will safeguard the information to insure it's not inappropriately made available, and
- Acknowledges that they have no conflict of interest regarding the RFP.

Specifications to an RFP should include information in the following areas:

- Background/History of the product or service, if applicable
- Scope of Work
- Services to be Provided
- Deliverables
- Timeline
- State Resources to be Provided, if applicable
- Contract term and renewal options
- Suggested Cost Structure

The **Request for Proposal (RFP) is prepared** by the Central Procurement Officer using the agency's provided Specifications and the State's RFP template. The Central Procurement Officer will also review the Specifications, requesting clarifications from the agency when necessary.

The RFP information is advertised in the Kansas Register, per statutory requirement.

The RFP is posted to the Internet; notice of RFP is e-mailed or mailed to interested vendors

- The RFP document reminds bidders to monitor the Central Procurement website for periodic posting of new information related to the bid document.

The RFP will typically involve a **Pre-Bid Question & Answer (Q&A) Period** or may include a **Pre-Bid Conference** if on-site discussions are needed,

- This allows potential vendors to request clarification of RFP information in person, however all questions must be submitted in writing to be considered official as per DofA
- Q&A are released to all known interested vendors via addendum and posted to the Internet DofA procurement site

Bid Closing Date (Proposal Submission Deadline)

- Vendors are instructed to submit their technical proposals in separate sealed envelopes, separate from the cost proposals
- At bid opening, only names of bidders are announced

Review of Proposals begins when *Technical Proposals only* are forwarded to PNC Members and other agency participants/evaluators

- Cost Proposals are retained by Central Procurement
- Technical Evaluation should be conducted without the prejudice or influence of price.

After full review of all proposals, the agency provides to Central Procurement a complete and detailed **Technical Evaluation** of each Proposal submitted. The technical evaluation is in narrative format, with pros and cons, strengths and weaknesses of each proposal with an attempt to address items including (but not limited to):

- Response format as required by the RFP
- Adequacy and completeness of proposal
- Vendor's understanding of the project
- Compliance with the specifications, terms and conditions of the RFP
- Experience in providing like services
- Qualified staff
- Methodology to accomplish the tasks requested

Upon receipt of an adequate, complete Technical Evaluation (of appropriate quality and substance), the **Cost Proposals** are released to the Agency and PNC for review.

The Agency **reviews the Cost Proposals in concert with the Technical Evaluations and recommends to the PNC one or more vendors to invite to negotiations**, if negotiations are required.

- The Agency is encouraged to examine the bids according to cost, starting with the lowest bid.

Per 75-37,102, "...in the event that the negotiating committee selects a bid which is not the lowest bid on a given contract, the directors report shall contain a rationale explaining why the lowest bidder was not awarded the contract..."

Upon concurrence of the PNC, a list of Vendors to Invite to Negotiations is developed.

- In some instances, it may not be necessary to conduct formal negotiations.

Negotiation Session(s) are scheduled

- Preparations for Negotiations should include the development of Q&A/Discussion Points for negotiations, to be sent to the vendor in advance of the negotiations to allow the vendor to be better prepared for the meeting
- Demonstrations of systems or equipment may be necessary to advance to Negotiations
- At the end of negotiations, the PNC may request a Revised Offer
 - Especially important if clarification of the vendor's expectations/understanding of the project results in a change of cost;

Once Revised Offers have been submitted, the Agency **again reviews cost and technical proposals**, to arrive at a recommendation for award.

- Several Requests for Revised Offers may be issued for some procurements

The Agency submits a **formal written recommendation for award to the PNC, providing full documentation of the recommendation.**

- Documentation must be provided of reasons for not awarding to vendors with lowest cost proposals.

Upon PNC concurrence of the Agency's recommendation, Contract Documents are prepared by DofA and are routed for signatures.

Once all required signatures have been acquired,

- Work on the project may begin.
- The bid file becomes available for review under the Kansas Open Records Act.

DofA Central Procurement, based upon their experience with the transaction, remains available for **follow-up**, including answering contract questions, assisting with vendor performance issues, and standing ready to assist with termination, should the situation warrant this action.

The average amount of time, following current policies and Kansas State Statutes, for DCF to award a contract is 6 months. This bill could extend the average time to award a contract exponentially. This could cause a delay in services and could lower the amount of bidders for state contracts due to the extensive amount of additional work required to participate in anything with the State of Kansas.

Kansas DCF would be tasked with evaluating every State contract to assess the impact on social services and assistance programs.

Thank you for the opportunity to submit neutral testimony on HB 2201.