


Approved:   
Date

3-28-01

## MINUTES OF THE e-GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Deena Horst at 3:37 p.m. on March 20, 2001, in Room 526-S of the Capitol.

All members were present except Representatives Henderson and Cook, both of whom were excused.

### Committee staff present:

Audrey Nogle, Kansas Legislative Research Department  
Robert Chapman, Kansas Legislative Research Department  
Amory Lovin, Kansas Legislative Research Department  
Jim Wilson, Revisor of Statutes' Office  
Lisa Montgomery, Revisor of Statutes' Office  
Gary Deeter, Temporary Committee Secretary

### Conferees appearing before the committee:

Gary George, Assistant Superintendent, Olathe (USD 233) School District  
Michael Byington, Director, Envision Governmental Affairs Office

Others attending: See attached sheet.

Legislative Research staff Robert Chapman and Audrey Nogle briefed the e-Government Committee on **SB 161**, saying that the bill authorizes local school boards to establish policy for the use of credit cards by school districts for payment of district bills and acceptance of credit/debit cards for payment of tuition fees. He noted that the Senate deleted "unnecessary language." Revisor Jim Wilson stated the bill might conflict with Kansas cash-basis statutes.

Gary George, Assistant Superintendent of the Olathe School District, spoke as a proponent of the bill. (Attachment 1) He said that since 1997 the Olathe District has been using credit cards for purchases and for travel. He pointed out advantages: some vendors do not accept purchase orders; some hotels or car rental agencies require a credit card; credit card billing saves paper and streamlines paper handling; credit cards have been convenient for teachers ordering extra supplies; and credit card payment for tuition fees offers a service to parents. He outlined safeguards established by the school board. During discussion, Revisor Wilson said statutes are silent on the issue of credit card payments. Mr. George said the district, following state law, pays off credit card balances each month. He said the district follows Kansas statutes for bidding and payment procedures.

Written testimony by Jenni Newell, Executive Director of Business and Finance for the Blue Valley School District (USD 229), was distributed as a proponent. (Attachment 2)

Michael Byington, Director, Envision Governmental Affairs Office, spoke as an opponent of the bill. (Attachment 3) He noted that the Kansas Use Provisions statutes encourage Kansas government entities, when requesting bids or ordering supplies or equipment, to give preference to agencies or groups that employ disabled individuals. He expressed concern that the use of credit cards will make it easier for school districts to bypass this preference. He said presently only 32 of 304 school districts purchase from Envision, which manufactures products likely to be used by all school districts. He proposed amending the bill with language expressed in his testimony. Members considered requesting a Post Audit study.

Representative Morrison made a motion, seconded by Representative Stone, to include Mr. Byington's proposal as a conceptual amendment. The motion passed.

Representative Wilson made a motion, seconded by Representative Gatewood, to reinstate the original language of the bill with the exception of debit cards. The motion passed 6-4.

Representative Wilson moved that the committee report **SB 161** as amended favorable for passage. Representative Gatewood seconded the motion, which passed.

The Chair opened discussion on **SB 227**. Staff Audrey Nogle and Robert Chapman outlined the Kansas statutes applicable to competitive bidding, purchase exemptions, mandatory purchase

requirements, negotiated and insurance procurements, notice requirements, and ancillary statutes. (Attachment 4) They provided samples of other states' statutes and policies for on-line bidding: Virginia (Attachment 5), Missouri (Attachment 6), Colorado and South Carolina (Attachment 7). Mr. Chapman noted that South Carolina's greatest hurdle was getting all parties licensed. The Chair referenced written testimony from Marty Nohe, Vice-President of the Public Finance Group, regarding Internet bond sales. (Attachment 8)

Revisor Wilson provided a draft **Sub for SB 227**. (Attachment 9) Responding to a question, John Houlihan, Director, Division of Purchases, said the bill would affect all state schools and all state purchases. Revisor Wilson said the unified bonding procedures section of the law applies to all municipal entities, including school districts, which are authorized to issue bonds. Representative Lane moved to adopt the draft **Sub SB 227**. Second by Representative Wilson.

Representative Morrison made a motion to table the bill. Second by Representative Faber, the motion passed.

The meeting was adjourned at 5:05 p.m.

e-GOVERNMENT COMMITTEE

GUEST LIST

DATE: MARCH 20 2001

NAME	REPRESENTING
Dale Jost	KDOT
Woody Jones	KUMCA & KAPA
Tom Blattery	AGC of KS
Gary George	Olathe School Dist.
Bob Kuhn	K Contractors Ass.
Steve Woolington	KDOT
Mary Ellen Conlee	self.
Dale Morrison	self
Gyot SUNNEDER	GARRA/ INK
ROBERT KNAPP	INK
Glaive Frisbie	Div. of the Budget
BOB SACON	M-L.A.

Olathe School District USD 233  
Gary George  
Assistant Superintendent  
March 20, 2001

**Testimony on Senate Bill 161**

Madam Chair and members of the committee, it is a pleasure to be with you today. We are here to speak in support of Senate Bill 161, which will allow school districts to use credit cards to make purchases and to receive payments from others.

As we all know, credit cards have been around for a long time. Some, perhaps most school districts, have for years used credit cards for gasoline purchases when traveling. The use of credit cards expanded in some districts when school teams, board of education or others were traveling to conferences, etc. We have found that it is almost impossible to make hotel reservations and airline reservations without a purchase card.

In 1997, our district expanded the use of credit cards for other purchases. This has solved a number of problems. For example, some vendors do not accept purchase orders, but will accept credit cards and the paperwork associated with multi-page purchase orders for several thousand employees was massive. The use of purchase cards has greatly reduced the paperwork.

We have put a number of safeguards in place to prevent abuse. They are listed on the attachment. You will find that there is a transaction limit and a monthly limit for each cardholder. Further the card cannot be used with a blocked vendor. Many types of vendors are off-limits.

We have also made arrangements for parents to pay textbook rental fees by credit card. The system works well and has been well received by everyone involved.

We urge your favorable consideration of Senate Bill 161.

Thank you.

*Attachment 1*

*E. Gow*

*3-20-01*

Olathe District Schools

**Authorization for Procurement Card Use**

Cardholder Name:

Card Number:

You are authorized to purchase goods utilizing the District Card. Your administrator will stipulate if purchases must be approved before the transaction.

The amount your card has been approved to accept is:

Single Purchase Limit:     \$

Monthly Limit:             \$

You are authorized to use any vendor **EXCEPT** the type of merchant listed on the reverse of this form.

Goods may be purchased that are consistent with your organizational responsibilities and satisfy your departmental needs.

All purchases shall be made in accordance with applicable purchasing procedures and procurement card procedures.

This delegation shall automatically cease upon your separation from the District or your reassignment to another department within the District.

Please acknowledge your review and understanding of the various provisions of the above referenced procedures by signing below. Upon receipt of the originally signed document, the Controller will issue the card.

***I HAVE REVIEWED AND UNDERSTAND THE PROVISIONS OF THE  
PROCUREMENT CARD PROCEDURES FOR THE OLATHE DISTRICT  
SCHOOLS.***

Name: \_\_\_\_\_

Date: \_\_\_\_\_

SSN:

# OLATHE DISTRICT SCHOOLS

## TYPES OF VENDORS BLOCKED

### VISA CARD NOT TO BE USED FOR THESE TYPES OF PURCHASES

Airlines

Utilities

Telephone, Wire Transfer, Electric, Gas, Water, Sanitation

Railroads

Ambulance

Bus Lines

Motor Freight Carriers

Courier Services

Public Warehousing

Cruise Lines

Boat Rental

Marinas

Transportation arrangements

Drinking Places

Package Stores

Antique Shops

Pawn Shops

Direct Marketing Travel

Cigar Stores and Stands

Funeral Service and Crematories

Tax Preparation

Dating and Escort Services

Counseling Services

Massage Parlors

Betting, Casino

Service Providers

Financial Institutions (cash, merchandise or services), Money Orders, Traveler's  
Checks, Brokers/Dealers, Insurance Sales, Timeshares, Camps

Professional Services and Membership Organizations

Doctors (Medical, Dental, Eye, Osteopaths, Chiropractor), Optical Goods,

Nursing Facilities, Hospitals, Laboratories, Legal, Schools, Child Care Services,

Civic/Social/Fraternal Associations, Charitable/Religious/Political Organizations,

Architectural/Engineering/Surveying Services, Accounting/Auditing/Bookkeeping

Services, Court Costs, Fines, Bail Bond Payments, Tax Payments, Gov't Loan

Payments

USD 229

Madam Chairperson and Members of the E-Commerce Committee --

My name is Jenni Newell, I am the Executive Director of Business and Finance for the Blue Valley School District. I support Senate Bill 161.

School districts across the state of Kansas need the flexibility that credit cards and purchasing cards provide. As budgets continue to get tighter, we are constantly looking for ways to improve the efficiencies of our operations. Estimates are that to process small dollar purchases through our financial system costs in excess of \$100 per transaction. With the use of purchasing cards, we can eliminate these high dollar transaction costs and provide more efficient payment of goods and services. Purchasing cards provide school districts the flexibility needed without sacrificing safeguards and internal controls over transactions by employees.

Thank you for your time and consideration.

Attachment 2  
e-Gov 3-20-01

Choices & resources for people who are blind or low vision



**Envision®**

PLEASE REPLY TO: Michael Byington, Director  
Envision Governmental Affairs Office  
924 S. Kansas Ave  
Topeka, Kansas 66612  
(785) 354-4747 (Topeka Office)  
(785) 640-4500 (page/mobile)  
(785) 354-4646 (FAX)  
mbyingto@ink.org or  
michael.byington@envisionus.com

March 20, 2001

TO: House Committee on e-Government, Representative Deena Horst,  
Chair

RE: Senate Bill 161

Chairperson Horst and members of the Committee:

Senate Bill 161 would grant potential authority to Boards of Education of local school districts to provide for acquisition of credit cards in the name of the district. We hesitate to oppose this concept because this is clearly the waive of the future in agency purchasing. It is in fact a practice being promoted by the federal government through former Vice President Gore's "Reinventing Government" initiative, and which the United States Military has started using over the past eight years. As a result, currently over 5,000 federal government employees each month, who used to have no direct purchasing authority, receive their new "impact cards" which are credit cards along the lines detailed for School Districts in this Senate Bill. It is only logical that State agencies are going to follow the federal example.

Our concern is that this legislation, unless amended, could potentially hurt employment of severely disabled Kansans. I will explain the rather complex and convoluted connection between these two seemingly unconnected issues as this testimony progresses, but I will first of all acknowledge that I offered the amendment I will propose here also to the Senate Committee handling this Bill. That Committee declined to add the amendment after an opinion was requested of Revisor Avis Swartzman as to whether my amendment was necessary. Revisor Swartzman opined that the amendment was not necessary. With due respect to Revisor Swartzman, I have done some additional research to support my position. I do not question



Revisor Swartzman's reasoning; it is in fact quite sound. The research I will report will deal with how laws are being implemented; they are not working in the ways their existing language implies.

I will now provide the wording of my proposed amendment. I shall then offer our reasoning in asking for it, and offer our supporting research thereafter.

In line 21 of Senate bill 161, after the word "cards," the following language would be added, "A restriction prescribed by any such policy, shall include assurance that provisions set forth in K.S.A. 75-3317 et seq. shall be observed and enforced."

At the end of line 40 of Senate Bill 161, the following would be added after the word "effective." "The provisions of K.S.A. 75-3317 et seq. are, however applicable to this section."

A new Section (c) would also be added. It would read as follows: "NEW SECTION (c) If it is brought to the attention of the State Board of Education or the director of purchases of the department of administration that a school district using credit or debit cards as authorized by Section 1 (a) of this act is repeatedly and willfully violating the provisions of K.S.A. 75-3317 et seq., then the State Board of Education and the director of purchases of the department of administration are hereby given separate authority, and shall engage such authority, to revoke the school district's authorization to use a credit card purchasing system for a period of one year commencing on July 1 of the fiscal year following the violations."

The referenced K.S.A. 75-3317 et seq., provides that when not for profit Kansas corporations, who employ people who are blind or severely disabled, are manufacturing products which will meet the needs of state agencies or unified school districts operating within the State of Kansas, such not for profit manufacturers are a mandatory source for such products. The referenced statutes also provide protections to insure that the state agencies and school districts are getting a fair deal. The statutes allow the director of purchases to fix prices for goods offered based on a fair market value, and require that goods provided be of conforming quality in order for the law to apply. There is also procedure for waiver of the law provided within the statutes if the not for profits involved can not provide sufficient quantities of goods in a timely manner.

At Envision, for example, some of the products we manufacture include: writing instruments, seal closure bags, and trash bags, all of which are used in considerable quantity by the school districts. About 25 of our most severely multiply disabled blind employees are employed exclusively on contracts which manufacture products to meet sales under K.S.A. 75-3317 et seq. Additionally,

about another 67 of our employees work on manufacturing products which are in significant quantity sold under the provisions of K.S.A. 75-3317 et seq. While these product lines also have strong customer following in the federal government and private competitive sectors, we would nonetheless stand to lose business if state government purchasing or school district purchasing were to be significantly weakened. The result would be that a number of blind or severely multiply disabled blind employees would run the risk of losing employment.

Our products are of excellent quality, and we have a very good on time delivery history. In areas of competitive price, quality, and delivery, we are most certainly as competitive as existing law requires, and often more so. What we are not able to do, however, is compete with the glitzy displays for products, such as writing instruments and trash bags, which are a part of marketing in local retail establishments where school district credit cards are likely to be used. We make an excellent line of pens, but we do not have movie stars flicking their biks on national television. We make a thicker mil, better line of bags than are commercially available, but we do not have cardboard statues of the Man From Glad, in his pristine, white uniform, swooping down to save somebody's sandwich, or to place our pristine garbage bags in his pristine dumpster. The prevalence of this type of marketing will cause us to lose business if school district employees can go to the local five and dime and purchase products which compete with ours, and which Kansas law currently says they are supposed to give us the first shot at selling to the districts. No matter how much positive marketing we do with school districts or other government customers, and we do a significant amount, our products are simply not in those local venues where school district credit cards will be used.

Frankly, we know that some of the unified school districts are in violation of K.S.A. 75-3317 et seq. anyway. IF they were not, we would have much more business from school districts overall.

This is the area where we have done some additional research subsequent to the Senate Hearing. Out of 304 total school districts in Kansas, 32 purchase from Envision. We strongly suspect that the other 272 may from time to time use writing instruments, trash bags, paper towels, or other items which we manufacture, but they do not buy them from us or any other manufacturer covered under K.S.A. 75-3317 et seq. as they are supposed to.

There is no real enforcement provisions within K.S.A. 75-3317 et seq., as it is, because when this law was adopted, it was the wisdom of the Kansas Legislature that enforcement provisions were not needed.

The world has changed subsequent to the adoption of the statutes as described above. There are no longer just a few making purchasing decisions. Credit card issuance spreads this authority over many

more people. Envision has been willing to change with that world and has done so already. We also offer a high degree of personalized customer service. We are willing and ready to make similar accommodations and adjustments to keep the school districts as valued customers and to increase this business, but to do so, we need some linkage between the purchasing authority authorized under Senate Bill 161, and K.S.A. 75-3317 et seq.

Without such linkage, there is no question that we will lose business if credit card decentralized purchasing programming is implemented for some or all of our 32 school district customers. The current lack of compliance with existing laws, which we have documented here, suggests that the laws as they exist do not contain adequate enforcement provisions, so anything which has the potential to additionally reduce compliance with laws concerning specialized purchasing from the disabled, will most likely indeed do so.

While the 32 school districts doing business with us, out of 304 which are supposed to, is not a very good participation track record, we can ill afford to lose part or all of the business from the 32 districts whom we are serving.

What we, who are not for profits in the business of providing employment for people with blindness or other severe disabilities, are doing is still needed. When the Javits-Wagner-O'Day Act was adopted at the federal level, and most States adopted similar statutes such as we have here in Kansas, in the late 1930s and early 1940s, unemployment among people who were blind or severely disabled was at a level of over 95% among those who would normally be considered to be of working age. In 1990, number crunching from census data demonstrated that we had gotten the number down to 74% unemployment among working aged blind. Groups representing other disability interests also did sampling around 1990 and arrived at an estimate of 70% unemployment among their working aged populations. Thus it was established that we were making progress, but still had a very long distance to go.

Programs which integrate people who are blind and severely disabled into community based employment settings are further helping impact unemployment among the disabled populations, and many not for profits who sell under K.S.A. 75-3317 et seq., including Envision, are operating such employment placement and support programs for working aged, disabled adults. Even with these new initiatives, however, recent research suggests that, as of the year 2000, we were still experiencing over 60% unemployment among those who are blind or severely disabled. We are thus not in a position to give up any viable employment options. We can not tell people who may be laid off because of loss of contracts that the economy remains fairly good with under 4% unemployment, and that other jobs are thus readily available. With our populations, there is more along the lines of a 60% chance that they are simply not going to get

other jobs until we can call them back.

This is why we can not support the modernization of school district purchasing options without the addition of provisions which insure that employment programs for people who are blind and severely disabled will be allowed to evolve and grow with such

modernization.

Sincerely yours:

Michael Byington  
Director of Governmental Affairs

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1) Restricted Fees Fund - Personal property insurance

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2) Student Health Fees Fund - Professional liability insurance

L. 1995, ch. 228, § 3; July 1. 47

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## 75-3738

### Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 37.--DEPARTMENT OF ADMINISTRATION

**75-3738. Powers and duties of the director of purchases.** The director of purchases shall:

(a) Purchase, rent or otherwise provide for the furnishing of supplies, materials, equipment or contractual services for all state agencies.

(b) Have power to authorize any state agency to purchase directly certain specified supplies, materials, equipment or contractual services under prescribed conditions and procedures.

(c) Prescribe the manner in which supplies, materials and equipment shall be purchased, delivered and distributed.

(d) Prescribe the time, manner and authentication of making requisitions for supplies, materials, equipment and contractual services.

(e) Establish standards of quality and quantity and develop standard specifications in consultation with the several state agencies.

(f) Prescribe the manner of making chemical and physical tests of samples submitted with bids and samples of deliveries to determine compliance with specifications and the manner in which state agencies shall inspect all deliveries of supplies, materials and equipment.

(g) Prescribe the amounts and form of, accounting for and disposition of any deposit or bond required to be submitted with a bid or a contract and the amount of any such deposit or bond to be given for the faithful performance of a contract.

(h) Require reports by state agencies of stocks of supplies, materials and equipment on hand and prescribe the form of such reports and deliver copies of such reports to the director of purchases and the director of accounts and reports.

**History:** L. 1953, ch. 375, § 38; L. 1963, ch. 432, § 1; L. 1972, ch. 332, § 79; L. 1983, ch. 290, § 3; L. 1986, ch. 327, § 4; L. 1987, ch. 341, § 4; April 30.

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## 75-3739

### Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 37.--DEPARTMENT OF ADMINISTRATION

**75-3739. Competitive bids, exceptions; reports of purchases without bids, waivers of bid solicitation publication and delegations of purchasing authority; highway contracts exemption; state agency contracts exemption; prior approval of real property leases.** In the manner as provided in this act and rules and regulations established thereunder:

(a) All contracts for construction and repairs, and all purchases of and contracts for supplies, materials, equipment and contractual services to be acquired for state agencies shall be based on competitive bids, except that competitive bids need not be required in the following instances:

(1) For contractual services, supplies, materials, or equipment when, in the judgment of the director of purchases, no competition exists;

(2) when, in the judgment of the director of purchases, chemicals and other material or equipment for use in laboratories or experimental studies by state agencies are best purchased without competition, or where rates are fixed by law or ordinance;

(3) when, in the judgment of the director of purchases, an agency emergency requires immediate delivery of supplies, materials or equipment, or immediate performance of services;

(4) when any statute authorizes another procedure or provides an exemption from the provisions of this section;

(5) when compatibility with existing contractual services, supplies, materials or equipment is the overriding consideration;

(6) when a used item becomes available and is subject to immediate sale; or

(7) when, in the judgment of the director of purchases and the head of the acquiring state agency, not seeking competitive bids is in the best interest of the state.

When the director of purchases approves a purchase of or contract for supplies, materials, equipment, or contractual services in any instance specified in this subsection, the director may delegate authority to make the purchase or enter the contract under conditions and procedures prescribed by the director.

The director of purchases shall prepare a detailed report at least once in each calendar quarter of all contracts over \$5,000 entered into without competitive bids under subsection (a)(1), (2), (3), (5), (6) or (7). The director shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives and the chairperson of the Kansas performance review board.

(b) (1) If the amount of the purchase is estimated to exceed \$50,000, sealed bids shall be solicited by notice published once in the Kansas register not less than 10 days before the date stated in the notice for the opening of the bids. The director of purchases may waive this publication of notice requirement when the director determines that a more timely procurement is in the best interest of the state. The director of purchases also may designate a trade journal for the publication. The director of purchases also shall solicit such bids by sending notices by mail to prospective bidders and by posting the notice on a public bulletin board for at least 10 business days before the date stated in the notice for the opening of the bids unless otherwise provided by law. All bids shall be sealed when received and shall be opened in public at the hour stated in the notice.

(2) The director of purchases shall prepare a detailed report at least once in each calendar quarter of all instances in which the director waived publication of the notice of bid solicitations in the Kansas register as



provided in this subsection. The director shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives and the chairperson of the Kansas performance review board.

(c) All purchases estimated to exceed approximately \$25,000 but not more than \$50,000, shall be made after receipt of sealed bids following at least three days' notice posted on a public bulletin board.

(d) All purchases estimated to be more than \$5,000, but less than \$25,000, may be made after the receipt of three or more bid solicitations by telephone, telephone facsimile or sealed bid, following at least three days' notice posted on a public bulletin board. Such bids shall be recorded as provided in subsection (e) of K.S.A. 75-3740 and amendments thereto. Any purchase that is estimated to be less than \$5,000 may be purchased under conditions and procedures prescribed by the director of purchases. Purchases made in compliance with such conditions and procedures shall be exempt from other provisions of this section.

(e) With the approval of the secretary of administration, the director of purchases may delegate authority to any state agency to make purchases of less than \$25,000 under certain prescribed conditions and procedures. The director of purchases shall prepare a report at least once in each calendar quarter of all current and existing delegations of authority to state agencies as provided in this subsection. The director shall submit the report to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives and the chairperson of the Kansas performance review board.

(f) Subject to the provisions of subsection (e), contracts and purchases shall be based on specifications approved by the director of purchases. When deemed applicable and feasible by the director of purchases, such specifications shall include either energy efficiency standards or appropriate life cycle cost formulas, or both, for all supplies, materials, equipment and contractual services to be purchased by the state. The director of purchases may reject a contract or purchase on the basis that a product is manufactured or assembled outside the United States. No such specifications shall be fixed in a manner to effectively exclude any responsible bidder offering comparable supplies, materials, equipment or contractual services.

(g) Notwithstanding anything herein to the contrary, all contracts with independent construction concerns for the construction, improvement, reconstruction and maintenance of the state highway system and the acquisition of rights-of-way for state highway purposes shall be advertised and let as now or hereafter provided by law.

(h) The director of purchases may authorize state agencies to contract for services and materials with other state agencies, or with federal agencies, political subdivisions of Kansas, agencies of other states or subdivisions thereof, or private nonprofit educational institutions, without competitive bids.

(i) The director of purchases may participate in, sponsor, conduct, or administer a cooperative purchasing agreement or consortium for purchases of supplies, materials, equipment, and contractual services with federal agencies or agencies of other states or local units of government. Cooperative purchasing agreements entered into under this subsection shall not be subject to K.S.A. 75-3739 through 75-3740a, and amendments thereto. Nothing in this subsection shall allow federal grant moneys to be handled differently from any other moneys of the state unless the requirements of the applicable federal grant specifically require such federal moneys to be handled differently. [\*]

(j) The director of purchases may delegate authority to any state agency to make purchases under certain prescribed conditions and procedures when the acquisition is funded, in whole or in part, from a grant. Purchases made in compliance with such conditions and procedures shall be exempt from other provisions of this section. As used in this subsection the term "grant" means a disbursement made from federal or private funds, or a combination of these sources, to a state agency.

(k) The director of purchases shall prepare a detailed report at least once each calendar quarter of all contracts for services, supplies, materials or equipment entered into pursuant to subsection (h), (i) or (j) and submit it to the legislative coordinating council, the chairperson of the committee on ways and means of the senate, the chairperson of the committee on appropriations of the house of representatives and the chairperson of the Kansas performance review board.

(l) Except as otherwise specifically provided by law, no state agency shall enter into any lease of real property without the prior approval of the secretary of administration. A state agency shall submit to the secretary of administration such information relating to any proposed lease of real property as the secretary may require. The secretary of administration shall either approve, modify and approve or reject any such proposed lease.

(m) The director of purchases shall require all bidders on state contracts to disclose all substantial interests held by the bidder in the state.

**History:** L. 1953, ch. 375, § 39; L. 1968, ch. 311, § 2; L. 1975, ch. 450, § 1; L. 1978, ch. 357, § 1; L. 1979, ch. 289, § 5; L. 1980, ch. 279, § 1; L. 1981, ch. 324, § 25; L. 1984, ch. 325, § 1; L. 1987, ch. 341, § 5; L. 1987, ch. 4-21

196, § 19; L. 1987, ch. 342, § 1; L. 1987, ch. 343, § 1; L. 1987, ch. 343, § 2; L. 1996, ch. 201, § 8; L. 1998, ch. 182, § 27; May 21.

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## 75-3740

### Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES Article 37.--DEPARTMENT OF ADMINISTRATION

**75-3740. Competitive bids; price preferences; building contracts; bid records.** (a) Except as provided by K.S.A. 75-3740b, all contracts and purchases made by or under the supervision of the director of purchases or any state agency for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(b) The director of purchases shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) The dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state;

(2) in the case of bids for paper products specified in K.S.A. 75-3740b, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recyclable materials; and

(3) in the case of bids for paper products specified in K.S.A. 75-3740b, the dollar amounts of the bids received from two or more lowest responsible bidders are identical, the contract shall be awarded to the bidder whose bid is for those paper products containing the highest percentage of recycled materials.

(c) Any or all bids may be rejected, and a bid shall be rejected if it contains any material alteration or erasure. The director of purchases may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state. The secretary of revenue is hereby authorized to exchange such information with the director of purchases as is necessary to effectuate the preceding sentence notwithstanding any other provision of law prohibiting disclosure of the contents of taxpayer records or information. Prior to determining the lowest responsible bidder on contracts for construction of buildings or for major repairs or improvements to buildings for state agencies, the director of purchases shall consider: (1) The criteria and information developed by the secretary of administration, with the advice of the state building advisory commission to rate contractors on the basis of their performance under similar contracts with the state, local governmental entities and private entities, in addition to other criteria and information available, and (2) the recommendations of the project architect, or, if there is no project architect, the recommendations of the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto. In any case where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance, unless otherwise expressly provided by law.

(d) Before the awarding of any contract for construction of a building or the making of repairs or improvements upon any building for a state agency, the director of purchases shall receive written approval from the state agency for which the building construction project has been approved, that the bids generally conform with the plans and specifications prepared by the project architect, by the secretary of administration or by the agency architect for the project, as the case may be, so as to avoid error and mistake on the part of the contractors. In all cases where material described in a contract can be obtained from any state institution, the director of purchases shall exclude the same from the contract.

(e) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the director of purchases for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection at all reasonable times.

(f) As used in this section and in K.S.A. 75-3741, and amendments thereto, "project architect" shall have the 4-23

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meaning ascribed thereto in K.S.A. 75-1251, and amendments thereto.

**History:** L. 1953, ch. 375, § 40; L. 1978, ch. 337, § 12; L. 1986, ch. 328, § 1; L. 1990, ch. 319, § 14; July 1.

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## **E-Procurement Questions**

Answers for Virginia

Contact: Wiley Rousey, Procurement Management Account Executive

1. How long have you used e-procurement?

Started March 1, 2001. Currently they only have an E-Mall which allows agencies to choose supplies from vendors who have contracts with the state, similar to on-line catalog shopping. On July 1, 2001 they will begin soliciting bids for items under \$50,000 and on December 1, 2001 they will begin using an on-line sealed bid process.

2. What was the start up cost and have there been cost savings?

The process is contracted out to a third party, American Management Systems (AMS) partnered with Ariba. AMS charges 1 percent of the contract from the bidder as its fee. Bidders are also charged for two types of service: \$25 for basic, which allows them to access a site with items up for bid or \$200 for deluxe, which put qualified bidders on the bid list when a new RFP comes out. AMS also takes \$175 of the \$200 charge for service.

3. Are the agencies and vendors satisfied?

Not enough time to tell, although the agencies are frustrated because the information transfer between computer systems is not seamless. The agency has to re-key data once it is received via the web.

4. Please send copies of the statutes that apply.

See attached.

5. Do they feel this was a good shift in policy?

Too soon to determine, given the work they have left to do.

Attachment 5  
e-Gov 3-20-01

TO: Carey Peterson

2001 SESSION

- pages 3 + 5

Steve

ENROLLED

*italic is new language*

1

**VIRGINIA ACTS OF ASSEMBLY — CHAPTER**

2

*An Act to amend and reenact §§ 11-37 and 11-41 of the Code of Virginia, relating to the Virginia Public Procurement Act; procurement by reverse auctioning.*

3

4

[S 1024]

5

Approved

6

Be it enacted by the General Assembly of Virginia:

7

1. That §§ 11-37 and 11-41 of the Code of Virginia are amended and reenacted as follows:

8

§ 11-37. Definitions.

9

The words defined in this section shall have the meanings set forth below throughout this chapter.

10

"Best value," as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

11

"Competitive sealed bidding" is a method of contractor selection which includes the following elements:

12

1. Issuance of a written Invitation to Bid containing or incorporating by reference the specifications and contractual terms and conditions applicable to the procurement. Unless the public body has provided for prequalification of bidders, the Invitation to Bid shall include a statement of any requisite qualifications of potential contractors. When it is impractical to prepare initially a purchase description to support an award based on prices, an Invitation to Bid may be issued requesting the submission of unpriced offers to be followed by an Invitation to Bid limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

13

2. Public notice of the Invitation to Bid at least ten days prior to the date set for receipt of bids by posting in a designated public area, or publication in a newspaper of general circulation, or both. Public notice may also be published on the Department of General Services' central electronic procurement Web site and other appropriate Web sites. Effective July 1, 2002, posting by state agencies, departments and institutions on the public Internet procurement Web site designated by the Department of General Services shall be required. In addition, bids may be solicited directly from potential contractors. Any additional solicitations shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

14

3. Public opening and announcement of all bids received.

15

4. Evaluation of bids based upon the requirements set forth in the invitation, which may include special qualifications of potential contractors, life-cycle costing, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose, which are helpful in determining acceptability.

16

5. Award to the lowest responsive and responsible bidder. When the terms and conditions of multiple awards are so provided in the Invitation to Bid, awards may be made to more than one bidder.

17

6. Competitive sealed bidding shall not be required for procurement of professional services.

18

"Competitive negotiation" is a method of contractor selection which includes the following elements:

19

1. Issuance of a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.

20

2. Public notice of the Request for Proposal at least ten days prior to the date set for receipt of proposals by posting in a public area normally used for posting of public notices and by publication in a newspaper or newspapers of general circulation in the area in which the contract is to be performed so as to provide reasonable notice to the maximum number of offerors that can be reasonably anticipated to submit proposals in response to the particular request. Public notice may also be published on the Department of General Services' central electronic procurement Web site and other appropriate Web sites. Effective July 1, 2002, publishing by state agencies, departments and institutions on the public Internet procurement Web site designated by the Department of General

21

SEE PAGES 3 + 5.

52 Services shall be required. In addition, proposals may be solicited directly from potential contractors.

53 3. a. Procurement of professional services. The public body shall engage in individual discussions  
54 with two or more offerors deemed fully qualified, responsible and suitable on the basis of initial  
55 responses and with emphasis on professional competence, to provide the required services. Repetitive  
56 informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their  
57 qualifications and performance data or staff expertise pertinent to the proposed project, as well as  
58 alternative concepts. The Request for Proposal shall not, however, request that offerors furnish  
59 estimates of man-hours or cost for services. At the discussion stage, the public body may discuss  
60 nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where  
61 appropriate, nonbinding estimates of price for services. Proprietary information from competing  
62 offerors shall not be disclosed to the public or to competitors. At the conclusion of discussion,  
63 outlined in this subdivision, on the basis of evaluation factors published in the Request for Proposal  
64 and all information developed in the selection process to this point, the public body shall select in the  
65 order of preference two or more offerors whose professional qualifications and proposed services are  
66 deemed most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked  
67 first. If a contract satisfactory and advantageous to the public body can be negotiated at a price  
68 considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with  
69 the offeror ranked first shall be formally terminated and negotiations conducted with the offeror  
70 ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.  
71 Should the public body determine in writing and in its sole discretion that only one offeror is fully  
72 qualified, or that one offeror is clearly more highly qualified and suitable than the others under  
73 consideration, a contract may be negotiated and awarded to that offeror.

74 A contract for architectural or professional engineering services relating to construction projects  
75 may be negotiated by a state agency, as defined in § 11-62.1, for multiple projects provided (i) the  
76 projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in  
77 the Request for Proposal, and (iii) the contract term is limited to one year or when the cumulative  
78 total project fees reach the maximum cost authorized in this paragraph, whichever occurs first. Such  
79 contract may be renewable for one additional term at the option of the state agency. Under such  
80 contract, (i) the fair and reasonable prices, as negotiated, shall be used in determining the cost of each  
81 project performed, (ii) the sum of all projects performed in one contract term shall not exceed  
82 \$500,000 or such lesser amount as may be determined by the Director of the Department of General  
83 Services, and (iii) the project fee of any single project shall not exceed \$100,000 or such lesser  
84 amount as may be determined by the Director of the Department of General Services. Any unused  
85 amounts from the first contract term shall not be carried forward to the additional term. Competitive  
86 negotiations for such contracts may result in awards to more than one offeror provided (i) the Request  
87 for Proposal so states and (ii) the state agency has established procedures for distributing multiple  
88 projects among the selected contractors during the contract term.

89 Multiphase professional services contracts satisfactory and advantageous to the Department of  
90 Transportation for environmental, location, design and inspection work regarding highways and  
91 bridges may be negotiated and awarded based on a fair and reasonable price for the first phase only,  
92 when completion of the earlier phases is necessary to provide information critical to the negotiation of  
93 a fair and reasonable price for succeeding phases.

94 b. Procurement of other than professional services. Selection shall be made of two or more  
95 offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis  
96 of the factors involved in the Request for Proposal, including price if so stated in the Request for  
97 Proposal. Negotiations shall then be conducted with each of the offerors so selected. Price shall be  
98 considered, but need not be the sole determining factor. After negotiations have been conducted with  
99 each offeror so selected, the public body shall select the offeror which, in its opinion, has made the  
100 best proposal, and shall award the contract to that offeror. When the terms and conditions of multiple  
101 awards are so provided in the Request for Proposal, awards may be made to more than one offeror.  
102 Should the public body determine in writing and in its sole discretion that only one offeror is fully  
103 qualified, or that one offeror is clearly more highly qualified than the others under consideration, a  
104 contract may be negotiated and awarded to that offeror.

105 "Construction" means building, altering, repairing, improving or demolishing any structure,

- 106 building or highway, and any draining, dredging, excavation, grading or similar work upon real  
107 property.
- 108 "Construction management contract" means a contract in which a party is retained by the owner to  
109 coordinate and administer contracts for construction services for the benefit of the owner, and may  
110 also include, if provided in the contract, the furnishing of construction services to the owner.
- 111 "Design-build contract" means a contract between a public body and another party in which the  
112 party contracting with the public body agrees to both design and build the structure, roadway or other  
113 item specified in the contract.
- 114 "Goods" means all material, equipment, supplies, printing, and automated data processing hardware  
115 and software.
- 116 "Informality" means a minor defect or variation of a bid or proposal from the exact requirements  
117 of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity  
118 or delivery schedule for the goods, services or construction being procured.
- 119 "Multiphase professional services contract" means a contract for the providing of professional  
120 services where the total scope of work of the second or subsequent phase of the contract cannot be  
121 specified without the results of the first or prior phase of the contract.
- 122 "Nonprofessional services" means any services not specifically identified as professional services in  
123 the definition of professional services.
- 124 "Potential bidder or offeror" for the purposes of §§ 11-66 and 11-70 means a person who, at the  
125 time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or  
126 lease of goods, or the sale of services, insurance or construction, of the type to be procured under  
127 such contract, and who at such time is eligible and qualified in all respects to perform that contract,  
128 and who would have been eligible and qualified to submit a bid or proposal had the contract been  
129 procured through competitive sealed bidding or competitive negotiation.
- 130 "Professional services" means work performed by an independent contractor within the scope of  
131 the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law,  
132 dentistry, medicine, optometry, pharmacy or professional engineering. "Professional services" shall  
133 also include the services of an economist procured by the State Corporation Commission.
- 134 "Public body" means any legislative, executive or judicial body, agency, office, department,  
135 authority, post, commission, committee, institution, board or political subdivision created by law to  
136 exercise some sovereign power or to perform some governmental duty, and empowered by law to  
137 undertake the activities described in this chapter.
- 138 "Public contract" means an agreement between a public body and a nongovernmental source that is  
139 enforceable in a court of law.
- 140 "Responsible bidder" or "offeror" means a person who has the capability, in all respects, to  
141 perform fully the contract requirements and the moral and business integrity and reliability which will  
142 assure good faith performance, and who has been prequalified, if required.
- 143 "Responsive bidder" means a person who has submitted a bid which conforms in all material  
144 respects to the Invitation to Bid.
- 145 "Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified  
146 goods or nonprofessional services through real-time electronic bidding, with the award being made to  
147 the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed  
148 and bidders shall have the opportunity to modify their bid prices for the duration of the time period  
149 established for bid opening.
- 150 "Services" means any work performed by an independent contractor wherein the service rendered  
151 does not consist primarily of acquisition of equipment or materials, or the rental of equipment,  
152 materials and supplies.
- 153 "Sheltered workshop" means a work-oriented rehabilitative facility with a controlled working  
154 environment and individual goals which utilizes work experience and related services for assisting the  
155 handicapped person to progress toward normal living and a productive vocational status.
- 156 § 11-41. Methods of procurement.
- 157 A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for  
158 the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding,  
159 or competitive negotiation as provided in this section, unless otherwise authorized by law.



160 B. Professional services shall be procured by competitive negotiation.

161 C. 1. Upon a determination made in advance by the public body and set forth in writing that  
162 competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods,  
163 services, or insurance may be procured by competitive negotiation. The writing shall document the  
164 basis for this determination.

165 Upon a written determination made in advance by (i) the Governor or his designee in the case of a  
166 procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local  
167 governing body in the case of a procurement by a political subdivision of the Commonwealth, that  
168 competitive negotiation is either not practicable or not fiscally advantageous, insurance may be  
169 procured through a licensed agent or broker selected in the manner provided for the procurement of  
170 things other than professional services in subdivision 3 b of the definition of "competitive negotiation"  
171 in § 11-37. The basis for this determination shall be documented in writing.

172 2. Construction may be procured only by competitive sealed bidding, except that competitive  
173 negotiation may be used in the following instances upon a determination made in advance by the  
174 public body and set forth in writing that competitive sealed bidding is either not practicable or not  
175 fiscally advantageous to the public, which writing shall document the basis for this determination:

176 a. By the Commonwealth, its departments, agencies and institutions on a fixed price design-build  
177 basis or construction management basis under § 11-41.2;

178 b. By any public body for the alteration, repair, renovation or demolition of buildings when the  
179 contract is not expected to cost more than \$500,000;

180 c. By any public body for the construction of highways and any draining, dredging, excavation,  
181 grading or similar work upon real property; or

182 d. As otherwise provided in § 11-41.2:2.

183 D. Upon a determination in writing that there is only one source practicably available for that  
184 which is to be procured, a contract may be negotiated and awarded to that source without competitive  
185 sealed bidding or competitive negotiation. The writing shall document the basis for this determination.  
186 The public body shall issue a written notice stating that only one source was determined to be  
187 practicably available, and identifying that which is being procured, the contractor selected, and the  
188 date on which the contract was or will be awarded. This notice shall be posted in a designated public  
189 area or published in a newspaper of general circulation on the day the public body awards or  
190 announces its decision to award the contract, whichever occurs first. Public notice may also be  
191 published on the Department of General Services' central electronic procurement Web site and other  
192 appropriate Web sites.

193 E. In case of emergency, a contract may be awarded without competitive sealed bidding or  
194 competitive negotiation; however, such procurement shall be made with such competition as is  
195 practicable under the circumstances. A written determination of the basis for the emergency and for  
196 the selection of the particular contractor shall be included in the contract file. The public body shall  
197 issue a written notice stating that the contract is being awarded on an emergency basis, and  
198 identifying that which is being procured, the contractor selected, and the date on which the contract  
199 was or will be awarded. This notice shall be posted in a designated public area or published in a  
200 newspaper of general circulation on the day the public body awards or announces its decision to  
201 award the contract, whichever occurs first, or as soon thereafter as is practicable. Public notice may  
202 also be published on the Department of General Services' central electronic procurement Web site and  
203 other appropriate Web sites.

204 F. A public body may establish purchase procedures, if adopted in writing, not requiring  
205 competitive sealed bids or competitive negotiation for single or term contracts for goods and services  
206 other than professional services if the aggregate or the sum of all phases is not expected to exceed  
207 \$50,000; however, such small purchase procedures shall provide for competition wherever practicable.  
208 Purchases under this subsection that are expected to exceed \$30,000 shall require the written informal  
209 solicitation of a minimum of four bidders or offerors.

210 G. A public body may establish purchase procedures, if adopted in writing, not requiring  
211 competitive negotiation for single or term contracts for professional services if the aggregate or the  
212 sum of all phases is not expected to exceed \$30,000; however such small purchase procedures shall  
213 provide for competition wherever practicable.

214 H. Any local school board may authorize any of its public schools or its school division to enter  
215 into contracts providing that caps and gowns, photographs, class rings, yearbooks and graduation  
216 announcements will be available for purchase or rental by students, parents, faculty or other persons  
217 using nonpublic money through the use of competitive negotiation as provided in this chapter;  
218 competitive sealed bidding is not necessarily required for such contracts. The Superintendent of Public  
219 Instruction may provide assistance to public school systems regarding this chapter and other related  
220 laws.

221 I. Upon a determination made in advance by the local governing body and set forth in writing that  
222 the purchase of goods, products or commodities from a public auction sale is in the best interests of  
223 the public, such items may be purchased at the auction. The writing shall document the basis for this  
224 determination.

225 J. Effective until January 1, 2001, procurement of goods, services, or construction to address  
226 computers, software programs, databases, networks, information systems, firmware, or any other  
227 devices which are not compliant with the "Year 2000" date change shall be deemed emergency  
228 procurements under subsection E.

229 *K. The purchase of goods or nonprofessional services, but not construction or professional*  
230 *services, may be made by reverse auctioning.*

231 2. That the provisions of this act shall expire on July 1, 2003.



# Missouri Revised Statutes

## Chapter 34 State Purchasing and Printing Section 34.040

August 28, 2000

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### **Purchases to be made on competitive bids, when, how--standard specifications, when--exception.**

34.040. 1. All purchases in excess of three thousand dollars shall be based on competitive bids, except as otherwise provided in this chapter.

2. On any purchase where the estimated expenditure shall be twenty-five thousand dollars or over, except as provided in subsection 5 of this section, the commissioner of administration shall:

(1) Advertise for bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders and may advertise in at least two weekly minority newspapers and may provide such information through an electronic medium available to the general public at least five days before bids for such purchases are to be opened. Other methods of advertisement, which may include minority business purchase councils, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased;

(2) Post a notice of the proposed purchase in his or her office; and

(3) Solicit bids by mail or other reasonable method generally available to the public from prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the commissioner of administration so as to reach such office before the time set for opening bids.

3. The contract shall be let to the lowest and best bidder. The commissioner of administration shall have the right to reject any or all bids and advertise for new bids, or purchase the required supplies on the open market if they can be so purchased at a better price. When bids received pursuant to this section are unreasonable or unacceptable as to terms and conditions, noncompetitive, or the low bid exceeds available funds and it is determined in writing by the commissioner of administration that time or other circumstances will not permit the delay required to resolicit competitive bids, a contract may be negotiated pursuant to this section, provided that each responsible bidder who submitted such bid under the original solicitation is notified of the determination and is given a reasonable opportunity to modify their bid and submit a best and final bid to the state. In cases where the bids received are noncompetitive or the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected bid of any responsible bidder under the original solicitation.

4. All bids shall be based on standard specifications wherever such specifications have been approved by the commissioner of administration. The commissioner of administration shall make rules governing the delivery, inspection, storage and distribution of all supplies so purchased and governing the manner in which all claims for supplies delivered shall be submitted, examined, approved and paid. The commissioner shall determine the amount of bond or deposit and the character thereof which shall accompany bids or contracts.

5. The department of natural resources may, without the approval of the commissioner of administration required pursuant to this section, enter into contracts of up to five hundred thousand dollars to abate illegal waste tire sites pursuant to section 260.276, RSMo, when the director of the department

determines that urgent action is needed to protect public health, safety, natural resources or the environment. The department shall follow bidding procedures pursuant to this section and may promulgate rules necessary to establish such procedures. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

(RSMo 1939 § 14591, A.L. 1945 p. 1428 § 65, A.L. 1983 H.B. 384, A.L. 1990 S.B. 808 & 672, A.L. 1995 H.B. 562, A.L. 1999 H.B. 603)

CROSS REFERENCE: Bidding for construction of a minimum security correctional facility, RSMo 221.500

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Missouri General Assembly

# *Missouri Revised Statutes*

## **Chapter 34 State Purchasing and Printing Section 34.042**

August 28, 2000

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### **Competitive bidding may be waived for competitive proposals, when--procedure--contract to be let to the lowest and best offeror.**

34.042. 1. When the commissioner of administration determines that the use of competitive bidding is either not practicable or not advantageous to the state, supplies may be procured by competitive proposals. The commissioner shall state the reasons for such determination, and a report containing those reasons shall be maintained with the vouchers or files pertaining to such purchases. All purchases in excess of five thousand dollars to be made under this section shall be based on competitive proposals.

2. On any purchase where the estimated expenditure shall be twenty- five thousand dollars or over, the commissioner of administration shall:

(1) Advertise for proposals in at least two daily newspapers of general circulation in such places as are most likely to reach prospective offerors and may advertise in at least two weekly minority newspapers and may provide such information through an electronic medium available to the general public at least five days before proposals for such purchases are to be opened. Other methods of advertisement, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased;

(2) Post notice of the proposed purchase; and

(3) Solicit proposals by mail or other reasonable method generally available to the public from prospective offerors.

All proposals for such supplies shall be mailed or delivered to the office of the commissioner of administration so as to reach such office before the time set for opening proposals. Proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation.

3. The contract shall be let to the lowest and best offeror as determined by the evaluation criteria established in the request for proposal and any subsequent negotiations conducted pursuant to this subsection. In determining the lowest and best offeror, as provided in the request for proposals and under rules promulgated by the commissioner of administration, negotiations may be conducted with responsible offerors who submit proposals selected by the commissioner of administration on the basis of reasonable criteria for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining best and final offers. In conducting negotiations there shall be no disclosure of any information derived from proposals submitted by competing offerors. The commissioner of administration shall have the right to reject any or all proposals and advertise for new proposals or purchase the required supplies on the open market if they can be so purchased at a better price.

4. The commissioner shall make available, upon request, to any members of the general assembly, information pertaining to competitive proposals, including the names of bidders and the amount of each

bidder's offering for each contract.

(L. 1990 S.B. 808 & 672 § 4, A.L. 1995 H.B. 562)

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Missouri General Assembly

6-4  
~~6-3~~

**Rules of  
Office of Administration  
Division 40—Purchasing and Materials  
Management  
Chapter 1—Procurement**

<b>Title</b>		<b>Page</b>
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**Title 1—OFFICE OF  
ADMINISTRATION  
Division 40—Purchasing and  
Materials Management  
Chapter 1—Procurement**

**1 CSR 40-1.010 Organization**

*PURPOSE:* This rule provides the public with a description of the Division of Purchasing and Materials Management within the Office of Administration. This rule fulfills the statutory requirement of section 536.023(3), RSMo.

(1) The Division of Purchasing and Materials Management is responsible for the procurement of supplies, equipment and services for state departments.

(2) In addition to procurement activities, the division is also responsible for the following activities:

(A) Administration of the state and federal surplus property program;

(B) Operation of the cooperative procurement program for political subdivisions of the state; and

(C) Coordination of the state recycling program.

*AUTHORITY:* sections 34.050 and 536.023, RSMo Supp. 1999.\* Original rule filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000, effective Oct. 30, 2000.

\*Original authority: 34.050, RSMo 1939, amended 1945, 1993, 1995; and 536.023, RSMo 1975, amended 1976, 1977.

**1 CSR 40-1.030 Definitions**

*PURPOSE:* This rule defines terms used in this chapter.

(1) As used in this chapter unless the content clearly indicates otherwise, the following terms shall mean:

(A) Bid/proposal security. A financial guarantee that the bidder, if selected, will accept the contract as bid;

(B) Commissioner. The commissioner of the Office of Administration;

(C) Contract. A legal and binding agreement between two (2) or more competent parties, for a consideration for the procurement of supplies;

(D) Debarment. An exclusion from contracting with the state for an indefinite period of time;

(E) Director. The director of the Division of Purchasing and Materials Management;

(F) Division. The Division of Purchasing and Materials Management within the Office of Administration;

(G) Minority. The definition contained in section 33.750, RSMo is incorporated by reference;

(H) Minority business enterprise (MBE). The definition contained in section 37.020, RSMo is incorporated by reference;

(I) Multiple award. A purchase order or contract awarded to two (2) or more bidders required to meet the needs of agencies;

(J) OA. The Office of Administration;

(K) Performance security. A financial guarantee that the successful bidder will complete the contract as agreed;

(L) Solicitation. The process of notifying prospective bidders that the state wishes to receive bids or proposals to provide supplies. The term includes request for proposal (RFP), request for quotation (RFQ), invitation for bid (IFB), single feasible source (SFS) and any other appropriate procurement method;

(M) State. The state of Missouri;

(N) Suspension. An exclusion from contracting with the state for a temporary period of time; and

(O) Women business enterprise or (WBE). The definition contained in section 37.020, RSMo is incorporated by reference.

*AUTHORITY:* section 34.050, RSMo Supp. 1999.\* Original rule filed Oct. 15, 1992, effective June 7, 1993. Rescinded and readopted: Filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000, effective Oct. 30, 2000.

\*Original authority: 34.050, RSMo 1939, amended 1945, 1993, 1995.

**1 CSR 40-1.040 Authority Delegations**

*PURPOSE:* This rule describes the procedure for delegating procurement authority as provided under section 34.100, RSMo.

(1) Agencies, universities, or colleges may be delegated general procurement authority. This delegated authority may stipulate dollar limits and other limits for specific types of purchases. The written delegation of authority shall stipulate the procedures which must be followed for procurements processed by the agencies, universities, and colleges.

(2) Agencies, universities, or colleges may be delegated authority for special types of procurements on an individual basis for a limit-

ed time period. The written authorization shall indicate the procedures that shall be followed in making such procurements.

(3) Procurements not delegated to the agency, university, or college must be referred to the division for processing.

*AUTHORITY:* section 34.050, RSMo Supp. 1997.\* Original rule filed Oct. 15, 1992, effective June 7, 1993. Rescinded and readopted: Filed Oct. 20, 1997, effective May 30, 1998.

\*Original authority: 34.050, RSMo 1939, amended 1945, 1993, 1995.

**1 CSR 40-1.050 Procedures for Solicitation, Receipt of Bids, and Award and Administration of Contracts**

*PURPOSE:* This rule prescribes procedures for soliciting and receiving bids and for awarding contracts.

(1) When the procurement is estimated to be less than twenty-five thousand dollars (\$25,000), an informal method of solicitation may be utilized. Informal methods of procurement may include Request for Quotation (RFQ), telephone quotes, etc.

(A) The division will establish a target date and time for submission of informal bids.

(B) The division may proceed with the evaluation and award anytime after the expiration of the target date and time. Bids received after the target date and time but before the award of a contract may be included in the evaluation at the discretion of the division.

(2) When the procurement is estimated to be twenty-five thousand dollars (\$25,000) or more, a formal method of solicitation must be utilized. Formal competitive bidding may be accomplished by utilizing an Invitation for Bid (IFB).

(A) Formal bids shall be received in the division or a secured electronic database in a sealed format by the time set for the opening of bids.

(B) Formal bids received after the time set for the opening of bids shall be considered late and will not be opened.

(C) Under extraordinary circumstances, the director or designee, may authorize the opening of a late bid. In such cases, the bid must have been turned over to the physical control of an independent postal or courier service with promised delivery time prior to the time set for the opening of bids. All such decisions are at the sole discretion of the

director or designee. The following guidelines may be utilized to determine the criteria for an extraordinary circumstance:

1. State offices were closed due to inclement weather conditions;

2. Postal or courier services were delayed due to labor strikes or unforeseen "Acts of God";

3. Postal or courier service did not meet delivery time promised to the bidder. In such a case, the bidder must provide written proof that promised delivery time was prior to the time set for the opening of bids.

(D) Bids received in response to an IFB shall be available for public review after the bid opening during regular working hours.

(E) When the division decides that all bids are unacceptable and circumstances do not permit a rebid, negotiations may be conducted with only those bidders who submitted bids in response to the IFB. No additional bidders may be solicited. Upon determination that negotiations will be conducted, the bids and related documents will be closed to public viewing in accordance with section 610.021, RSMo.

(3) When the procurement requires the utilization of competitive negotiation, the formal Request for Proposal (RFP) solicitation method should be utilized.

(A) Formal proposals should be received in the division or a secured electronic database in a sealed format by the time set for the opening of the proposals.

(B) Formal proposals received after the time set for the opening of bids shall be considered late and will not be opened.

(C) Under extraordinary circumstances, the director or designee, may authorize the opening of a late bid. In such cases, the bid must have been turned over to the physical control of an independent postal or courier service with promised delivery time prior to the time set for the opening of bids. All such decisions are at the sole discretion of the director or designee. The following guidelines may be utilized to determine the criteria for an extraordinary circumstance:

1. State offices were closed due to inclement weather conditions;

2. Postal or courier services were delayed due to labor strikes or unforeseen "Acts of God";

3. Postal or courier service did not meet delivery time promised to the offeror. In such a case, the offeror must provide written proof that promised delivery time was prior to the time set for the opening of proposals.

(D) Proposals received in response to an RFP shall not be available for public review

until after a contract is executed or all proposals are rejected.

(E) Offerors who obtain information concerning a competitor's proposal may be disqualified for consideration for a contract award.

(4) When the supplies meet the criteria delineated in section 34.044, RSMo, the division may elect to utilize the Single Feasible Source procurement method. The following delineates additional guidelines and examples to determine satisfaction of the criteria:

(A) The following guidelines may be utilized to determine if supplies may be purchased as a single feasible source due to being proprietary:

1. The parts are required to maintain validity of a warranty;

2. Additions to a system must be compatible with original equipment;

3. Only one (1) type of computer software exists for a specific application; or

4. Factory authorized maintenance must be utilized in order to maintain validity of a warranty;

5. The materials are copyrighted and are only available from the publisher or a single distributor; and

6. The services of a particular provider are unique, e.g. entertainers, authors, etc.;

(B) If past procurement activity indicates that only one (1) bid has been submitted in a particular region, a single feasible source procurement may be authorized. In these situations the division will monitor the market for developing competition; and

(C) The following guidelines will be utilized to determine if supplies may be purchased as a single feasible source due to being available at a discount for a limited period of time:

1. The discounted price must be compared to a price established through a reasonable market analysis; and

2. The discounted price should normally be at least ten percent (10%) less than the current contract or other comparable price. A discount of less than ten percent (10%) may be acceptable under appropriate market conditions. The discount should be compared to a price which, where feasible, should be no more than twelve (12) months old.

(5) When conditions meet the criteria outlined in section 34.045, RSMo, emergency procurement procedures may be utilized. The requirement for formal competitive bids or proposals may be waived. However, the emergency procurement should be made with as much informal bidding as practicable.

Emergency procedures should only be utilized to purchase those supplies which are necessary to alleviate the emergency.

(6) When circumstances dictate that it would be most advantageous, the state may purchase supplies from or in cooperation with another governmental entity.

(A) Supplies purchased from another governmental entity should be limited to those supplies which are provided directly by such entity.

(B) Supplies purchased in cooperation with another governmental entity may be purchased based on contracts established in accordance with that entity's laws and regulations.

(7) Regardless of the solicitation method utilized, the following procedures shall apply:

(A) The division shall develop standardized terms and conditions to be included with the solicitation documents;

(B) The division may request bids/proposals for new equipment employing the trade-in of used equipment. The solicitation document may request pricing with a trade-in and without a trade-in;

(C) The division may require bid/proposal security and/or performance security.

1. The acceptable form and amount of the bid/proposal security shall be stipulated in the solicitation document.

2. The bid/proposal securities of unsuccessful vendors may be returned after the finalization of the award. If the successful vendor fails to accept the contract, the amount of the bid/proposal security may be forfeited to the state.

3. If a performance security is required, the bid/proposal security of the successful vendor may be returned after the receipt of the performance security. The acceptable form and amount of the performance security will be stipulated in the solicitation document. If the contractor fails to submit the performance security as required, the bid/proposal security may be forfeited to the state and the contract shall be void;

(D) In the event that the division receives a container which is not identifiable as a specific bid/proposal, an authorized person within the division may open the container to determine the contents. If the contents are determined to be a bid/proposal, the container will be resealed and the solicitation number, opening date, and time will be noted on the outside. The container will then be filed until the official time for opening;

(E) After the bid/proposal opening, a vendor may be permitted to withdraw a bid/proposal prior to award at the sole discretion of

the division if there is a verifiable error in the bid/proposal and enforcement of the bid would impose an unconscionable hardship on the vendor. This withdrawal will be considered only after receipt of a written request and supporting documentation from the vendor. Withdrawal shall be the vendor's sole remedy for an error other than an obvious clerical error. Withdrawal of a bid/proposal may result in forfeiture of the bid/proposal security;

(F) For bids/proposals with a value of twenty-five thousand dollars (\$25,000) or more, bidders/offerors who can certify that goods or commodities to be provided in accordance with the contract are manufactured or produced in the United States or imported in accordance with a qualifying treaty, law, agreement, or regulation shall be entitled to a ten percent (10%) preference over bidders whose products do not qualify. Failure to provide a certification may result in forfeiture of any preference;

(G) Bids/proposals submitted for products and services manufactured, produced or assembled in qualified nonprofit organizations for the blind or in sheltered workshops holding a certificate of approval from the Missouri Department of Elementary and Secondary Education shall be entitled to five (5) bonus points in addition to other points awarded during the evaluation process. Bidders should notify the division if the products or services included in the bid meet these qualifications for bonus points;

(H) In addition to cost, subjective judgment may be utilized in the evaluation of bids/proposals provided that the method is published in the solicitation document;

(I) The division may request samples for evaluation purposes. Any samples requested must be provided free of charge. Samples which are not destroyed by testing will be returned at the vendor's expense if return of the samples is stipulated in the vendor's bid/proposal. Samples submitted by a vendor who receives the award may be kept for the duration of the contract for comparison with shipments received;

(J) During the course of a solicitation, vendors may be required to demonstrate proposed products. Such demonstration shall be coordinated by the division;

(K) When bids are equal in all respects, any preferences shall be applied in accordance with applicable statute. If all such bidders or none qualify for the statutory preference, the contract shall be awarded by a formal drawing of lot. Whenever practical, the drawing will be held in the presence of the vendors who are considered equal. If this is

not practical, the drawing will be witnessed by a disinterested person;

(L) The division may make multiple awards from a single solicitation document when such awards are in the best interest of the state;

(M) After an award is made, the solicitation file or facsimile thereof shall be made available to the public for inspection at any time during regular working hours;

(N) Neither a contractor nor a state agency shall assign any interest in a contract to another party without written permission from the division;

(O) Unless otherwise specified in the contract, substitution of items, personnel or services shall require the approval of the division prior to shipment or performance; and

(P) Employees of the division, evaluators, and any other persons involved in procurement decisions shall not accept for personal benefit gifts, meals, trips or any other thing of significant value or of a monetary advantage, directly or indirectly, from a vendor.

(8) Contracts awarded as the result of a competitive solicitation may be amended when such an amendment is in the best interest of the state and does not significantly alter the original intent or scope of the contract.

(9) The division will encourage participation in the procurement process and fairness in consideration of bids/proposals submitted by Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs). Programs/procedures designed to accomplish these objectives may include: inclusion of MBE/WBE subcontractor requirements in solicitation documents, close review of requirements for bonding, targeted notice of procurement opportunities, utilization of minority and women personnel on evaluation committees, etc.

(10) A bid or proposal award protest must be submitted in writing and must be received by the division within ten (10) calendar days after the date of award. If the tenth day falls on a Saturday, Sunday or state holiday, the period shall extend to the next state business day. A protest submitted after the ten (10) calendar day period shall not be considered. The written protest should include the following information:

(A) Name, address, and phone number of the protester;

(B) Signature of the protester or the protester's representative;

(C) Solicitation number;

(D) Detailed statement describing the grounds for the protest; and

(E) Supporting exhibits, evidence, or documents to substantiate claim.

*AUTHORITY: section 34.050, RSMo Supp. 1999.\* Original rule filed Oct. 15, 1992, effective June 7, 1993. Rescinded and readopted: Filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000, effective Oct. 30, 2000.*

*\*Original authority: 34.050, RSMo 1939, amended 1945, 1993, 1995.*

### 1 CSR 40-1.060 Vendor Registration, Notification of Bidding Opportunities, Suspension and Debarment

*PURPOSE: This rule describes procedures for vendor registration, vendor notification of bidding opportunities and procedures for suspension and debarment of vendors.*

(1) Any individual, business or organization may complete a vendor registration in order to be added to the official vendor data base. It is the vendor's sole responsibility to update their vendor registration information.

(2) A person, business or corporation contracting with the state shall be considered as an independent contractor and shall not be considered nor represent him/herself as an employee or agency of the state. Unless exempt pursuant to section 351.572, RSMo, a corporation must be authorized to do business in Missouri by registering with the Office of the Secretary of State before proceeding with work under a contract.

(3) Registered active vendors will be selected from the official vendor data base and notified of bidding opportunities on a rotational basis. Notification is not limited to registered vendors.

(4) If a vendor fails to respond to three (3) consecutive solicitation documents for the same class of item, the vendor's registration for that specific class of item may be inactivated. The vendor may effect reactivation by updating their vendor registration information.

(5) The director, or designee, may suspend a vendor for cause. The vendor shall be mailed a formal notice of suspension outlining the reasons for, the specific conditions of, and the effective period of the suspension. Upon completion of the suspension period it shall be the responsibility of the vendor to request reinstatement if desired. A request for reinstatement should be made in writing.

(A) Any bids/proposals submitted by the suspended vendor shall not be considered.

(B) The suspension of a vendor may be for a period of up to one hundred eighty (180) days for a first violation, and for not more than a year for subsequent violation(s).

(C) The vendor may appeal suspension by submitting a written request to the director or commissioner within fourteen (14) calendar days after receipt of the formal notice. The vendor must provide specific evidence and reasons why suspension is not necessary. On the basis of this information, the suspension may be modified, rescinded, or affirmed. The decision shall be final and mailed to all parties.

(6) The director may debar a vendor whenever, in the director's sole discretion, it is in the best interest of the state to do so. A vendor may be debarred for a single incident of serious misconduct or after multiple less serious incidents. The director shall notify the vendor of the reason for debarment and any action the vendor must take in order to be found eligible to contract again.

(A) Any bids/proposals submitted by the debarred vendor shall not be considered.

(B) The vendor may appeal the debarment by requesting that the determination be reviewed by the commissioner of administration or the commissioner's designee. Any request for review must be in writing and filed with the commissioner within fourteen (14) calendar days after the date of receipt of the notice of debarment. The request must set forth specific evidence and reasons why debarment should be reversed. The commissioner's determination shall be final and shall be mailed to all parties involved.

(7) The following shall be sufficient cause for suspension or debarment. The list is not meant to be all inclusive but shall serve as a guideline for vendor discipline and business ethics.

(A) Failure to perform in accordance with the terms and conditions and requirements of a contract/purchase order;

(B) Violating any federal, state or local law, ordinance or regulation in the performance of a contract/purchase order;

(C) Providing false or misleading information on an application, in a bid/proposal, or in correspondence to the division or a state agency;

(D) Failing to honor a bid/proposal for the length of time specified;

(E) Colluding with others to restrain competition;

(F) Obtaining information, by whatever means, related to a proposal submitted by a

competitor in response to a Request for Proposal in order to obtain an unfair advantage during the negotiation process;

(G) Contacting proposal/bid evaluators or any other person who may have influence over the award, without authorization from the division, for the purpose of influencing the award of a contract; or

(H) Giving gifts, meals, trips or any other thing of value or a monetary advantage for personal benefit, directly or indirectly, to an employee of the division or to any evaluator of bids/proposals.

*AUTHORITY: section 34.050, RSMo Supp. 1999.\* Original rule filed Oct. 15, 1992, effective June 7, 1993. Rescinded and readopted: Filed Oct. 20, 1997, effective May 30, 1998. Amended: Filed March 24, 2000, effective Oct. 30, 2000.*

*\*Original authority: 34.050, RSMo 1939, amended 1945, 1993, 1995.*

**1 CSR 40-1.070 Minority/Women Business Enterprise Participation in Procurement Process**

(Moved to 1 CSR 10-17.050)

**1 CSR 40-1.080 Minority/Women Business Enterprise Certification**

(Moved to 1 CSR 10-17.040)

# On-line Purchasing

## Colorado Division of Purchasing - 303-866-6100:

Contact: Michael Wallace - 303.866.6143; his boss: Richard Pennington - 303.866.4414  
(Mr. Pennington has been giving a presentation nationally on e-procurement)

1. How long have they used on-line bidding/purchasing? 5 years
2. What was the start up cost and have there been cost savings? Did not know the start up costs, but remarked that the cost savings have been significant; remarked that when setting up a contract, doing it online yields an average of 1,600 hits, and 10-12 vendors merge on one contract, whereas only 3 vendors were involved.
3. Are the agencies and vendors satisfied? Totally
4. Please send copies of the statutes that apply:
  - R-24-102-101 (main)
  - CRS 102-101, 202.5-02
  - the revised statute is CRS 24-102-202.5, which established a \$30 collection fee.
5. Do they feel this was a good shift in policy? Yes, they haven't seen anything better; they used to use a DOS-based system in 1993, but that was replaced by Lotus Notes.
  - required by law to put on a bid system
  - use Lotus Notes to run the system: [www.gssa.state.co.us](http://www.gssa.state.co.us)
  - biggest hurdle was getting everyone licensed

Attachment 7  
e-Gov 3-20-01

**Attachment**

**24-102-101 - Authority and duties of the executive director.**

Subject to the provisions of part 4 of this article, the executive director of the department of personnel has the authority and responsibility to promulgate rules, consistent with this code, governing the procurement and disposal of any and all supplies, services, and construction to be procured by the state, except for excess or surplus equipment and supplies as provided in section 17-24-106.6, C.R.S., and except as provided in part 2 of article 37.5 and part 4 of article 82 of this title. The executive director shall consider and decide matters of policy within the provisions of this code.

Source: L. 81: Entire article added, p. 1263, § 1, effective January 1, 1982. L. 86: Entire section amended, p. 756, § 9, effective July 1, 1987. L. 87: Entire section amended, p. 984, § 6, effective July 11. L. 96: Entire section amended, pp. 1510, 1533, §§ 31, 99, effective June 1. L. 2000: Entire section amended, p. 1864, § 85, effective August 2. Editor's note: (1) Amendments to this section by sections 31 and 99 of Senate Bill 96-228 were harmonized.

(2) This section was contained in a 2000 act that was passed without a safety clause. For further explanation concerning the effective date, see page vii of this volume.

**24-102-202 - Authority of the executive director.**

(1) Consistent with the provisions of this code, the executive director may adopt operational procedures governing the internal functions of the department.

(2) Except as otherwise specifically provided in this code, the executive director shall, pursuant to rules:

(a) Procure or supervise the procurement of all supplies and services needed by the state;

(b) Repealed.

(c) Establish and maintain programs for the inspection, testing, and acceptance of supplies and services;

(d) Examine each requisition submitted by a using agency and approve, disapprove, or revise it as to quantity or quality.

(e) Develop and maintain programs and procedures to delegate purchasing authority in order to conserve resources for management of the statewide purchasing system; and

(f) Develop programs to evaluate and reduce the administrative costs of the statewide procurement function.

Source: L. 81: Entire article added, p. 1263, § 1, effective January 1, 1982. L. 86: (2)(b) repealed, p. 757, § 13, effective July 1, 1987. L. 90: (2)(e) and (2)(f) added, p. 1307, § 2, effective July 1. L. 96: (1) and IP(2) amended, p. 1511, § 33, effective June 1.

**17-24-106.6 - Surplus and excess equipment and supplies.**

(1) As used in this section, unless the context otherwise requires:

(a) "Excess equipment and supplies" means any equipment and supplies having a remaining useful life but which are no longer required by the using agency in possession of the equipment and supplies.

(b) "State agency" means this state or any department, institution, or other agency of the state, including institutions of higher education, but not including the department of transportation.

(c) "Surplus equipment and supplies" means any equipment and supplies no longer having any use to the state or any state agency.

(2) The executive director shall promulgate rules to be utilized by the division in governing:

(a) The sale, lease, or disposal of surplus equipment and supplies by public auction or competitive sealed bidding, but no public employee, which for the purposes of this subsection (2) includes elected officials, shall be entitled to purchase any such equipment and supplies unless such purchase satisfies the conditions specified in subsection (2.1) of this section; and

(b) The transfer of excess equipment and supplies.

(2.1) (a) Items of personal property may not be sold to elected state officials unless they are sold in accordance with all of the following conditions:

(I) Such property shall be declared to be surplus property by the department which purchased it;

(II) Such property shall have historical significance because it was actually used by the elected state official in the performance of his duties;

(III) Such property shall be sold in accordance with such procedures and conditions as may be established by the department which purchased the personal property;

(IV) Such property shall be sold at a price that is equal to or greater than the then-current actual value;

(V) The sale shall be approved in writing by the governor, if the purchase is to be made by an elected state official in the executive branch, or by the executive committee of the legislative council, if the purchase is to be made by a member of the general assembly;

(VI) The proceeds of any such sale shall be deposited in the fund from which the personal property was originally purchased or, if such fund no longer exists, in the general fund, and may be appropriated to defray a portion of the costs of purchasing similar property in the future.

(b) Repealed.

(c) For any chairs described in paragraph (b) of this subsection (2.1) not purchased by current or former members of the general assembly, the state historical society shall make efforts to place such chairs in the districts of the members. If the state historical society is unable to find suitable locations for such chairs, the society may dispose of such chairs in a manner befitting their historical significance.

(3) Such rules shall include, but shall not be limited to:

(a) The preparation of an annual inventory by each state agency of its excess and surplus equipment and supplies, whereby notification may be made among such agencies of the availability of excess equipment and supplies;

(b) Procedures whereby each state agency shall be advised of the availability and shall be required to acquire excess equipment and supplies for any of the agency's needs if such excess equipment and supplies are available and can be reasonably determined to fulfill such needs;

(c) Procedures coordinating, to the extent possible, the programs administered by the division under section 17-24-106 with the division's responsibility with respect to excess and surplus property;

(d) A procedure whereby any excess or surplus equipment and supplies which are not transferred, sold, or otherwise disposed of within six months after being received by the division shall be disposed of as soon as possible thereafter.

(4) Any moneys used to cover the administrative costs of the transfer of responsibilities with respect to excess and surplus equipment and supplies from the department of administration to the department of corrections shall be transmitted to the state treasurer, who shall credit the same to the surplus property fund, which fund is hereby created, and such fund shall be subject to appropriation by the general assembly for the purposes of this section.

(5) Any moneys in any accounts or funds administered by the department of administration that are derived from the administration of part 4 of article 82 of title



24, C.R.S., shall be transferred to the surplus property fund.

(6) The division may make changes and assess fees from the recipient of any excess property, which changes or fees shall be limited to reasonable administrative costs of the division incurred in effecting any transfer. All such fees shall be credited to the surplus property fund.

Source: L. 86: Entire section added, p. 753, § 2, effective July 1, 1987. L. 90: (2)(a) amended and (2.1) added, p. 961, § 1, effective June 9; (2.1)(b) repealed, p. 961, § 1, effective September 1. L. 91: (1)(b) amended, p. 1058, § 13, effective July 1. L. 97: (2.1)(c) amended, p. 1009, § 10, effective August 6. L. 98: (5) amended, p. 820, § 19, effective August 5. Editor's note: Subsection (2.1)(b), which is referenced in subsection (2.1)(c), was repealed by L. 90, p. 961, § 1.

#### **24-102-202.5 - Supplier database - cash fund.**

(1) The executive director shall develop a centralized database that includes a listing of all businesses which are interested in providing goods and services to the state. The businesses in the database shall be identified by a registration number, and the executive director shall develop a procedure for notifying the appropriate businesses whenever the state issues requests for proposals or invitations for bids for goods or services which a particular business provides. The database shall be accessible through the department of personnel to all purchasing agencies designated pursuant to section 24-102-302 (2). Such purchasing agencies shall be entitled to reimbursement for actual expenses incurred in the use and maintenance of the database from moneys in the supplier database cash fund created in subsection (2) of this section.

(2) Each business that wishes to be included in the database created pursuant to subsection (1) of this section shall pay a registration fee as determined by the executive director. The executive director shall set and collect such fees as are necessary to cover the direct and indirect costs which are incurred in implementing the provisions of this section. The revenue from such fees shall be transmitted to the state treasurer, who shall credit the same to the supplier database cash fund, which fund is hereby created. The general assembly shall make appropriations from such fund as necessary to implement the provisions of this section. In accordance with section 24-36-114, all interest derived from the deposit and investment of this fund shall be credited to the general fund.

(3) The provisions of this section shall not apply to contractors required to be approved pursuant to the provisions of section 24-30-1303 (1) (q).

Source: L. 92: Entire section added, p. 1110, § 1, effective July 1. L. 95: (1) amended, p. 662, § 93, effective July 1. L. 96: (1) and (2) amended, p. 1511, § 34, effective June 1. Cross references: For the legislative declaration contained in the 1995 act amending this section, see section 112 of chapter 167, Session Laws of Colorado 1995.

## South Carolina Administrative Services

Contact:

### **MATERIALS MANAGEMENT OFFICE**

Voight Shealy, Materials Management Officer  
Chief Procurement Officer for Goods and Services  
1201 Main Street, Suite 600, Columbia, SC 29201  
Phone: (803)737-0600 Facsimile: (803)737-0566

1. How long have they used on-line bidding/purchasing?
2. What was the start up cost and have there been cost savings?
3. Are the agencies and vendors satisfied?
4. Please send copies of the statutes that apply:
5. Do they feel this was a good shift in policy?
6. Whether they do it in house, or hire a company to do on-line purchasing.

**Attachment**

**TITLE 11. PUBLIC FINANCE**

**CHAPTER 35. SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE**

**SOUTH CAROLINA CONSOLIDATED PROCUREMENT CODE**

Revised July, 2000 - <http://www.leginfo.state.sc.us/code/index.html>

§ 11-35-1529. Competitive On-line Bidding.

(1) Conditions for Use. When a purchasing agency determines that on-line bidding is more advantageous than other procurement methods provided by this code, a contract may be entered into by competitive on-line bidding, subject to the provisions of Section 11-35-1520 and the ensuing regulations, unless otherwise provided in this section.

(2) Bidding Process. The solicitation must designate both an Opening Date and Time and a Closing Date and Time. The Closing Date and Time need not be a fixed point in time, but may remain dependant on a variable specified in the solicitation. At the Opening Date and Time, the State must begin accepting real-time electronic bids. The solicitation must remain open until the Closing Date and Time. The State may require bidders to register before the Opening Date and Time and, as a part of that registration, to agree to any terms, conditions, or other requirements of the solicitation. Following receipt of the first bid after the Opening Date and Time, the lowest bid price must be posted electronically to the Internet and updated on a real-time basis. At any time before the Closing Date and Time, a bidder may lower the price of its bid, except that after Opening Date and Time, a bidder may not lower its price unless that price is below the then lowest bid. Bid prices may not be increased after Opening Date and Time. Except for bid prices, bids may be modified only as otherwise allowed by this code. A bid may be withdrawn only in compliance with Section 11-35-1520. If a bid is withdrawn, a later bid submitted by the same bidder may not be for a higher price. If the lowest responsive bid is withdrawn after the Closing Date and Time, the State may cancel the solicitation in accordance with this code or reopen electronic bidding to all pre-existing bidders by giving notice to all pre-existing bidders of both the new Opening Date and Time and the new Closing Date and Time. Notice that electronic bidding will be reopened must be given as specified in the solicitation.

(3) Receipt and Safeguarding of Bids. Other than price, any information provided to the State by a bidder must be safeguarded as required by Section 11-35-1520(4).

(4) Provisions Not to Apply. Section 11-35-1524 and paragraph (5) (Bid Opening) of Section 11-35-1520 do not apply to solicitations issued pursuant to this section.

7-7  
Z-6

Testimony Prepared for the  
Chair-Deana Horst  
Regarding Legislation on Internet Bond Sales

Presented by  
Marty Nohe, First Vice President  
Public Finance Group  
Kirkpatrick Pettis, A Mutual of Omaha Company  
**Friday, March 09, 2001**

*Attachment 8*  
*e-Gov 3-20-01*

## Adding New Method for Internet Sale of Bonds

### Overview

As a Financial Advisor for hundreds of bond sales in Kansas over the past 2 decades, I feel reasonably qualified to speak on behalf of Kansas cities, counties, school districts and other jurisdictions in the methods of selling tax exempt municipal bonds.

**The bill before this committee is simply a bill to add an additional platform or method of selling bonds over the internet.** Currently there are 3 primary internet platforms competing in the open market attempting to have jurisdictions use their services for bidders to submit bids for the sale of bonds.

In Kansas, there have been around a dozen bond sales where bidders, which include investment banking/brokerage firms and dealer banks, have had the option to submit their bids on the internet on either the Bloomberg system or the Parity system. The third national platform, Muni-auction, which has the capability to conduct a true auction, unlike the other platforms, is not currently available to be utilized by Kansas jurisdictions. *This bill would allow a real-time auction to be available.*

The benefits for selling bonds electronically on the internet fall into three primary categories:

Interest Rate Savings Potential

Costs Avoidance

Administrative Enhancement

### Interest Rate Savings Potential

Typically bond issues in the range of \$1-20 million, sold competitively in Kansas are primarily sold to regional brokerage firms and regional bank systems, which then are resold to both individuals and institutions like mutual bond funds and insurance companies. When the issue size is over approximately \$20 million the large national brokerage firms and national sized bank systems will be more likely to submit bids.

By allowing all forms of internet bidding, it opens and simplifies the bidding process to a larger universe of bidders, which as in all bidding or procurement processes, tends to have all bidders "sharpen their pencils" and improve their bids.

In addition, internet bidding can allow for bidders to bid on individual maturities, reflecting their customers needs more efficiently. For example, if my firm's primary customers are individuals which tend to buy bonds in the 5-10 year maturities and the bond issue is a 25 year bond issue, my firm can submit bids on only those bonds maturing in 2006 through 2011. This increases the likelihood of our firm's interest in submitting a bid.

As Financial Advisor, our firm has conducted several dozen internet sales and we estimate improved bids in the range of 3-5 basis points or 3-5 hundreds of one percent.

An improvement of 5 basis points on a 20 year, \$10,000,000 bond issue is \$100,000!  
Little improvements can generate a lot of taxpayers savings.

### **Cost Avoidance**

With all initial security offerings, stocks and bonds, certain mandatory disclosure documents are required to be prepared and transmitted to potential buyers. In the municipal bond world this document is referred to as the Official Statement, which can be 75 or more pages. Traditionally this is printed and mailed or overnight delivered to bidders throughout the country to up to 100 locations. This cost to the taxpayer can range up to \$10,000. The internet bidding with one of the platforms, can "post" the Official Statement "on line" and bidders can view or download the document, thus the issuer can avoid this cost.

### **Administrative Enhancement**

- ✓ Ease of submitting the bids via the internet avoids last minute human error.
- ✓ Results of the bids can be available to the public more quickly by posting results on the internet.
- ✓ Automatic bid error checking feature is built into all platforms
- ✓ Marketing and pre-solicitation to bidders and amendment to terms of the sale can be provided.

### **Summary**

The passage of this bill has no "down side" and has the potential of improving the process for the sale of bonds by the governmental jurisdictions in Kansas. Traditional bids in the form of paper bids will continue to be allowed for those not ready or wishing to participate in e-commerce. Certainly there will be an evolution of the use of the internet in all procurement systems and I view this legislative amendment as a small technical improvement to Kansas law.

**Sampling of some current Kansas Clients of Kirkpatrick Pettis:**

**City of Lenexa  
USD 233 Olathe School District  
City of Pittsburg  
City of Gardner  
City of Spring Hill  
City of DeSoto  
Johnson County Park & Recreation District  
Topeka & Shawnee County Library District**

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## DRAFT SUBSTITUTE FOR SENATE BILL NO. 227

For Consideration by Committee on E-Government

1 AN ACT concerning electronic procurement procedures for  
2 state agencies and certain local governmental entities;  
3 amending K.S.A. 2000 Supp. 10-106, 72-6760 and 75-3739  
4 and repealing the existing sections.

5 Be it enacted by the Legislature of the State of Kansas:

6 New Section 1. Each unified school district and each  
7 community college, technical college, vocational education  
8 school and municipal university, as defined by K.S.A. 2000  
9 Supp. 74-3201b and amendments thereto, is hereby authorized  
10 to adopt and to utilize procurement procedures for on-line  
11 bidding, reverse auctioning and other electronic procurement  
12 procedures for acquisition of goods, materials, supplies and  
13 equipment. The procedures adopted under this section shall  
14 not be utilized for the acquisition of services for  
15 construction projects or for the acquisition of any other  
16 services.

17 Sec. 2. K.S.A. 2000 Supp. 10-106 is hereby amended to  
18 read as follows: 10-106. (a) Municipal bonds shall be sold  
19 at public notice sale as follows: The officers having charge  
20 of the sale of the bonds shall publish a notice of the sale  
21 one time in a newspaper having general circulation in the  
22 county where the bonds are issued and in the Kansas  
23 register. Such notices shall be published not less than six  
24 days nor more than 30 days before the sale and shall contain  
25 the following information: (1) Except as provided by  
26 subsection (b), the date, time and place at which a public

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1 notice auction will be held on such terms and conditions as  
2 shall be provided by the municipality or at which written  
3 bids will be received and considered for the sale of the  
4 bonds for cash at such price as the municipality may accept;  
5 (2) the date of issue, total par value and denomination of  
6 the bonds being sold; (3) the dates and amounts of  
7 maturities of the bond issues; (4) the dates on which  
8 interest on the bonds shall become due and payable; (5) the  
9 place or places where and the approximate date on which the  
10 bonds being sold will be delivered to the purchaser; (6) a  
11 statement that a good faith deposit in the form of a  
12 certified or cashier's check or surety bond in the amount of  
13 2% of the total par value of the bonds being sold ~~shall~~  
14 ~~accompany each bid or in the case of public sale at auction~~  
15 ~~the same~~ shall be furnished at or prior to the time of sale  
16 by each bidder; (7) a statement disclosing whether or not  
17 the purchaser of the bonds will be required to pay for the  
18 printing thereof and whether or not and to what extent the  
19 purchaser of the bonds will be required to pay the expense  
20 of legal services rendered to the municipality in connection  
21 with the issuance of the bonds including the fees of  
22 recognized bond counsel for an opinion as to legality of  
23 issuance; (8) the assessed valuation of the municipality;  
24 (9) that bidders may be required to be qualified in a manner  
25 established by the municipality before submitting a bid; and  
26 ~~(9)~~ (10) the total bonded indebtedness of the municipality

1 as of the date on which the bonds being sold are dated  
2 including the bonds submitted for bid. The rate of interest  
3 may be omitted in advertising and the bidders requested to  
4 specify the lowest interest rate or rates on the bonds at  
5 which they will pay the purchase price.

6 If sold at public notice sale ~~with--written--bids,~~  
7 purchasers shall submit their bids in writing, sealed or  
8 sent by telefacsimile or other electronic transmission, as  
9 set forth in the notice of sale, for all or any part of the  
10 bonds. ~~Each--bid--shall--be--accompanied--by--a--certified--or~~  
11 ~~cashier's-check-or-surety-bond-for-2%-of-the-total-amount-of~~  
12 ~~the-bid.~~ In case any purchaser, whose bid is accepted, fails  
13 to carry out the contract, the deposit shall be forfeited to  
14 the municipality issuing the bonds. Written Bids shall be  
15 disclosed publicly and tabulated or compared only at the  
16 time and place specified in the notice. At the time and  
17 place specified, the bonds shall be sold to the highest and  
18 best bidder or bidders, and the bonds may be allotted among  
19 the bidders, however, any or all bids may be rejected. No  
20 contract for the sale of the bonds shall be made except on  
21 bids submitted as provided in this section. No bonds shall  
22 be delivered to any purchaser until the amount of the bid is  
23 placed in the hands of the officer in charge of the sale.  
24 The provisions of this section relating to the public notice  
25 sale of bonds shall not apply to bonds secured solely and  
26 only by revenues, bonds sold, pursuant to written agreement,

1 to the government of the United States of America or any  
2 bureau, department, instrumentality or agency thereof, bonds  
3 issued pursuant to K.S.A. 10-427 et seq., and amendments  
4 thereto, and all bonds of the same series or which are  
5 issued simultaneously with such bonds and bond sales where  
6 the total amount of the issue does not exceed \$100,000. In  
7 such cases, the bonds may be sold at public notice or  
8 private sale as the officers having charge of the sale of  
9 such bonds determine. The practice of providing more than  
10 one issue within a twelve-month period for any one project  
11 is prohibited unless the project engineer or architect  
12 certifies that it is necessary to do so for the orderly  
13 construction progress of the project.

14 (b) As an alternative to providing notice of the date,  
15 time and place of public notice auction or receipt of bids  
16 provided by subsection (a)(1), the officers having charge of  
17 a bond sale may establish a time period of not less than  
18 seven nor more than 30 days during which such bonds would be  
19 sold. Notice of such sale period shall be published one time  
20 in a newspaper having general circulation in the county  
21 where the bonds are issued and in the Kansas register and  
22 shall be published not less than six days nor more than 30  
23 days before the beginning date of the sale period. The  
24 notice shall contain the information specified in subsection  
25 (a) except that in place of the time and date of sale, the  
26 notice shall specify the time period during which the bonds

1 would be sold and the manner in which persons interested in  
2 submitting a bid may register for notice of the bond sale.  
3 At least three business days prior to the time and date of  
4 the bond sale, the officers having charge of the sale shall  
5 give notice to all persons having registered for notice of  
6 the bond sale, and bids shall be submitted and received and  
7 the sale made in the manner provided in subsection (a).

8 Sec. 3. K.S.A. 2000 Supp. 72-6760 is hereby amended to  
9 read as follows: 72-6760. (a) No expenditure involving an  
10 amount greater than \$10,000 for construction, reconstruction  
11 or remodeling or for the purchase of materials, goods or  
12 wares shall be made by the board of education of any school  
13 district except upon sealed proposals or in accordance with  
14 procedures adopted under section 1 and amendments thereto,  
15 and, in any case, to the lowest responsible bidder.

16 (b) The provisions of subsection (a) do not apply to  
17 expenditures by a board of education for the purchase of:

18 (1) Services;

19 (2) products required to be purchased under the  
20 provisions of K.S.A. 75-3317 through 75-3322, and amendments  
21 thereto;

22 (3) educational materials directly related to  
23 curriculum and secured by copyright;

24 (4) motor fuels required to provide or furnish  
25 transportation;

26 (5) perishable foods and foodstuffs required for

1 operation of a school lunch program;

2 (6) articles or products that are produced,  
3 manufactured or provided by inmates under the prison-made  
4 goods act of Kansas;

5 (7) natural gas that will be consumed in buildings  
6 owned or operated by the school district;

7 (8) materials, goods or wares required for  
8 reconstructing, remodeling, repairing or equipping buildings  
9 when such purchase has been necessitated by the occurrence  
10 of a loss against which the board of education has purchased  
11 property or casualty insurance; and

12 (9) materials, goods or wares which are purchased:

13 (A) From vendors who have entered into contracts with  
14 the state director of purchases pursuant to state purchasing  
15 statutes for purchases by state agencies; and

16 (B) under the same pricing provisions established in  
17 the state contracts, subject to agreement of the vendor to  
18 honor the state contract prices.

19 (c) Whenever the board of education of any school  
20 district lets bids for the purchase of materials, goods or  
21 wares and bids are submitted by bidders domiciled within the  
22 school district and by bidders domiciled outside the school  
23 district and the low bid is submitted by a bidder domiciled  
24 outside the school district, the school district domiciliary  
25 which submitted the lowest bid may be deemed the preferred  
26 bidder and awarded the bid if:

1           (1) The quality, suitability and usability of the  
2 materials, goods or wares are equal;

3           (2) the amount of the bid of the school district  
4 domiciliary is not more than 1% greater than the amount of  
5 the low bid; and

6           (3) the school district domiciliary agrees to meet the  
7 low bid by filing a written agreement to that effect within  
8 72 hours after receiving notification of being deemed the  
9 preferred bidder.

10          (d) The provisions of subsection (c) do not apply to  
11 expenditures for construction, reconstruction or remodeling.

12          Sec. 4. K.S.A. 2000 Supp. 75-3739 is hereby amended to  
13 read as follows: 75-3739. In the manner as provided in this  
14 act and rules and regulations established thereunder:

15          (a) All contracts for construction and repairs, and all  
16 purchases of and contracts for supplies, materials,  
17 equipment and contractual services to be acquired for state  
18 agencies shall be based on competitive bids, except that  
19 competitive bids need not be required in the following  
20 instances:

21           (1) For contractual services, supplies, materials, or  
22 equipment when, in the judgment of the director of  
23 purchases, no competition exists;

24           (2) when, in the judgment of the director of purchases,  
25 chemicals and other material or equipment for use in  
26 laboratories or experimental studies by state agencies are

1 best purchased without competition, or where rates are fixed  
2 by law or ordinance;

3 (3) when, in the judgment of the director of purchases,  
4 an agency emergency requires immediate delivery of supplies,  
5 materials or equipment, or immediate performance of  
6 services;

7 (4) when any statute authorizes another procedure or  
8 provides an exemption from the provisions of this section;

9 (5) when compatibility with existing contractual  
10 services, supplies, materials or equipment is the overriding  
11 consideration;

12 (6) when a used item becomes available and is subject  
13 to immediate sale; or

14 (7) when, in the judgment of the director of purchases  
15 and the head of the acquiring state agency, not seeking  
16 competitive bids is in the best interest of the state.

17 When the director of purchases approves a purchase of or  
18 contract for supplies, materials, equipment, or contractual  
19 services in any instance specified in this subsection, the  
20 director may delegate authority to make the purchase or  
21 enter the contract under conditions and procedures  
22 prescribed by the director.

23 The director of purchases shall prepare a detailed  
24 report at least once in each calendar quarter of all  
25 contracts over \$5,000 entered into without competitive bids  
26 under subsection (a)(1), (2), (3), (5), (6) or (7). The

1 director shall submit the report to the legislative  
2 coordinating council, the chairperson of the committee on  
3 ways and means of the senate, the chairperson of the  
4 committee on appropriations of the house of representatives  
5 and the chairperson of the Kansas performance review board.

6 (b) (1) If the amount of the purchase is estimated to  
7 exceed \$50,000, reverse auctioning or sealed bids shall be  
8 solicited by notice published once in the Kansas register  
9 not less than 10 days before the date stated in the notice  
10 for the opening of the bids. The director of purchases may  
11 waive this publication of notice requirement when the  
12 director determines that a more timely procurement is in the  
13 best interest of the state. The director of purchases also  
14 may designate a trade journal for the publication. The  
15 director of purchases also shall solicit such bids by  
16 sending notices by mail to prospective bidders and by  
17 posting the notice on a public bulletin board for at least  
18 10 business days before the date stated in the notice for  
19 the opening of the bids unless otherwise provided by law.  
20 All bids shall be sealed when received and shall be opened  
21 in public at the hour stated in the notice.

22 (2) The director of purchases shall prepare a detailed  
23 report at least once in each calendar quarter of all  
24 instances in which the director waived publication of the  
25 notice of bid solicitations in the Kansas register as  
26 provided in this subsection. The director shall submit the



1 report to the legislative coordinating council, the  
2 chairperson of the committee on ways and means of the  
3 senate, the chairperson of the committee on appropriations  
4 of the house of representatives and the chairperson of the  
5 Kansas performance review board.

6 (c) All purchases estimated to exceed approximately  
7 \$25,000 but not more than \$50,000, shall be made after  
8 reverse auctioning or the receipt of sealed bids following  
9 at least three days' notice posted on a public bulletin  
10 board.

11 (d) All purchases estimated to be more than \$5,000, but  
12 less than \$25,000, may be made by reverse auctioning or  
13 after the receipt of three or more bid solicitations by  
14 telephone, telephone facsimile or sealed bid, following at  
15 least three days' notice posted on a public bulletin board.  
16 Such bids shall be recorded as provided in subsection (e) of  
17 K.S.A. 75-3740 and amendments thereto. Any purchase that is  
18 estimated to be less than \$5,000 may be purchased under  
19 conditions and procedures prescribed by the director of  
20 purchases. Purchases made in compliance with such conditions  
21 and procedures shall be exempt from other provisions of this  
22 section.

23 (e) With the approval of the secretary of  
24 administration, the director of purchases may delegate  
25 authority to any state agency to make purchases of less than  
26 \$25,000 under certain prescribed conditions and procedures.

1 The director of purchases shall prepare a report at least  
2 once in each calendar quarter of all current and existing  
3 delegations of authority to state agencies as provided in  
4 this subsection. The director shall submit the report to the  
5 legislative coordinating council, the chairperson of the  
6 committee on ways and means of the senate, the chairperson  
7 of the committee on appropriations of the house of  
8 representatives and the chairperson of the Kansas  
9 performance review board.

10 (f) Subject to the provisions of subsection (e),  
11 contracts and purchases shall be based on specifications  
12 approved by the director of purchases. When deemed  
13 applicable and feasible by the director of purchases, such  
14 specifications shall include either energy efficiency  
15 standards or appropriate life cycle cost formulas, or both,  
16 for all supplies, materials, equipment and contractual  
17 services to be purchased by the state. The director of  
18 purchases may reject a contract or purchase on the basis  
19 that a product is manufactured or assembled outside the  
20 United States. No such specifications shall be fixed in a  
21 manner to effectively exclude any responsible bidder  
22 offering comparable supplies, materials, equipment or  
23 contractual services.

24 (g) Notwithstanding anything herein to the contrary,  
25 all contracts with independent construction concerns for the  
26 construction, improvement, reconstruction and maintenance of

1 the state highway system and the acquisition of  
2 rights-of-way for state highway purposes shall be advertised  
3 and let as now or hereafter provided by law.

4 (h) The director of purchases may authorize state  
5 agencies to contract for services and materials with other  
6 state agencies, or with federal agencies, political  
7 subdivisions of Kansas, agencies of other states or  
8 subdivisions thereof, or private nonprofit educational  
9 institutions, without competitive bids.

10 (i) The director of purchases may participate in,  
11 sponsor, conduct, or administer a cooperative purchasing  
12 agreement or consortium for purchases of supplies,  
13 materials, equipment, and contractual services with federal  
14 agencies or agencies of other states or local units of  
15 government. Cooperative purchasing agreements entered into  
16 under this subsection shall not be subject to K.S.A. 75-3739  
17 through 75-3740a, and amendments thereto. ~~Nothing--in--this~~  
18 ~~subsection--shall--allow--federal-grant-moneys-to-be-handled~~  
19 ~~differently--from--any--other--moneys--of--the--state--unless--the~~  
20 ~~requirements--of--the--applicable--federal--grant--specifically~~  
21 ~~require--such--federal--moneys--to--be--handled--differently.~~

22 (j) The director of purchases may delegate authority to  
23 any state agency to make purchases under certain prescribed  
24 conditions and procedures when the acquisition is funded, in  
25 whole or in part, from a grant. Purchases made in compliance  
26 with such conditions and procedures shall be exempt from

1 other provisions of this section. As used in this subsection  
2 the term "grant" means a disbursement made from federal or  
3 private funds, or a combination of these sources, to a state  
4 agency. Nothing in this subsection shall allow federal grant  
5 moneys to be handled differently from any other moneys of  
6 the state unless the requirements of the applicable federal  
7 grant specifically require such federal moneys to be handled  
8 differently.

9 (k) The director of purchases shall prepare a detailed  
10 report at least once each calendar quarter of all contracts  
11 for services, supplies, materials or equipment entered into  
12 pursuant to subsection (h), (i) or (j) and submit it to the  
13 legislative coordinating council, the chairperson of the  
14 committee on ways and means of the senate, the chairperson  
15 of the committee on appropriations of the house of  
16 representatives and the chairperson of the Kansas  
17 performance review board.

18 (l) Except as otherwise specifically provided by law,  
19 no state agency shall enter into any lease of real property  
20 without the prior approval of the secretary of  
21 administration. A state agency shall submit to the secretary  
22 of administration such information relating to any proposed  
23 lease of real property as the secretary may require. The  
24 secretary of administration shall either approve, modify and  
25 approve or reject any such proposed lease.

26 (m) The director of purchases shall require all bidders

1 on state contracts to disclose all substantial interests  
2 held by the bidder in the state.

3 (n) As used in this section:

4 (1) "Sealed bids" may include a procurement process  
5 following procedures approved by the director of purchases  
6 in which proposals pursuant to K.S.A. 75-37,102, and  
7 amendments thereto, or bids pursuant to this section are  
8 received electronically over the internet; and

9 (2) "reverse auctioning" means a procurement process  
10 following procedures approved by the director of purchases  
11 where bidders are invited to bid on specific goods through  
12 real-time electronic bidding, with the award being made to  
13 the lowest responsible and responsive bidder; during the  
14 bidding process, bidders' prices are revealed and bidders  
15 shall have the opportunity to modify their bid prices for  
16 the duration of the time period established for the bid  
17 opening.

18 (o) Reverse auctioning shall not be used for the  
19 acquisition of any services for construction projects or for  
20 the acquisition of any other services.

21 Sec. 5. K.S.A. 2000 Supp. 10-106, 72-6760 and 75-3739  
22 are hereby repealed.

23 Sec. 6. This act shall take effect and be in force from  
24 and after its publication in the statute book.