



**BEFORE THE SENATE COMMITTEE ON
ETHICS, ELECTIONS AND LOCAL GOVERNMENT**

Thursday, March 7, 2013

Senate Bill 150

Testimony of Marilyn Bell, CPPB, CPPO
Johnson County Purchasing Manager

Mr. Chairman and Members of the Committee:

I am appearing before the Committee this morning on behalf of the Johnson County Board of Commissioners in opposition of Senate Bill 150.

Senate Bill 150 is in addition to Kansas Statute 75-3739, which calls out requirements for competitive bidding. This current statute includes language which prohibits specifications to be fixed in a manner that excludes competition, specifically, K.S.A. 75-3740 (b) (f) states: *“No such specifications shall be fixed in a manner to effectively exclude any responsible bidder offering comparable supplies, materials, equipment or contractual services.”* It is Johnson County’s opinion that Senate Bill 150 is redundant, unnecessary, restrictive and unclear.

Governmental bodies across our state and the nation strive for open and fair competition, the delivery of quality goods and services and best value for our entities. Many agencies, 5000 members strong, look to the National Institute of Governmental Purchasing, NIGP, for standard setting, codes of ethics and best practice standards in public procurement. NIGP, in defining standards, specifies the following categories: “design, performance, combination (design and performance), brand name or approved equal, qualified products list and samples.” Each standard has its place in public procurement. While it is always preferred to have open competition and open standards, the practicality of this is not feasible and there are times when exceptions to competition and the use of standardization are the prudent and efficient solution to a procurement need. Clearly, NIGP, the procurement standard setting body, acknowledges and makes provisions for brand names or equals.

Johnson County has identified several problematic issues with Senate Bill 150:

- In Line 9, use of the terms “shall not be used to favor any specific product or manufacturer” may eliminate an entity’s ability to standardize on a specific product or manufacturer. We believe this requirement is unreasonable and inefficient. In many systems, specifically in Wastewater, Corrections, Emergency Management and Communications, Building Automation and building mechanical systems, compatibility is critical, and failures of systems can have immediate safety repercussions for the public. Uncertainty of hardware types and manufacturer increases cost, the chance of failure and potential down time. Additionally, having multiple systems as a result of open standards bids, complicates training and requires different parts and repair procedures which may jeopardize customer service. Some systems need standardization after an initial competitive procurement involving research and testing.



Johnson County, Kansas
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- Line 10 references the term “unreasonable requirements” but does not define what an unreasonable requirement is. Public entities need the flexibility to make these decisions and decide for themselves what a reasonable requirement is. We feel strongly decisions of this nature should be made at the local level.
- Line 12 references “adequate and acceptable” in regard to alternate goods and services and uses “competent authorities in the industry” in regard to who makes the decision if something is adequate and acceptable. These terms are vague and leave much to interpretation. Once again, we feel this is a local control issue; these types of decisions should be left to local jurisdictions and their governing boards, which represent the taxpayer’s interest.

Overall the legislation uses vague terms which have little meaning and which limit governmental procurement in ways which will be costly and ineffective by requiring entities to accept goods and services which are not the best value in the name of open standards.

I’d like to thank the Senate Committee on Ethics, Elections and Local Government for the opportunity to address this important issue. I would be pleased to answer any questions the committee may have.