

House Health & Human Services Committee

February 8, 2018

Chairman Hawkins and Members of the Committee,

I am here to offer neutral testimony related to House Bill 2591. The current KanCare contracts expire December 31, 2018. The Department of Administration posted requests for proposals (RFP's) last fall and the deadline for those proposals was approximately one month ago. Currently, the agencies involved are reviewing the technical proposals submitted by potential vendors. The review teams will score each proposal and upon receipt of the technical reviews, the Office of Procurement & Contract will then provide to the reviewing agencies the cost proposals each bidder submitted.

House Bill 2591 requires the current KanCare contracts be extended for three years. If it is the will of the Legislature to continue the KanCare program with the current vendors, the Administration requests that HB2591 be adopted, mandating the extension. Generally speaking, in the absence of certain circumstances, the Department recommends a competitive bid process for a contract award. Competition puts the state in a better place to negotiate terms, conditions, and price with vendors and places the bargaining power in the hands of the state. Current procurement rules require that to extend the three expiring contracts, the Department post the intent to extend on the agency website and allow potential competitors to file a protest and establish that are willing and able to meet the proposed terms. If that ability is documented, the Department would then be required to accept bids for the services. House Bill 2591 would allow the Department to extend the current contracts without the possibility of considering other vendors.

The passage of HB2591 would necessitate the cancellation of the current RFP which would subject those proposals to the open records act. This would allow anyone to review each submitted proposal, including cost information. This type of disclosure can diminish the bargaining power of the state when it comes to negotiating costs and/or services in the future because prior bids are available for review. As you are all aware, the legislature has the authority to amend the open records act.

Additionally, bear in mind that considerable time and effort is expended by both the state and the vendor community in drafting the request and in providing proposals. While all parties involved understand that preparing a proposal is part of the cost of doing business, there is a reasonable expectation that there will ultimately be a contract and the risk may reap rewards. Requiring the extension of the current contracts and terminating the process could negatively impact the vendor decision to participate in the process the next time, which would reduce competition and ultimately lead to fewer choices and potentially reduced options for goods and services.

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The Department of Administration appreciates the assistance of the legislature in allowing for extensions and respectfully requests that there be consideration given to the open records implications and the impact on procurements generally, especially in the current process where there is competition for the services requested.