

Senate Ways and Means Committee

January 30, 2018

Chairwoman McGinn and Members of the Committee,

I am here to offer testimony in opposition to Senate Bill 300. The Department of Administration's opposition is related to the impact of legislative cancellation of a specific, already in process procurement and requirement of contractual extensions. The KanCare request for proposals was posted last fall and the deadline for those proposals was approximately three weeks 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.

Cancellation of the current RFP 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.

Further, generally speaking and setting aside this current process, cancelling a request for proposal can damage the credibility of the state and decrease the responses the next time an agency seeks bids from the market. For a proposal of this type, considerable time and effort is expended by the 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. Legislation terminating the process can 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.

Senate Bill 300 also requires the current KanCare contracts to be extended for one year. This undercuts our ability to negotiate with the current vendors by limiting the options available to the state and placing the bargaining power in the hands of the current vendors. Additionally, the language of the bill limits the opportunity to make positive changes in the program. As an aside, anytime we negotiate an extension of a contract, the terms of the extension are limited to the scope of the original contract.

Finally, as I mentioned, the process to prepare and post a quality Request for Proposals takes an enormous amount of time. The current contracts expire in December of 2018 and the RFP was posted last fall. We would have to immediately begin the process of drafting a new RFP and that would need to be posted this fall. That timeline may not be realistic and meet the federal requirements.

The Department of Administration recommends that the current procurement process move forward with the agencies completing the review of the technical proposals. Upon completion of that review, the Department of Health and Environment and the Department for Aging and Disability Services will receive the cost proposals. At that time, the agencies can determine the final costs drivers for the proposals and begin negotiations to reduce costs or eliminate items in the original request. This process ensures competition on this procurement and does not negatively impact the state's bargaining position. Additionally, it does not set a precedent that might cause potential bidders to think twice before expending time, effort, and dollars to bid on a large contract in Kansas.