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MEMORANDUM

To: Chairman Rhoades and members of the Committee on Appropriations
From: Nobuko Folmsbee, Senior Assistant Revisor of Statutes
Date: January 26, 2012
Subject: 2012 House Bill No. 2442

HB 2442 amends the competitive bidding procedure which requires all state contracts and purchases be awarded to the lowest responsible bidder.

Under the bill, the Director of Purchases would award a contract to a “certified business,” which is also a responsible bidder, whose bid is not more than 10% higher than the lowest competitive bid. In order to be certified by the Department of Administration, a business has to (1) do business primarily in Kansas, (2) employ at least 20% of full-time employees in Kansas that are individuals with disabilities, and (3) contribute at least 70% of the total health insurance premium cost for all employees. [Sec. 2. (b) on page 5.]

“Individual with a disability” means an individual who is certified by SRS as having a physical or mental impairment which constitutes a substantial barrier to employment, and (1) receives or could receive services under a HCBS program or (2) is employed by a charitable organization in Kansas. “Physical and mental impairment” is defined as any physiological, mental or psychological disorder. [Sec. 2. (g)(3) and (4) on page 7.]

In determining the lowest responsible bid, the Director of Purchases would deduct the dollar amount of bidder’s purchases from a qualified vendor during the previous calendar year from the original bid, except such deduction cannot be more than 10% of the original bid. The qualified vendor, a not-for-profit entity in Kansas which employs the blind or disabled, furnishes a list of products and services. The Director of Purchases approves the prices of products manufactured and services offered by a qualified vendor pursuant to K.S.A. 75-3317 through 75-3322. [Sec. 2. (c)(1)(A) on page 5.]

In determining the lowest responsible bid, the Director of Purchases would deduct the dollar amount of bidder’s purchases from a certified business during the previous calendar year from the original bid, except such deduction cannot be more than 10% of the original bid. [Sec. 2. (c)(1)(B) on page 5.]

The Secretary of Administration and Secretary of SRS would jointly adopt rules and regulations. After January 1, 2014, both secretaries are required to submit a joint report to the budget subcommittees of the legislature regarding the number of certified businesses awarded contracts and the number of individuals with disabilities removed

from HCBS programs as a result of full-time employment with the certified business and savings. Sec. 2. (h) and (i) on page 7-8.]

On or before January 1, 2014, and every 6 months after that, a certified business that is awarded a contract would submit a report to the Director of Purchases regarding the number of contracts awarded, the number of full-time employees, the number of full-time individuals with disabilities during the previous 6 months and any other information that the Secretary of Administration deems appropriate. [Sec. 2. (j) on page 8.]

When HCBS services are no longer provided to an individual with a disability due to the individual's full-time employment for a certified business, and the individual is unable to perform full-time employment for the certified business, the individual is entitled to be reinstated to the HCBS without being placed on a waiting list. [New Sec. 3 on pages 8-9.]

The act would take effect on January 1, 2013.