

MINUTES OF THE E-GOVERNMENT COMMITTEE.

The meeting was called to order by Chairperson Deena Horst at 3:36 p.m. on March 13, 2001, in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Audrey Nogle, Legislative Research Department
Lisa Montgomery, Revisor of Statutes' Office
Jim Wilson, Revisor of Statutes' Office
Denise Richards, Committee Secretary

Conferees appearing before this Committee:

Proponents:

David Morel, Business Analyst, Procuri.com
Gary George, Assistant Superintendent, Olathe School District
Robert Stockwell, Kansas Performance Review Board
Ron Roe, Purchasing Director, Shawnee Mission School District
Representative Joe McLeland
Representative Mary Pilcher Cook
Senator Karin Brownlee
Sharon Zoellner, Deputy Superintendent, DeSoto School District
Diane Gjerstad, Wichita Public School District
Sue White, Wichita State University

Neutral:

John Houlihan, Division of Purchasing, Kansas Department of Administration

Opponents:

Corey Peterson, Executive Vice-President, Associated General Contractors of Kansas
Dean Ferrell, President, Ferrell Construction, Topeka
Will Larson, General Counsel, Associated General Contractors, Gehrt & Roberts
Bob Totten, Kansas Contractors Association
Orville Spray, Venture Corporation, Great Bend
Gary Roberson, Roberson Lumber, Silver Lake
Art Brown, Mid-America Lumberman's Association, Kansas City, Missouri
Dan Morgan, Builders Association, Kansas City
Woody Moses, Kansas Aggregate Producers Associates, Topeka

Others attending: See attached sheet.

The Chair welcomed conferees and introduced David Morel, Business Analyst for Procuri.com, who explained e-procurement, on-line bidding, and reverse auctions. (Attachment 1) He said finding suppliers for products, negotiating prices, and issuing purchase orders can all be accomplished on-line. Communications and competitive prices for supplies can be obtained by real-time bidding on-line, simplifying the purchasing process. He said that a typical auction includes defining the project, setting a bidding schedule, posting an RFP and specifications, allowing time for review and questions, and then conducting the on-line auction. Mr. Morel noted that electronic barriers must be removed for some suppliers to compete for on-line procurement. Answering questions, he said with on-line bidding, a buyer can set a maximum price and extend the time limit. He said two states currently use reverse auctions and 6-10 states are doing pilot projects.

The Chair opened the hearing for **HB 2413** and **SB 227**, noting that the bills are identical except that **SB 227**, when it passed the Senate, had a bonding component added. Staff Audrey Nogle reviewed the provisions of **HB 2413** and **SB 227**, stating that the bills would provide for on-line procurement of goods, services, construction materials or information services by the state. She said the bills would allow state agencies to use on-line bidding if the Director of Purchases or the Secretary of Transportation determined that electronic bidding would be more advantageous than other purchasing methods. Bidders could be required to pre-register or to agree to any terms or conditions of the solicitation. The Chair observed that although most testimony would refer to **SB 227**, members were to understand that the bills are considered companion bills.

CONTINUATION SHEET

Gary George, Assistant Superintendent, Olathe School District, testified in support of **SB 227**. (Attachment 2) He said on-line bidding would be especially advantageous to school districts in selling bonds, a procedure that he thinks will save his district several thousand dollars.

Robert Stockwell provided (Attachment 3) as information for the committee, stating that the Kansas Performance Review Board Report reviews procurement policies and recommends efficient purchasing procedures. He pointed out that in a pilot auction program, Pennsylvania saved \$3.7 million over traditional sealed bid methods. Mr. Stockwell also said to date Pennsylvania has conducted 10 real time, online bids resulting in a savings of \$11 million. He said he would be available for questions during the meeting.

Ron Roe, Purchasing Services Manager for Shawnee Mission School District, spoke in support of the bill. (Attachment 4) He said on-line procurement can save a school district time, money, paper, minimize errors, and enhance communications with suppliers. He noted that suppliers will more likely provide current pricing to accommodate the shortened time of the bid process.

Representative Joe McLeland and Representative Mary Pilcher Cook spoke in support of the bill, noting that the bill utilizes technology to streamline the bidding process. (Attachment 5)

Senator Brownlee testified in support of the bill. (Attachment 6) She said the bill is permissive, not a mandate and would be especially helpful for school bonding issues.

Dr. Sharon Zoelliner, Deputy Superintendent for the DeSoto School District, in support of the bill, said that the proposed legislation would increase efficiency and allow school districts to better utilize their funds. (Attachment 7)

Diane Gjerstad, Wichita Public Schools, and Sue White, Wichita State University, spoke as proponents. (Attachment 8) Ms. White said WSU has used electronic procurement since January 1999 and has increased efficiency in bidding by more than 200%. She listed advantages (increased efficiency, wider vendor base, shorter bid cycle, simpler tabulation of bids, and easier communication with vendors) and disadvantages (smaller vendors will not respond, bids with blueprints, etc., cannot be transmitted electronically).

John Houlihan, Director of Purchases, Kansas Department of Administration, provided information about present state policies for on-line bidding. (Attachment 9) He said presently 13 other states authorize or are preparing to authorize on-line bidding. He said he is presently converting his statewide contracts to an electronic catalog format, which will allow electronic ordering, billing, and payment, and will prepare the state for on-line bidding and eventually for reverse and regular auctions, but noted that fees for conducting on-line auctions range from 1-4% and may not result in a savings to the state. He included in his testimony a substitute for **HB 2413**, which he said would be more compatible with current Kansas statutes.

Corey Peterson, representing the Associated General Contractors of Kansas, testified in opposition to **SB 227**. (Attachment 10) He said that including construction in the bill, because of the complexity of construction projects, makes on-line bidding nearly impossible. He said present software works well for commodities, but not for complex services like construction projects. He said of the six states that allow on-line bidding, four of them exclude construction. He suggested amendments to the bills, noting that the Association does support submitting sealed bids electronically.

Dean Ferrell, President of Ferrell Construction, spoke in opposition to the bill. (Attachment 11) He said reverse auctions, where competitors were able to see each other's bids, would adulterate the bid process and, since it is similar to "bid shopping," would be considered unethical by the construction industry.

William Larson, General Counsel for the Associated General Contractors of Kansas, testified in opposition to the bill, saying that reverse auctions are inappropriate for construction projects and will increase mistakes in the bidding process. (Attachment 12) He noted that clerical errors are protected by law, but errors in judgment (the ones more likely in a reverse auction) are not protected, leaving a company exposed to serious financial loss. He further noted that reverse auctions tempt a contractor to underbid, again leaving a company exposed to a failure that could lead to delays in completing a project.

Bob Totten, Public Affairs Director, Kansas Contractors Association (KCA), spoke in opposition to the

CONTINUATION SHEET

bill. He said that although KCA favors electronic bid submission, it opposes reverse auctions. (Attachment 13) He stated that even electronic bid submission, which would work well for the Kansas Department of Transportation (KDOT) because they have adequate staff, might be prohibitive for counties and municipalities who have limited staff to handle such projects. He suggested excluding construction from the provisions of the bill.

Orville Spray, Chairman of Venture Corporation, spoke in opposition to the bill. (Attachment 14) He said as a contractor who specializes in highway construction, he finds the bill is not compatible with the number of variables in a contractor's bids on different projects. He noted, however, that, unlike a sealed bid where there was a difference between the lowest and next lowest bid, a reverse auction would eliminate that difference and would cost KDOT more money.

Gary Roberson, Roberson Lumber of Silver Lake, spoke in opposition to the bill. (Attachment 15) He expressed concern that, with a reverse auction, bidders from out-of-state who operate in areas with lower tax structures, would be given an unfair advantage over Kansas bidders.

Art Brown, representing the Mid-America Lumbermen's Association, spoke as a reluctant opponent. (Attachment 16) He said that, although lumbermen utilize the Internet for locating products, market reporting, product research, and other business activities, he is concerned that the wording of **SB 227**, by including construction materials, will become onerous for the lumber industry.

Dan Morgan, representing nearly 450 contractors and suppliers of the Builders' Association, spoke opposing the bill, asking the Committee to exempt construction from the reverse-auction provisions of the bill. Reiterating points already made, he stated that, though the wording of the bill is permissive, it opens the possibility of indiscretions and abuse of authority. (Attachment 17)

Woody Moses, Managing Director, Kansas Aggregate Producers' Association, spoke as an opponent. (Attachment 18) He said his association, with members in all Kansas legislative districts, provides building materials to all Kansans. He said real-time bids for construction and highway projects are unrealistic because of the complexity of such projects. He would, however, support sealed electronic bids.

A number of opponents, who were unable to attend the meeting, submitted written testimony, which is listed as follows: Trudy Aron, Executive Director, American Institute of Architects, Attachment 19; R.J. Koreen, Vice President and Business Manager, Andrews Asphalt and Construction, Attachment 20; Donald Popejoy, Executive Vice President, Ritchie Paving Company, Attachment 21; Richard Brown, President, Smoky Hill LLC, Attachment 22; Stanley Scudder, President, Bridges, Inc., Attachment 23; Vic Danner, Midwest Construction Company, Attachment 24; Scott Erickson, Smoky Hill LLC, Attachment 25; Randall Hardy, Reece Construction Company, Attachment 26; Larry Magill, Kansas Association of Insurance Agents, Attachment 27; and SueAnn Schultz, General Counsel, IMA Financial Group, Attachment 28.

The meeting was adjourned at 6:15 p.m. The next meeting is scheduled for Thursday March 15, 2001, at 3:30 p.m. in Room 526-S.