

SECOND REGULAR SESSION

SENATE BILL NO. 963

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time January 25, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5437S.02I

AN ACT

To amend chapter 34, RSMo, by adding thereto nine new sections relating to purchasing processes for innovative technology by the office of administration.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 34, RSMo, is amended by adding thereto nine new sections, to be known as sections 34.500, 34.505, 34.510, 34.515, 34.517, 34.520, 34.525, 34.530, and 34.535, to read as follows:

34.500. For purposes of sections 34.500 to 34.535, the following terms and phrases shall mean:

(1) "Chief operating officer", the person designated by the governor as the chief operating officer of the state;

(2) "Innovative technology":

(a) Any new technology, process, or method, including research and development; or

(b) Any new application of an existing technology, process, or method;

(3) "Prototype", a physical or virtual model used to evaluate the technical or manufacturing feasibility or state utility;

(4) "Solution brief", a document described under section 34.505 used to demonstrate the use of innovative technology for a topic area of interest for the state.

34.505. 1. The chief operating officer or, in the absence of the chief operating officer, the commissioner of administration may waive the competitive bidding requirements under section 34.040 for the purchase of innovative technology submitted to the office of administration pursuant to sections 34.500 to 34.535.

2. (1) Any organization or individual may submit a solution brief

7 to the office of administration. Upon receipt of a solution brief, the
8 office of administration shall forward such brief to the chief operating
9 officer for evaluation. In the absence of the chief operating officer, the
10 commissioner of administration shall evaluate each solution brief
11 submitted under this section.

12 (2) A solution brief shall not exceed five pages using a twelve-
13 point font and shall contain the following:

14 (a) A title page;

15 (b) The name of the organization or individual submitting the
16 brief, with appropriate contact information;

17 (c) An executive summary of the technology concept being
18 presented.

19 (3) In addition to the information required by subdivision (2) of
20 this subsection, solution briefs may contain the following information:

21 (a) A description of active research and development, if any,
22 underway at the time of the submission of the brief, including any
23 analytical or laboratory studies validating the predictions of separate
24 elements of the innovative technology;

25 (b) Any diagrams or figures needed to depict the essence of the
26 innovative technology;

27 (c) A description of the unique aspects of the innovative
28 technology as it relates to a topic area of interest;

29 (d) A statement as to whether the innovative technology includes
30 the pilot or demonstration of existing commercial technology, or the
31 development of technology for potential cost-saving application. If
32 development or adaptation is proposed, the statement may identify a
33 suggested path towards maturity;

34 (e) A statement as to the viability of the organization or
35 individual;

36 (f) A brief overview of the organization or individual, including
37 a summary of fund-raising efforts to date, or a summary of gross sales
38 or revenues; and

39 (g) A summary of product commercialization and market
40 strategies.

41 (4) The period of performance for any solution brief submitted
42 under this section shall not exceed twenty-four months.

43 (5) A solution brief shall be submitted in an electronic format

44 prescribed by the office of administration.

45 (6) Any costs related to the preparation and submission of a
46 solution brief shall be the sole responsibility of the organization or
47 individual making the submission and may not be recouped in any
48 subsequent contract or agreement with the office of administration.

49 3. An organization or individual may submit multiple solution
50 briefs to the office of administration, provided that each brief shall
51 address distinct concepts based on a separate topic area of interest.

52 4. Within thirty days of receipt of a solution brief, the chief
53 operating officer or, in the absence of the chief operating officer, the
54 commissioner of administration shall issue to the organization or
55 individual a statement of evaluation based upon the following criteria:

56 (1) The technical merit of the proposal, indicating the feasibility
57 of the proposed solution to address a topic area of interest;

58 (2) The relevancy of the proposal to a topic area of interest;

59 (3) The degree to which the proposal provides an innovative,
60 unique, or previously under-utilized capability to a topic area of
61 interest;

62 (4) The overall strength of the organization or individual and the
63 business viability of the proposal;

64 (5) Any other criterion deemed relevant.

65 5. The statement of evaluation issued pursuant to subsection 4
66 of this section shall indicate whether or not the organization or
67 individual has been invited to participate in phase two of the solution
68 brief process pursuant to section 34.510.

69 6. The chief operating officer or, in the absence of the chief
70 operating officer, the commissioner of administration may retain the
71 services of an external market research firm in the evaluation of the
72 viability of an organization or individual pursuant to subsection 4 of
73 this section.

74 7. If the chief operating officer or, in the absence of the chief
75 operating officer, the commissioner of administration issues a
76 statement of evaluation to an organization or individual containing an
77 invitation to participate in phase two of the solution brief process
78 pursuant to section 34.510, the party issuing the statement shall notify
79 the director of each department or agency potentially affected by a
80 solution brief submitted pursuant to this section of such invitation.

34.510. 1. If an organization or individual is issued a statement
2 of evaluation pursuant to section 34.505 containing an invitation to
3 participate in phase two of the solution brief process pursuant to
4 subsection 5 of section 34.505, the organization or individual may
5 submit a phase two solution brief containing the following information
6 to the office of administration:

7 (1) The estimated price and schedule of the proposal;

8 (2) The cost savings that will be realized by the state by using
9 the innovative technology;

10 (3) An explanation of the beneficial impacts for the state as a
11 result of the proposal containing details as to who the operational
12 users of the technology are expected to be;

13 (4) A statement as to how this proposal fits the definition of a
14 prototype and whether:

15 (a) There is a significant participation by a small business or
16 non-traditional defense contractor; or

17 (b) At least one-third of the total cost of the prototype project
18 will be paid out of funds provided by parties to the transaction other
19 than the state;

20 (5) A statement identifying any intellectual property involved
21 with the proposal as well as any associated restrictions on the use of
22 such intellectual property by the office of administration; and

23 (6) Any additional information requested by the office of
24 administration.

25 2. The office of administration shall forward to each department
26 or agency of the state potentially affected by a solution brief submitted
27 pursuant to subsection 1 of this section a copy of such brief.

28 3. Within thirty days of receipt of a solution brief each
29 department or agency shall issue to the commissioner of administration
30 a statement of evaluation based upon the following criteria:

31 (1) Whether or not the proposal is directly relevant to enhancing
32 cost savings for the state, streamlining state government, or impacting
33 government efficiency;

34 (2) Whether or not a rough order of magnitude price is
35 acceptable;

36 (3) Whether or not a notional schedule is acceptable;

37 (4) Whether or not there is significant non-traditional or small

38 **business participation;**

39 **(5) Whether or not the organization or individual is prepared to**
40 **provide a one-third cost share;**

41 **(6) Whether or not the proposal qualifies as a prototype effort;**
42 **and**

43 **(7) The potential impact, if any, of any data or intellectual**
44 **property rights asserted by the organization or individual.**

45 **4. The statement of evaluation issued pursuant to subsection 3**
46 **of this section shall indicate whether or not the organization or**
47 **individual has been invited to submit a full proposal pursuant to**
48 **section 34.515. The commissioner of administration shall issue to the**
49 **organization or individual a copy of each statement of evaluation**
50 **submitted by a department or agency pursuant to this section.**

34.515. 1. If an organization or individual is issued a statement
2 **of evaluation pursuant to section 34.510 containing an invitation to**
3 **submit a full proposal, the organization or individual may submit a full**
4 **proposal containing the following information:**

5 **(1) An abstract providing a concise description of the innovative**
6 **technology;**

7 **(2) A description of the background and objective of the**
8 **innovative technology, as well as the resources needed to execute it;**

9 **(3) The nature and extent of the anticipated results;**

10 **(4) A description of ancillary and operational issues such as**
11 **certifications, algorithms, and any engineering or software**
12 **development methodologies to be used;**

13 **(5) A statement identifying the work to be performed and the**
14 **topic area of interest to be addressed by the innovative technology;**

15 **(6) A detailed project schedule outlining the various phases of**
16 **work to be accomplished within the succeeding twenty-four months;**

17 **(7) Identification of any support needed by the organization or**
18 **individual from the state, such as facilities, equipment, data,**
19 **information, or other materials; and**

20 **(8) A proposed total price for the completion of a prototype,**
21 **along with any supporting information as the parties agree to be**
22 **necessary to determine a fair and reasonable price.**

23 **2. The chief operating officer, if available, the commissioner of**
24 **administration, and the director of each department or agency that**

25 submitted a statement of evaluation pursuant to section 34.510 shall
26 evaluate the full proposal of the organization or individual based upon
27 the following criteria:

28 (1) The degree to which the proposal is relevant to a topic area
29 of interest;

30 (2) The technical merit of the proposal, with an emphasis on
31 innovative solutions;

32 (3) The feasibility and adequacy of the proposed performance
33 schedule; and

34 (4) The feasibility and reasonableness of the price of the
35 proposal.

34.517. 1. Any document submitted by an organization or
2 individual pursuant to sections 34.500 to 34.535 shall be considered a
3 public record, as that term is defined in section 610.010.

4 2. Notwithstanding subsection 1 of this section to the contrary,
5 any document submitted by an organization or individual pursuant to
6 sections 34.500 to 34.535 shall not be considered a public record, as that
7 term is defined in section 610.010, if the following disclaimer is
8 included on the cover sheet of the document:

9 "This document contains data that shall not be disclosed outside
10 the State of Missouri, except to non-Government personnel for
11 evaluation purposes, and shall not be duplicated, used, or disclosed --
12 in whole or in part -- for any purpose other than to evaluate this
13 submission. If, however, an agreement is awarded to this Company as
14 a result of, or in connection with, the submission of this document, the
15 State of Missouri shall have the right to duplicate, use, or disclose the
16 document to the extent agreed upon by both parties in the resulting
17 agreement. This restriction does not limit the State of Missouri's right
18 to use information contained in this document if it is obtained from
19 another source without restriction. The data subject to this restriction
20 are contained in sheets (insert numbers or other identification of
21 sheets)."

22 Each page of the document containing restricted data shall be notated
23 with the following disclaimer:

24 "Use or disclosure of data contained on this page is subject to the
25 restriction on the cover sheet of this proposal."

34.520. 1. The chief operating officer, commissioner of

2 administration, or the director of any department or agency receiving
3 a phase two solution brief under section 34.510 may use the services of
4 private advisors in the evaluation of solution briefs and proposals
5 submitted pursuant to sections 34.505 through 34.515. Such private
6 advisors shall sign a non-disclosure agreement prior to performing any
7 services.

8 2. If a private advisor is to be used in the evaluation of a full
9 proposal, the organization or individual shall be notified of the name
10 and corporate affiliation of each advisor used. Such notification shall
11 be included in the invitation to submit a full proposal pursuant to
12 section 34.510. Organizations and individuals shall be permitted an
13 opportunity to enter into a specific non-disclosure agreement with the
14 advisor's corporation prior to submission of the full proposal.

34.525. 1. Upon favorable review of a full proposal of an
2 organization or individual by the chief operating officer, if available,
3 the commissioner of administration, and each director of a department
4 or agency that submitted a statement of evaluation pursuant to section
5 34.510, and subject to availability of funds, the commissioner of
6 administration may make an award to the organization or individual.

7 2. The office of administration shall negotiate directly with the
8 organization or individual receiving an award pursuant to subsection
9 1 of this section.

10 3. The organization or individual receiving an award pursuant
11 to this section shall be considered a responsible party by the office of
12 administration, shall not be suspended or debarred from such an
13 agreement by the office of administration or any other state
14 department or agency, and shall not be prohibited from receiving such
15 award notwithstanding any provision of law to the contrary.

34.530. Upon completion of a prototype project, the office of
2 administration and the organization or individual may agree to
3 additional work. If the additional work logically flows from the
4 original prototype project, the office of administration may request a
5 new proposal from the organization or individual. This proposal may
6 be negotiated with an appropriate officer of the office of
7 administration, at the discretion of the commissioner, without the need
8 to submit a new solution brief.

34.535. The office of administration may promulgate rules to

2 meet the objectives of sections 34.500 to 34.530. Any rule or portion of
3 a rule, as that term is defined in section 536.010 that is created under
4 the authority delegated in this section shall become effective only if it
5 complies with and is subject to all of the provisions of chapter 536, and,
6 if applicable, section 536.028. This section and chapter 536 are
7 nonseverable and if any of the powers vested with the general assembly
8 pursuant to chapter 536, to review, to delay the effective date, or to
9 disapprove and annul a rule are subsequently held unconstitutional,
10 then the grant of rulemaking authority and any rule proposed or
11 adopted after August 28, 2018, shall be invalid and void.

Unofficial ✓

Bill

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