

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

400U0213

SENATE BILL NO. 33

Introduced by: The Committee on State Affairs at the request of the Bureau of
Administration

1 FOR AN ACT ENTITLED, An Act to authorize the use of an online reverse auction for the
2 procurement of certain goods and services by governmental agencies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 5-18A be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Notwithstanding any other provision of this chapter, a purchasing agency may conduct an
7 online reverse auction for the procurement of supplies or nonprofessional services, if the
8 purchasing agency determines in writing that a reverse auction is appropriate for the specific
9 procurement. No reverse auction may be used to establish contracts for public improvements,
10 professional services, or indefinite quantity supply purchases.

11 Section 2. That chapter 5-18A be amended by adding thereto a NEW SECTION to read as
12 follows:

13 The following procedures apply to the use of an online reverse auction:

14 (1) The purchasing agency shall pre-qualify bidders to participate in the reverse auction
15 event. The pre-qualification shall be completed by issuing an invitation to qualify.



1 The factors used to determine a vendor qualified for the reverse auction shall be
2 clearly stated in the invitation to qualify. No other factors may be used to qualify a
3 vendor for the reverse auction than those stated in the invitation to qualify;

4 (2) Public notice shall be given pursuant to § 5-18A-14 of the invitation to qualify;

5 (3) The purchasing agency shall notify any responding vendor as to whether the vendor
6 has qualified. The purchasing agency may not disclose to the public or other vendors,
7 the name of any vendor that has been invited to the reverse auction until after the
8 reverse auction has occurred;

9 (4) A bidder shall directly enter bids on the internet to participate in the reverse auction.
10 The purchasing agency may not accept bids via any alternate method;

11 (5) Any clarification, negotiation, and acceptance of all specifications, requirements, and
12 terms and conditions shall occur before the purchasing agency decides whether to
13 invite a vendor to the reverse auction. After the reverse auction, the purchasing
14 agency may permit changes only if the changes do not affect the justification that was
15 used to eliminate any other vendor from being qualified;

16 (6) During any reverse auction, the online view of the bids presented to the bidders may
17 not identify who has placed a particular bid. Each bidder may see only the amount
18 of the bid;

19 (7) If a bidder loses the ability to place bids during an auction for any reason, the auction
20 shall be suspended until all bidders regain the ability to place bids via the internet
21 auction site. If no resolution to the problem is imminent, the reverse auction may be
22 terminated and rescheduled by the purchasing agency. In addition, the auction may
23 be suspended or terminated for any reason by the purchasing agency or the reverse
24 auction service provider. Upon resuming an auction after a suspension, the time

1 remaining shall be the time remaining when the auction was suspended or ten
2 minutes, whichever is greater;

3 (8) In conducting a reverse auction, the agency may establish an extension activation
4 period, which is the number of minutes before the end of the auction during which,
5 if a bid is received, the auction will be extended by a pre-defined number of
6 additional minutes. The minimum extension activation period that may be used is ten
7 minutes; and

8 (9) After the reverse auction is completed, the award shall be made in accordance with
9 § 5-18A-5.

10 Section 3. That chapter 5-18A be amended by adding thereto a NEW SECTION to read as
11 follows:

12 The Bureau of Administration shall conduct any online reverse auction that is for the
13 procurement of supplies on behalf of any state agency.

14 Section 4. That § 5-18A-1 be amended by adding thereto a NEW SUBDIVISION to read
15 as follows:

16 "Reverse auction," a purchasing process in which bidders submit bids in competing to sell
17 supplies or nonprofessional services in an open environment via the internet;