

HOUSE BILL NO. 2279

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAEFNER.

6133H.011

D. ADAM CRUMBLISS, Chief Clerk

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 under sections 34.500 to 34.535.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

5 **2. (1) Any organization or individual may submit a solution brief to the office of**
6 **administration. Upon receipt of a solution brief, the office of administration shall forward**
7 **such brief to the chief operating officer for evaluation. In the absence of the chief**
8 **operating officer, the commissioner of administration shall evaluate each solution brief**
9 **submitted under this section.**

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

12 **(a) A title page;**

13 **(b) The name of the organization or individual submitting the brief, with**
14 **appropriate contact information;**

15 **(c) An executive summary of the technology concept being presented.**

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

18 **(a) A description of active research and development, if any, underway at the time**
19 **of the submission of the brief, including any analytical or laboratory studies validating the**
20 **predictions of separate elements of the innovative technology;**

21 **(b) Any diagrams or figures needed to depict the essence of the innovative**
22 **technology;**

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

25 **(d) A statement as to whether the innovative technology includes the pilot or**
26 **demonstration of existing commercial technology or the development of technology for**
27 **potential cost-saving application. If development or adaptation is proposed, the statement**
28 **may identify a suggested path towards maturity;**

29 **(e) A statement as to the viability of the organization or individual;**

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

32 **(g) A summary of product commercialization and market strategies.**

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

35 **(5) A solution brief shall be submitted in an electronic format prescribed by the**
36 **office of administration.**

37 **(6) Any costs related to the preparation and submission of a solution brief shall be**
38 **the sole responsibility of the organization or individual making the submission and shall**
39 **not be recouped in any subsequent contract or agreement with the office of administration.**

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

43 **4. Within thirty days of receipt of a solution brief, the chief operating officer or, in**
44 **the absence of the chief operating officer, the commissioner of administration shall issue**
45 **to the organization or individual a statement of evaluation based upon the following**
46 **criteria:**

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

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

50 **(3) The degree to which the proposal provides an innovative, unique, or previously**
51 **underutilized capability to a topic area of interest;**

52 **(4) The overall strength of the organization or individual and the business viability**
53 **of the proposal; and**

54 **(5) Any other criterion deemed relevant.**

55 **5. The statement of evaluation issued under subsection 4 of this section shall**
56 **indicate whether the organization or individual has been invited to participate in phase two**
57 **of the solution brief process under section 34.510.**

58 **6. The chief operating officer or, in the absence of the chief operating officer, the**
59 **commissioner of administration may retain the services of an external market research**
60 **firm in the evaluation of the viability of an organization or individual under subsection 4**
61 **of this section.**

62 **7. If the chief operating officer or, in the absence of the chief operating officer, the**
63 **commissioner of administration issues a statement of evaluation to an organization or**
64 **individual containing an invitation to participate in phase two of the solution brief process**
65 **under section 34.510, the party issuing the statement shall notify the director of each**
66 **department or agency potentially affected by a solution brief submitted pursuant to this**
67 **section of such invitation.**

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

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

7 **(2) The cost savings that shall be realized by the state by using the innovative**
8 **technology;**

9 **(3) An explanation of the beneficial impacts for the state as a result of the proposal,**
10 **containing details as to whom the operational users of the technology are expected to be;**

11 **(4) A statement as to how this proposal fits the definition of a prototype and**
12 **whether:**

13 **(a) There is significant participation by a small business or nontraditional defense**
14 **contractor; or**

15 **(b) At least one-third of the total cost of the prototype project shall be paid out of**
16 **funds provided by parties to the transaction other than the state;**

17 **(5) A statement identifying any intellectual property involved with the proposal,**
18 **as well as any associated restrictions on the use of such intellectual property by the office**
19 **of administration; and**

20 **(6) Any additional information requested by the office of administration.**

21 **2. The office of administration shall forward to each department or agency of the**
22 **state potentially affected by a solution brief submitted under subsection 1 of this section**
23 **a copy of such brief.**

24 **3. Within thirty days of receipt of a solution brief each department or agency shall**
25 **issue to the commissioner of administration a statement of evaluation based upon the**
26 **following criteria:**

27 **(1) Whether the proposal is directly relevant to enhancing cost savings for the state,**
28 **streamlining state government, or impacting government efficiency;**

29 **(2) Whether a rough order of magnitude price is acceptable;**

30 **(3) Whether a notional schedule is acceptable;**

31 **(4) Whether there is significant non-traditional or small business participation;**

32 **(5) Whether the organization or individual is prepared to provide a one-third cost**
33 **share;**

34 **(6) Whether the proposal qualifies as a prototype effort; and**

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

37 **4. The statement of evaluation issued pursuant to subsection 3 of this section shall**
38 **indicate whether or not the organization or individual has been invited to submit a full**
39 **proposal under section 34.515. The commissioner of administration shall issue to the**
40 **organization or individual a copy of each statement of evaluation submitted by a**
41 **department or agency under this section.**

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

- 4 (1) An abstract providing a concise description of the innovative technology;
- 5 (2) A description of the background and objective of the innovative technology, as
6 well as the resources needed to execute it;
- 7 (3) The nature and extent of the anticipated results;
- 8 (4) A description of ancillary and operational issues, such as certifications,
9 algorithms, and any engineering or software development methodologies to be used;
- 10 (5) A statement identifying the work to be performed and the topic area of interest
11 to be addressed by the innovative technology;
- 12 (6) A detailed project schedule outlining the various phases of work to be
13 accomplished within the succeeding twenty-four months;
- 14 (7) Identification of any support needed by the organization or individual from the
15 state, such as facilities, equipment, data, information, or other materials; and
- 16 (8) A proposed total price for the completion of a prototype, along with any
17 supporting information as the parties agree to be necessary to determine a fair and
18 reasonable price.

19 2. The chief operating officer, if available, the commissioner of administration, and
20 the director of each department or agency that submitted a statement of evaluation under
21 section 34.510 shall evaluate the full proposal of the organization or individual based upon
22 the following criteria:

- 23 (1) The degree to which the proposal is relevant to a topic area of interest;
- 24 (2) The technical merit of the proposal, with an emphasis on innovative solutions;
- 25 (3) The feasibility and adequacy of the proposed performance schedule; and
- 26 (4) The feasibility and reasonableness of the price of the proposal.

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

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

8 "This document contains data that shall not be disclosed outside the state of
9 Missouri, except to non-governmental personnel for evaluation purposes, and shall not be
10 duplicated, used, or disclosed -- in whole or in part -- for any purpose other than to
11 evaluate this submission. If, however, an agreement is awarded to this company as a result
12 of, or in connection with, the submission of this document, the State of Missouri shall have
13 the right to duplicate, use, or disclose the document to the extent agreed upon by both

14 parties in the resulting agreement. This restriction does not limit the State of Missouri's
15 right to use information contained in this document if it is obtained from another source
16 without restriction. The data subject to this restriction are contained in sheets [insert
17 numbers or other identification of sheets]."

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19 3. Each page of the document containing restricted data shall be notated with the
20 following disclaimer:

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

34.520. 1. The chief operating officer, commissioner of administration, or the
2 director of any department or agency receiving a phase two solution brief under section
3 34.510 may use the services of private advisors in the evaluation of solution briefs and
4 proposals submitted under sections 34.505 to 34.515. Such private advisors shall sign a
5 nondisclosure agreement prior to performing any services.

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

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

6 2. The office of administration shall negotiate directly with the organization or
7 individual receiving an award under subsection 1 of this section.

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

34.530. Upon completion of a prototype project, the office of administration and
2 the organization or individual may agree to additional work. If the additional work
3 logically flows from the original prototype project, the office of administration may request
4 a new proposal from the organization or individual. This proposal may be negotiated with

5 an appropriate officer of the office of administration, at the discretion of the commissioner,
6 without the need to submit a new solution brief.

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

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