

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2515

By Committee on Commerce and Economic Development

1-24

1 AN ACT enacting the competitive bid protection act.

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3 *Be it enacted by the Legislature of the State of Kansas:*

4 Section 1. Sections 1 through ~~6~~ **5**, and amendments thereto, shall be  
5 known and may be cited as the competitive bid protection act.

6 Sec. 2. The purposes of this act are to: (a) Provide for the efficient  
7 procurement of goods and services by governmental ~~units~~ **entities**;

8 (b) promote the economical, nondiscriminatory and efficient  
9 administration and completion of state and state-funded or state-assisted  
10 construction projects;

11 (c) provide for fair and open competition for construction contracts,  
12 including construction contracts funded by grants, tax abatements and tax  
13 credits awarded by governmental ~~units~~ **entities**;

14 (d) prohibit requirements for certain terms in construction contracts  
15 and construction contracts awarded by governmental ~~units~~ **entities** and  
16 supported through grants and tax subsidies and abatements awarded by  
17 governmental ~~units~~ **entities**;

18 (e) prohibit the expenditure of public funds under certain conditions;

19 (f) to prohibit certain terms in procurement documents requiring  
20 certain expenditures by governmental ~~units~~ **entities** involving public  
21 facilities; and

22 (g) provide powers and duties for certain public officers, employees  
23 and contractors.

24 Sec. 3. (a) Unless otherwise required by law, each governmental  
25 entity within this state that contracts for public works construction or  
26 obligates funds pursuant to such a contract shall ensure that neither the  
27 awarding governmental entity ~~nor any construction manager or any agent~~  
28 **thereof** acting on behalf of such governmental entity, ~~in its bid documents,~~  
29 ~~specifications, project agreements or other controlling documents for a~~  
30 ~~public works construction contract~~ shall **not**:

31 (1) Require any bidder, contractor, subcontractor or material supplier  
32 to enter into or agree to enter into any prehire agreement, project labor  
33 agreement, collective bargaining agreement or any other similar agreement  
34 with one or more labor organizations on the same or other related  
35 construction projects; or

36 (2) discriminate against or treat differently any bidder, contractor,

1 subcontractor or material supplier for becoming, refusing to become or  
2 remaining signatories or otherwise to agree to enter into any prehire  
3 agreement, project labor agreement, collective bargaining agreement or  
4 any other similar agreement with one or more labor organizations on the  
5 same or other related construction projects.

6 (b) Nothing in this section shall prohibit any bidder, contractor,  
7 subcontractor, **construction manager, design-builder** or material supplier  
8 **of any tier** from voluntarily entering into agreements described in  
9 paragraph (1) of subsection (a).

10 Sec. 4.—(a) Notwithstanding any other provision of law to the contrary,  
11 any construction contract entered into by any state agency which exceeds  
12 or will exceed a total expenditure of \$100,000 shall be conducted and  
13 negotiated by the department of administration in accordance with this act,  
14 except that any expenditure of less than \$100,000 for a construction  
15 contract still shall be subject to review and approval by the department of  
16 administration which may approve such expenditure in an amount less  
17 than \$100,000 on a noncompetitive basis.

18 (b) ~~Unless otherwise required by law, the department of~~  
19 ~~administration shall ensure that neither the department of administration~~  
20 ~~nor any construction manager acting on behalf of the department of~~  
21 ~~administration, in its bid documents, specifications, project agreements or~~  
22 ~~other controlling documents for a public works construction contract shall:~~

23 (1) ~~Require any bidder, contractor, subcontractor or material supplier~~  
24 ~~to enter into or agree to enter into any prehire agreement, project labor~~  
25 ~~agreement, collective bargaining agreement or any other similar agreement~~  
26 ~~with one or more labor organizations on the same or other related~~  
27 ~~construction projects; or~~

28 (2) ~~discriminate against or treat differently any bidder, contractor,~~  
29 ~~subcontractor or material supplier for becoming, refusing to become or~~  
30 ~~remaining signatories or otherwise to agree to enter into any prehire~~  
31 ~~agreement, project labor agreement, collective bargaining agreement or~~  
32 ~~any other similar agreement with one or more labor organizations on the~~  
33 ~~same or other related construction projects.~~

34 (c) Nothing in this section shall prohibit any bidder, contractor,  
35 subcontractor or material supplier from voluntarily entering into  
36 agreements described in paragraph (1) of subsection (a).

37 (d) The secretary of administration is hereby authorized and directed  
38 to promulgate such rules and regulations as are necessary to effectuate the  
39 provisions of this section. These rules and regulations shall be adopted on  
40 or before the first anniversary of the effective date of this section.

41 Sec. ~~5~~. 4. No provision of this act shall be construed to:

42 (a) Prohibit any employer or other party from entering into any  
43 agreement or engaging in any other activity protected by the national labor

1 relations act, 29 U.S.C. § 151 to 169; and

2 (b) interfere with labor relations of any party that is protected under  
3 the national labor relations act, 29 U.S.C. § 151 to 169.

4 ~~Sec. 6.~~ **5.** For the purposes of this act:

5 (a) “Governmental unit” shall mean a state agency or a municipality  
6 as the context requires.

7 (b) “Municipality” shall have the meaning specified in K.S.A. 12-  
8 105a, and amendments thereto.

9 (c) “State agency” shall have the meaning specified in K.S.A 75-  
10 3728a, and amendments thereto.

11 ~~Sec. 7.~~ **6.** This act shall take effect and be in force from and after its  
12 publication in the statute book.

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