

Senate Executive Departments and Administration Committee

Deb Chroniak 271-1403

SB 138, relative to state procurement of goods and services.

Hearing Date: February 15, 2017

Time Opened: 9:30 a.m.

Time Closed: 9:39 a.m.

Members of the Committee Present: Senators Carson, Reagan, Gannon, Soucy and Woodburn

Members of the Committee Absent: None

Bill Analysis: This bill:

I. Provides that if an agency's negotiation of a state procurement contract has not been finalized 5 days prior to submission of the contract to the department of administrative services, the agency shall issue a statement that contract negotiations are ongoing and disclose additional information when the contract is finalized.

II. Clarifies that agencies can publicize the cancellation or termination of the contract.

III. Clarifies that grant applications are not subject to the requirements of RSA 21-G:37.

IV. Provides that the advisory committee on state procurement shall work with the department of justice to update state procurement procedures.

This bill is a request of the advisory committee on state procurement in RSA 21-I:14-d.

Sponsors:

Sen. Carson

Sen. Innis

Sen. Soucy

Rep. Danielson

Rep. Hansen

Rep. Sytek

Rep. Gagnon

Who supports the bill: Senator Sharon Carson, District 14; Senator Dan Innis, District 24; Senator Donna Soucy, District 18; Attorney John Conforti, Department of Justice; Lisa Pollard, Department of Administrative Services; Jonathan Gallo, Department of Health and Human Services

Who opposes the bill: No one

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Carson stated this bill provides that if an agency's negotiation of a state procurement contract has not been finalized five days prior to submission of a contract to the Department of Administrative Services, the agency shall issue a statement that contract negotiations are ongoing and disclose additional information when the contract is finalized.

- The bill clarifies agencies can publicize cancellation of a contract.
- Clarifies grant applications are not subject to the requirements of RSA 21-G:37.
- Provides for the Advisory Committee on state procurement to continue to work with the Department of Justice to update state procurement procedures.
- Chaired the Advisory Committee on State Procurement and said it has been an on-going process as to how the State of New Hampshire procures goods and services.
- The Advisory Committee met this summer and this bill was brought forward from changes which were recommended by the Commissioner's Working Group.

Lisa Pollard, Director of Procurement and Support Services, Department of Administrative Services (in support):

- Here on behalf of the Commissioner's Working Group subcommittee on state procurement.
- Ms. Pollard explained to committee members, in detail, exactly what this legislation does. She stated that the bill provides instruction to agencies that if their negotiations are not completed by the five day prior to submission of the contract to DAS, the agency must issue a statement that negotiations are ongoing and will share results when finalized. Secondly, the legislation clarifies state agencies must notify the general public of a bid cancellation or termination. Thirdly, it clarifies grants are specifically excluded from the requirements of RSA 21-G:37. Lastly, the legislation states the Advisory Committee on State Procurement shall work with the Department of Justice to update procurement procedures.

Attorney John Conforti, Department of Justice (in support):

- Collaborative effort amongst many agencies in the working group which the Department of Administrative Services put in place.
- 21-G:37 has been in effect for a year and small areas needed clarification; implementation of the bill has gone very well.
- This bill addresses some of the gray areas, particular on the status of grants, and issues where negotiations are on-going.

Senator Reagan asked, under clarification of grants, "The Simplified Acquisition Threshold", how did that not run in to ethical problems. Attorney Conforti said there were many court cases which have upheld bidding preferences for particular groups, disabled, and minority owned businesses. The bidding preferences have to be known to the bidders and applied equally amongst the bidders.

Summary of testimony presented in opposition: No one

Future Action: Ought to Pass

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Date Hearing Report completed: February 17, 2017

SB0138-F