

CHAPTER 50  
SB 138 - FINAL VERSION

2017 SESSION

17-0825  
05/10

SENATE BILL **138**

AN ACT relative to state procurement of goods and services.

SPONSORS: Sen. Carson, Dist 14; Sen. Innis, Dist 24; Sen. Soucy, Dist 18; Rep. Danielson, Hills. 7; Rep. Hansen, Hills. 22; Rep. Sytek, Rock. 8; Rep. Gagnon, Sull. 5

COMMITTEE: Executive Departments and Administration

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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.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struck through]~~.  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Seventeen*

AN ACT                    relative to state procurement of goods and services.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            50:1 Financial Information Regarding Requests for Bids or Request for Proposals. Amend RSA  
2            21-G:37, V and VI to read as follows:

3            V. The head of the issuing agency may waive the requirements of paragraphs II through IV  
4            in the event of an emergency situation or to prevent the loss of federal or other funds subject to  
5            recapture. Each agency shall adopt rules, pursuant to RSA 541-A, relative to circumstances  
6            constituting an emergency or loss of funding under this paragraph. ***In the event that contract***  
7            ***negotiations have not concluded in the 5 business days prior to submission of the proposed***  
8            ***contract to the department of administrative services, the head of the issuing agency may***  
9            ***waive the requirements of subparagraphs III (a) and (c), provided that the agency:***

10            ***(a) Posts a notification at least 5 days prior to the applicable department of***  
11            ***administrative services deadline for governor and executive council submissions notifying***  
12            ***the public that negotiations are ongoing and the anticipated date of the governor and***  
13            ***executive council meeting where the contract will be reviewed; and***

14            ***(b) Posts on its website the information required pursuant to subparagraphs***  
15            ***III (a) and (c) upon the conclusion of contract negotiations.***

16            VI.(a) When an agency cancels an RFB, RFP, RFA, or similar request for submission,  
17            terminates the selection process, or otherwise does not select a bidder, no information, ***other than***  
18            ***a notification of the cancellation or termination,*** shall be available to the public or to the  
19            members of the general court or its staff concerning the RFB, RFP, RFA, or similar request for  
20            submission, notwithstanding the provisions of RSA 91-A:4, for a period of 2 years following the  
21            cancellation, termination, or other non-selection, subject to subparagraph (b).

22            (b) If, within 2 years following the cancellation, termination, or other non-selection, a  
23            new RFB, RFP, RFA, or similar request for submissions is issued, which the issuing agency  
24            determines is substantially related to the original RFB, RFP, RFA, or similar request for  
25            submission, information concerning the original bid or proposal shall, if requested and upon  
26            payment of any costs established pursuant to RSA 91-A:4, IV, be made available only after selection  
27            of a bidder on the new request for submission, but only to the extent that such information is not  
28            exempt from disclosure under RSA 91-A:5 or other law.

29            ***VII. Requests for grant applications or proposals shall not be subject to the***  
30            ***requirements set forth in paragraphs I-V. Notwithstanding RSA 91-A:4, information***

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1    *relating to grant applications or proposals shall remain confidential until the grant*  
2    *contract is approved by the governor and executive council, or, if the grant contract does*  
3    *not require approval from the governor and executive council, until the effective date of*  
4    *the grant contract as determined by the issuing agency.*

5        50:2 Advisory Committee on State Procurement. Amend RSA 21-I:14-d, III to read as follows:

6        III. The committee shall work with the department of administrative services ***and***  
7    ***department of justice*** to update state procurement procedures. The committee shall meet at least  
8    annually and on an as-needed basis to address procurement issues identified by the committee.

50:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 12, 2017

Effective Date: July 11, 2017