

FIRST REGULAR SESSION

# SENATE BILL NO. 266

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

Read 1st time January 16, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0412S.01I

## 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) "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;

(2) "Pilot project", a physical or virtual model used to evaluate the technical feasibility and state utility;

(3) "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;

(4) "Topic area of interest", a technological solution to state operations, including hardware or software systems or the enhancement of computing services for the promotion of government efficiency.

**34.505. 1. The commissioner of administration may waive the competitive bidding requirements under section 34.040 for the purchase of innovative technology not exceeding two million dollars and submitted to the office of administration pursuant to sections 34.500 to**

5 34.535.

6 2. (1) Any organization or individual may submit a solution brief  
7 to the office of administration.

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

10 (a) A title page;

11 (b) The name of the organization or individual submitting the  
12 brief, with appropriate contact information; and

13 (c) An executive summary of the technology concept being  
14 presented.

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

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

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

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

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

30 (e) A statement as to the viability of the organization or  
31 individual;

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

35 (g) A summary of product commercialization and market  
36 strategies.

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

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

41 (6) Any costs related to the preparation and submission of a

42 solution brief shall be the sole responsibility of the organization or  
43 individual making the submission and may not be recouped in any  
44 subsequent contract or agreement with the office of administration.

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

48 4. Within thirty days of receipt of a solution brief the  
49 commissioner of administration shall issue to the organization or  
50 individual a statement of evaluation based upon the following criteria:

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

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

54 (3) The degree to which the proposal provides an innovative,  
55 unique, or previously under-utilized capability to a topic area of  
56 interest;

57 (4) The overall strength of the organization or individual and the  
58 business viability of the proposal; and

59 (5) Any other criterion deemed relevant.

60 5. The statement of evaluation issued pursuant to subsection 4  
61 of this section shall indicate whether or not the organization or  
62 individual has been invited to participate in phase two of the solution  
63 brief process pursuant to section 34.510.

64 6. The commissioner of administration may retain the services  
65 of an external market research firm in the evaluation of the viability  
66 of an organization or individual pursuant to subsection 4 of this  
67 section.

68 7. If the commissioner of administration issues a statement of  
69 evaluation to an organization or individual containing an invitation to  
70 participate in phase two of the solution brief process pursuant to  
71 section 34.510, the party issuing the statement shall notify the director  
72 of each department or agency potentially affected by a solution brief  
73 submitted pursuant to this section of such invitation.

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

6 to the office of administration:

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

8 (2) The cost savings that will be realized by the state by using  
9 the innovative technology;

10 (3) An explanation of the beneficial impacts for the state as a  
11 result of the proposal containing details as to who the operational  
12 users of the technology are expected to be;

13 (4) A statement as to how this proposal fits the definition of a  
14 pilot project and whether there is a significant participation by a small  
15 business or non-traditional contractor;

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

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

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

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

27 (1) Whether or not the proposal is directly relevant to enhancing  
28 cost savings for the state, streamlining state government, or impacting  
29 government efficiency;

30 (2) Whether or not a rough order of magnitude price is  
31 acceptable;

32 (3) Whether or not a notional schedule is acceptable;

33 (4) Whether or not there is significant non-traditional or small  
34 business participation;

35 (5) Whether or not the proposal qualifies as a pilot project effort;  
36 and

37 (6) The potential impact, if any, of any data or intellectual  
38 property rights asserted by the organization or individual.

39 4. The statement of evaluation issued pursuant to subsection 3  
40 of this section shall indicate whether or not the organization or  
41 individual has been invited to submit a full proposal pursuant to  
42 section 34.515. The commissioner of administration shall issue to the

43 organization or individual a copy of each statement of evaluation  
44 submitted by a department or agency pursuant to this section.

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

5 (1) An abstract providing a concise description of the innovative  
6 technology;

7 (2) A description of the background and objective of the  
8 innovative technology, as well as the resources needed to execute it;

9 (3) The nature and extent of the anticipated results;

10 (4) A description of ancillary and operational issues such as  
11 certifications, algorithms, and any engineering or software  
12 development methodologies to be used;

13 (5) A statement identifying the work to be performed and the  
14 topic area of interest to be addressed by the innovative technology;

15 (6) A detailed project schedule outlining the various phases of  
16 work to be accomplished within the succeeding twenty-four months;

17 (7) Identification of any support needed by the organization or  
18 individual from the state, such as facilities, equipment, data,  
19 information, or other materials; and

20 (8) A proposed total price for the completion of a pilot project,  
21 along with any supporting information as the parties agree to be  
22 necessary to determine a fair and reasonable price.

23 2. The commissioner of administration and the director of each  
24 department or agency that submitted a statement of evaluation  
25 pursuant to section 34.510 shall evaluate the full proposal of the  
26 organization or individual based upon the following criteria:

27 (1) The degree to which the proposal is relevant to a topic area  
28 of interest;

29 (2) The technical merit of the proposal, with an emphasis on  
30 innovative solutions;

31 (3) The feasibility and adequacy of the proposed performance  
32 schedule;

33 (4) The feasibility and reasonableness of the price of the  
34 proposal; and

35 (5) The cost savings to be had for the state, the expected return

36 on investment, and the total cost of ownership.

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

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

9 "This document contains data that shall not be disclosed  
10 outside the State of Missouri, except to non-government  
11 personnel for evaluation purposes, and shall not be  
12 duplicated, used, or disclosed -- in whole or in part -- for  
13 any purpose other than to evaluate this submission. If,  
14 however, an agreement is awarded to this company as a  
15 result of, or in connection with, the submission of this  
16 document, the State of Missouri shall have the right to  
17 duplicate, use, or disclose the document to the extent  
18 agreed upon by both parties in the resulting  
19 agreement. This restriction does not limit the State of  
20 Missouri's right to use information contained in this  
21 document if it is obtained from another source without  
22 restriction. The data subject to this restriction are  
23 contained in sheets (insert numbers or other identification  
24 of sheets)."

25 Each page of the document containing restricted data shall be notated  
26 with the following disclaimer:

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

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

7 2. If a private advisor is to be used in the evaluation of a full  
8 proposal, the organization or individual shall be notified of the name

9 and corporate affiliation of each advisor used. Such notification shall  
10 be included in the invitation to submit a full proposal pursuant to  
11 section 34.510. Organizations and individuals shall be permitted an  
12 opportunity to enter into a specific non-disclosure agreement with the  
13 advisor's corporation prior to submission of the full proposal.

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

7 2. The office of administration shall negotiate directly with the  
8 organization or individual receiving an award pursuant to subsection  
9 1 of this section.

34.530. Upon completion of a pilot project, the office of  
2 administration and the organization or individual may agree to  
3 additional work. If the additional work logically flows from the  
4 original pilot project, the office of administration may request a new  
5 proposal from the organization or individual. This proposal may be  
6 negotiated with an appropriate officer of the office of administration,  
7 at the discretion of the commissioner, without the need to submit a new  
8 solution brief.

34.535. The office of administration may promulgate rules to  
2 meet the objectives of sections 34.500 to 34.530. Any rule or portion of  
3 a rule, as that term is defined in section 536.010 that is created under  
4 the authority delegated in this section shall become effective only if it  
5 complies with and is subject to all of the provisions of chapter 536, and,  
6 if applicable, section 536.028. This section and chapter 536 are  
7 nonseverable and if any of the powers vested with the general assembly  
8 pursuant to chapter 536, to review, to delay the effective date, or to  
9 disapprove and annul a rule are subsequently held unconstitutional,  
10 then the grant of rulemaking authority and any rule proposed or  
11 adopted after August 28, 2019, shall be invalid and void.