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Testimony on Senate Bill 2162

Background: I joined the sales force of a new startup company specializing in PPE equipment in April of 2020. The company was started by a friend of mine who is a former State Representative in Georgia that I have known and worked with on political efforts for about 10 years. I was soon promoted to Government Team National Leader and worked not only on North Dakota PPE solicitations, but in multiple states around the country with members of our sales force. I noticed that many of the issues that were encumbering the procurement process were common in multiple states. My motivation for asking Senator Lee to introduce this bill was to make the process less cumbersome and more user friendly for vendors and to improve communications between vendors and the OMB procurement staff without complicating their already challenging procurement processes.

I would add that I left my position with the company in late October and I am no longer in the PPE business. Therefore, I have nothing to gain by the passage of this bill other than the satisfaction of offering my experience as a vendor working in multiple states for the consideration of the OMB procurement officials in a way that will hopefully make some improvements to the procurement process.

Section 1 Page 1: This section seeks to clarify a statement on the opening page of the standard North Dakota INVITATION FOR BID (IFB) – MASTER TEMPLATE which states as follows:

“Engaging in unauthorized communication or seeking to obtain information about an open solicitation with any state employee or official other than the responsible Procurement Officer or designee is sufficient grounds for suspension or debarment. [N.D.A.C. § 4-12-05-04(7)]”

In my estimation, there are two ways to interpret that, one of which is that a potential bidder cannot seek to obtain information on an open solicitation from anyone other than the Procurement Officer. I agree with that policy. The other potential interpretation that concerned me was that, if you parse that sentence, it could be interpreted to mean that bidders are prohibited from communicating with an elected official or other state official about the procurement process in general. I don’t believe that was the intention of the current statement, and the proposed amendments offered by OMB serve to clarify this section.

Section 2, Page 2 subsection b: My reason for suggesting a change is that in the procurement process, receiving the samples after the “low bidder” has been identified opens up a scenario whereby the low bidder does not in fact have a product of acceptable quality. My intention was to avoid that outcome which would waste the time of the vendor and the state’s procurement staff. The proposed amendments for that section offered by OMB are appropriate and very helpful. I am also pleased that OMB has added a section detailing the procedures for a noncompetitive emergency purchase, which is very common in the PPE business. Our company did exactly that with the Georgia state government.

Section 3: This language was included in an attempt to shorten the time of payment from the state to a successful vendor. When the vendor secures a supply or actually procures products, particularly in large volumes common in the PPE business, a scenario could develop whereby the vendor has 45 days, and likely more, from the time of their cash outlay until they are paid in full. This has a cost to the vendor and incentivizes “padding” their bid in order to recoup the cost to finance the transaction involving a significant amount of cash. The proposed amendment by OMB suggesting an option for a negotiation process with the vendor for the payment schedule is an improvement from current practices. I do not know what the average time actually is from the time of submission of an invoice until a vendor is paid, but it should not, in any event, take 45 days.

Section 4: This language is in the bill to attempt to streamline the Invitation For Bid documents. Currently, many of them are 16 pages long (or more) and they often repeat multiple pages of the same bid requirements and procedures. As a bidder, I felt it was prudent and necessary on my part to go through every page line by line in case a new or different requirement was in that particular IFB. If standard bid procedures can be posted online, the IFB document could make reference to a link for those procedures and save bidders a considerable amount of time in reviewing each IFB. Any procedures or specifications that are unique to an individual IFB should, of course, continue to be detailed in the IFB document. The proposed OMB amendment appears to address this issue adequately.

I would encourage you to adopt the amendments as proposed by OMB and give Senate Bill 2162 a DO Pass recommendation.