

**76-7,128. Same; contracts; bids; duties of state board and institutions.** (a) The procedure established in this section shall be used unless the use of the alternative project delivery process is determined appropriate as provided by K.S.A. 2016 Supp. 76-7,131, and amendments thereto.

(b) All contracts for construction projects and construction project services shall be let by the institution to the lowest responsible bidder based on plans and specifications prepared for the project that received prior approval by the state board and the secretary of administration.

(c) (1) Upon any construction project for which plans and specifications will be prepared and bids let for the project as a whole the general contractor shall submit with the bid the names and addresses of subcontractors in accordance with paragraph (2) of this subsection. The general contractor shall submit the name and address of the electrical subcontractor for the electrical work portions of the project and the name and address of the mechanical subcontractor for the mechanical work portions of the project, if the general contractor will be subcontracting for such work. If there are project alternates listed in the bid documents and the general contractor's choice of subcontractors is dependent upon the combination of project alternates the state chooses, the general contractor shall submit for each combination of project alternates under which any subcontractor would change from the one named in the base bid, at the time such contractor submits such bid: (A) The name and address of the electrical subcontractor, if the general contractor will be subcontracting for the electrical work portions thereunder; and (B) the name and address of the mechanical subcontractor, if the general contractor will be subcontracting for the mechanical work portions thereunder. All changes and substitutions in listed subcontractors shall be subject to approval of the institution.

(2) The state board shall adopt a standard contract for use in connection with construction projects upon which bids are let for the project as a whole. No such standard contract adopted by the state board shall contain any provisions authorizing arbitration of any matters thereunder.

(3) The state board may adopt rules and regulations necessary for the implementation and administration of the provisions of this subsection.

(d) The provisions of this section shall not be construed to prohibit the administrative head of an institution from making any improvement or improvements when the same can be made by institutional labor or the use of material manufactured by an institution.

(e) The institution's purchasing department shall solicit sealed bids by publishing a notice once in the Kansas register not less than 10 days before the date stated in the notice for the opening of the bids. The institution's purchasing department with the approval of the state board may waive this publication of notice requirement when the state board determines that a more timely procurement is in the best interest of the institution. The institution's purchasing department also may designate a trade journal for the publication. The institution's purchasing department also may solicit such bids by sending notices by mail to prospective bidders and by posting the notice on a public bulletin board for at least 10 business days before the date stated in the notice for the opening of the bids unless otherwise provided by law. All bids shall be sealed when received and shall be opened in public at the hour stated in the notice.

(f) Competitive bids shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids.

(g) The institution's purchasing department shall have power to decide as to the lowest responsible bidder for all purchases, but if:

(1) The dollar amount of the bid received from the lowest responsible bidder from within the state is identical to the dollar amount of the bid received from the lowest responsible bidder from without the state, the contract shall be awarded to the bidder from within the state; and

(2) The institution's purchasing department may reject the bid of any bidder who is in arrears on taxes due the state, who is not properly registered to collect and remit taxes due the state or who has failed to perform satisfactorily on a previous contract with the state.

(h) All bids with the names of the bidders and the amounts thereof, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the institution's purchasing department for five years, unless reproduced as provided in K.S.A. 75-3737, and amendments thereto, and shall be open to public inspection as required by the Kansas open records act.

**History:** L. 2009, ch. 86, § 3; Apr. 23.