

2023 Kansas Statutes

75-3741. Buildings, major repairs or improvements; competitive bids on all or separate portions of projects, procedures, determinations; subcontractors; prime contractors; award of contracts; standard contracts; rules and regulations; project supervision; change orders; collusive or combined bids. (a) Subject to the applicable provisions of K.S.A. 75-3739 and 75-3740, and amendments thereto, all contracts for the construction of buildings or for major repairs or improvements to buildings which are specifically authorized by the legislature for the use and benefit of any state agency shall be let by the director of purchases to the lowest responsible bidder based on plans and specifications prepared for the project and approved by the secretary of administration and administrative head of the state agency concerned.

(b) (1) Prior to the preparation of contract documents for a project for the construction of a building or for major repairs or improvements to a building under this section, it shall be determined in accordance with this paragraph (1) of subsection (b) if plans and specifications will be prepared and bids let for the project as a whole or if plans and specifications will be prepared and bids let independently for: (A) Electrical work portions of the project; (B) mechanical work portions of the project; and (C) all other work required for completion of the project. If the total cost of the project is expected to exceed \$250,000, the secretary of administration, with the advice of the project architect and the negotiating committee convened for the project under K.S.A. 75-1253, and amendments thereto, shall determine if plans and specifications will be prepared and bids let for the project as a whole or for each of the three specified portions of the project independently. If the total cost of the project is not expected to exceed \$250,000 but a project architect will provide the architectural services for the project, the secretary of administration, with the advice of the project architect, shall determine if plans and specifications will be prepared and bids let for the project as a whole or for each of the three specified portions of the project independently. Whenever the architectural services for any project are provided by the state under K.S.A. 75-1254, and amendments thereto, the secretary of administration shall determine if plans and specifications will be prepared and bids let for the project as a whole or for each of the three specified portions of the project independently.

(2) Upon any 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 this paragraph (2) of subsection (b). 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 secretary of administration.

(3) Upon any project for which plans and specifications will be prepared and bids let independently for each of the three specified portions of the work for the project, the contractor for one of the three specified portions of the project shall be designated as the prime contractor for the project in accordance with this paragraph (3) of subsection (b). If the total cost of the project is expected to exceed \$250,000, the secretary of administration, with the advice of the project architect and the negotiating committee convened for the project under K.S.A. 75-1253, and amendments thereto, shall designate the prime contractor for the project. If the total cost of the project is not expected to exceed \$250,000 but a project architect will

provide the architectural services for the project, the secretary of administration, with the advice of the project architect, will designate the prime contractor for the project. Whenever the architectural services for any project are provided by the state under K.S.A. 75-1254, and amendments thereto, the secretary of administration shall designate the prime contractor for the project. The prime contractor shall be responsible for coordinating all work upon the project, and all other contractors and subcontractors shall provide work for the project in accordance with the direction of the prime contractor. In each case where a contractor or subcontractor for the project delays the work on the project or incorporates materials or work of unsatisfactory quality into the project, the prime contractor shall notify the secretary of administration, the project architect, the state agency concerned and such contractor or subcontractor of such delay or unsatisfactory materials or work.

(4) The secretary of administration shall adopt, with the advice of the state building advisory commission, a standard contract for use in connection with projects upon which bids are let for the project as a whole and a separate standard contract for each of the portions of a project for which bids are let independently. No such standard contract adopted by the secretary of administration shall contain any provisions authorizing arbitration of any matters thereunder.

(5) The secretary of administration may adopt rules and regulations necessary for the implementation and administration of the provisions of this subsection (b).

(c) The project architect performing construction administration services as described in K.S.A. 75-1260, and amendments thereto, or, if there is no project architect, the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, shall have charge of the construction of all buildings and the major repairs or improvements to buildings for state agencies. The original construction contracts for such projects shall be changed only by written change order signed by the director of architectural services with the approval of the secretary of administration and upon the recommendation of: (1) The project architect or, if there is no project architect, at the direction of the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto; (2) the state agency for which the building construction project has been approved; and (3) the director of accounts and reports. In each case where a change order is competitively bid, the change order shall also be signed by the director of purchases.

(d) If the director of purchases believes there is collusion and combination involved in any bids received for any contract for the construction of a building or for major repairs or improvements to a building for the use and benefit of a state agency, the director of purchases shall reject any and all such bids and shall solicit new bids for the contract. If after receiving new bids the director of purchases believes there is again collusion and combination and that such collusion and combination would not be avoided by again soliciting new bids, the director of purchases shall let the contract by direct negotiation, except that: (1) The cost thereof shall not exceed the lowest responsible bid that had been offered; and (2) such contract shall not be negotiated or entered into with any bidder believed by the director of purchases to have been involved to any degree in such collusion and combination.

(e) In the event of a disagreement between the project architect, the secretary of administration or the agency architect for the project as provided in K.S.A. 75-1254, and amendments thereto, and the administrative head of the state agency for which the project is to be completed, as to the administration of the provisions of this section, the secretary of administration shall submit the matter to the governor and the decision of the governor shall be final.

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

History: L. 1953, ch. 375, § 41; L. 1978, ch. 337, § 13; L. 1979, ch. 280, § 3; L. 1981, ch. 343, § 4; L. 1983, ch. 291, § 1; July 1.