STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 925 By: Thompson of the Senate

and

Osburn (Mike) of the House

COMMITTEE SUBSTITUTE

An Act relating to state government; amending 74 O.S. 2011, Section 588.1, as amended by Section 863, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section 588.1), which relates to cost analysis reports; increasing amount for contracts requiring certain analysis; providing for protection of third-party revenues; amending 74 O.S. 2011, Section 589, as amended by Section 864, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section 589), which relates to actions required to be taken prior to privatization; modifying responsibilities of agency under the Oklahoma Privatization of State Functions Act; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 2011, Section 588.1, as amended by Section 863, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section 588.1), is amended to read as follows:

Section 588.1 A. Before any agency contracts to privatize a function, program, service, unit, or division valued at ~~One Hundred~~

~~Thousand Dollars ($100,000.00)~~ One Million Dollars ($1,000,000.00) or more, the agency must perform a cost analysis and provide a copy of the cost analysis report to the Office of Management and Enterprise Services.

B. The cost analysis shall include a provision for the protection and retention of third-party revenues currently being received for the performance of the function, program, service, unit or division sought to be privatized. Such protected third-party revenues shall include, but not be limited to, grants, contracts, federal matching programs, federal pass-through payments, sponsored programs and payment incentives currently being received as a result of the performance of the function, program, service, unit or division sought to be privatized.

C. The Office of Management and Enterprise Services shall review the cost analysis report and make a finding as to whether it fulfills the content requirements of the Oklahoma Privatization of State Functions Act and the rules of the Office. If the cost analysis report is found not to meet the requirements of the Oklahoma Privatization of State Functions Act or the rules of the Office, the Office shall return the cost analysis report to the agency with instructions.

~~C.~~ D. The Director of the Office of Management and Enterprise Services shall promulgate rules necessary to implement the provisions of the Oklahoma Privatization of State Functions Act.

SECTION 2. AMENDATORY 74 O.S. 2011, Section 589, as amended by Section 864, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2017, Section 589), is amended to read as follows:

Section 589. A. Upon a finding by the Office of Management and Enterprise Services pursuant to Section 588.1 of this title that the agency has complied with the requirements of the Oklahoma Privatization of State Functions Act, and before any agency can contract to privatize a function, program, service, unit or division, the agency must ~~allow its employees the opportunity to submit proposals for improving the operations, efficiency or organization of the entity being considered for privatization.~~

~~B. The privatization process shall begin with~~ provide:

1. Notification to employees impacted by the proposed privatization by the agency of its intent to privatize a function, program, service, unit, or division of the agency;

2. ~~A specific statement that employees have an opportunity to submit proposals to the agency~~ Notification to affected employees that they will have the opportunity to submit cost-savings recommendations for improving the operations, efficiency or organization of the entity being considered for privatization; and

3. Notification by the agency simultaneously with the notice required pursuant to paragraph 1 of this subsection, to the Director of the Office of Management and Enterprise Services of the intent of the agency to privatize a state function.

~~C. The~~ B. Upon a request by the affected employees, the agency shall provide information about the delivery of services to its employees as they develop ~~proposals~~ recommendations to be considered. This information shall include revenue expenditure data, wage and salary data, an inventory of the supplies, equipment, and facilities associated with the program being privatized, and the cost analysis performed by the agency.

~~D. Proposals~~ C. Any recommendations submitted by agency employees shall ~~remain confidential and be considered simultaneously in the bid or proposal process with nonemployee bids~~ be considered by the agency, separate and apart from the bid process, with nonemployee bids. The agency shall make the final determination whether to accept the winning nonemployee bid or accept the employee recommendations in lieu of the winning bid.

~~E.~~ D. After an agency has ~~decided to privatize a function, program, service, unit or division and has~~ met the requirements of subsection ~~D~~ A of this section, the agency shall notify the Director of the Office of Management and Enterprise Services ~~of its intent to solicit bids by interested parties. Prior to solicitation of bids from other interested parties, the agency shall notify~~, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives of the intent of the agency to solicit bids ~~and a statement that the agency has given the opportunity to its employees to submit proposals pursuant to this~~

~~section prior to the decision to privatize~~ in accordance with this section.

~~F.~~ E. The agency shall provide a comprehensive written analysis of the contract cost based upon the designated bid, specifically including the costs of transition from public to private operation, severance payments to agency employees, and monitoring and otherwise administering contract performance.

~~G.~~ F. The agency shall require the following information prior to entering into a contract to privatize a function, program, service, unit, or division:

1. Financial stability of the vendor, past and present litigation, and references related to past government contract performance information; and

2. Detail how the vendor will perform the contract, including staffing and equipment information.

~~H.~~ G. The agency shall establish a plan and cost analysis on how to return the privatized function, program, service, unit, or division to the state if there is a contract cancellation.

~~I.~~ H. Any contract with a vendor to privatize a function, program, service, unit, or division shall require that the payment to the contractor be linked to performance. The contract shall provide that the amount agreed upon in the contract may be reduced if the agency experiences a budget shortfall.

~~J.~~ I. Each privatization contract shall contain provisions requiring the contractor to offer available employee positions pursuant to the contract to qualified regular employees of the agency whose state employment is terminated because of the privatization contract and who satisfy the hiring criteria of the contractor.

SECTION 3. This act shall become effective November 1, 2018.

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