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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 418

01/29/2015 Authored by Scott

The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to government contracts; requiring submission to an agency or
1.3 municipality of certain documents maintained by a contractor upon request;
1.4 amending Minnesota Statutes 2014, sections 16C.05, subdivision 2; 471.345, by
1.5 adding a subdivision.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 16C.05, subdivision 2, is amended to read:

1.8 Subd. 2. **Creation and validity of contracts.** (a) A contract and amendments are
1.9 not valid and the state is not bound by them and no agency, without the prior written
1.10 approval of the commissioner granted pursuant to subdivision 2a, may authorize work
1.11 to begin on them unless:

1.12 (1) they have first been executed by the head of the agency or a delegate who is a
1.13 party to the contract;

1.14 (2) they have been approved by the commissioner; and

1.15 (3) the accounting system shows an encumbrance for the amount of the contract
1.16 liability, except as allowed by policy approved by the commissioner and commissioner
1.17 of management and budget for routine, low-dollar procurements and section 16B.98,
1.18 subdivision 11.

1.19 (b) Grants, interagency agreements, purchase orders, work orders, and annual plans
1.20 need not, in the discretion of the commissioner and attorney general, require the signature
1.21 of the commissioner and/or the attorney general. A signature is not required for work
1.22 orders and amendments to work orders related to Department of Transportation contracts.
1.23 Bond purchase agreements by the Minnesota Public Facilities Authority do not require
1.24 the approval of the commissioner.

2.1 (c) Amendments to contracts must entail tasks that are substantially similar to
 2.2 those in the original contract or involve tasks that are so closely related to the original
 2.3 contract that it would be impracticable for a different contractor to perform the work. The
 2.4 commissioner or an agency official to whom the commissioner has delegated contracting
 2.5 authority under section 16C.03, subdivision 16, must determine that an amendment would
 2.6 serve the interest of the state better than a new contract and would cost no more.

2.7 (d) A record must be kept of all responses to solicitations, including names of
 2.8 bidders and amounts of bids or proposals. A fully executed copy of every contract,
 2.9 amendments to the contract, and performance evaluations relating to the contract must be
 2.10 kept on file at the contracting agency for a time equal to that specified for contract vendors
 2.11 and other parties in subdivision 5. These records are open to public inspection, subject to
 2.12 section 13.591 and other applicable law.

2.13 (e) The attorney general must periodically review and evaluate a sample of state
 2.14 agency contracts to ensure compliance with laws.

2.15 (f) Before executing a contract or license agreement involving intellectual property
 2.16 developed or acquired by the state, a state agency shall seek review and comment from the
 2.17 attorney general on the terms and conditions of the contract or agreement.

2.18 (g) An agency contract must require the contractor, upon request of the agency, to
 2.19 submit to the agency a copy of any subcontract entered into under the prime contract. An
 2.20 agency may make a request under this paragraph at its own discretion, provided that it
 2.21 must request a copy of a subcontract from the contractor if an individual submits a request
 2.22 to the agency for that document. A fully executed copy of every contract, subcontract,
 2.23 amendment to a contract or subcontract, and performance evaluation related to the contract
 2.24 received by the agency must be kept as required by section 15.17 and chapter 138. The
 2.25 Minnesota State Colleges and Universities is an agency for purposes of this paragraph.

2.26 Sec. 2. Minnesota Statutes 2014, section 471.345, is amended by adding a subdivision
 2.27 to read:

2.28 Subd. 20. **Subcontractor contracts.** (a) A municipal contract must require the
 2.29 contractor, upon request of the municipality, to submit to the municipality a copy of any
 2.30 subcontract entered into under the prime contract. A municipality may make a request
 2.31 under this paragraph at its own discretion, provided that it must request a copy of a
 2.32 subcontract from the contractor if an individual submits a request to the municipality
 2.33 for that document.

3.1 (b) A fully executed copy of every contract, subcontract, amendment to a contract
3.2 or subcontract, and performance evaluation related to the contract received by the
3.3 municipality must be kept by the municipality as required by section 15.17 and chapter 138.

3.4 (c) For purposes of this subdivision, a contract includes the definition provided in
3.5 subdivision 2, and also includes a contract for professional services.