

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 13-0334.01 Nicole Myers x4326

SENATE BILL 13-034

SENATE SPONSORSHIP

Lundberg, Lambert, Brophy, Cadman, Grantham, Harvey, Renfroe, Scheffel

HOUSE SPONSORSHIP

(None),

Senate Committees
State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REQUIREMENT THAT A GOVERNMENTAL BODY THAT**
102 **RECEIVES A PROPOSAL ON AN ELECTRONIC DEVICE IN RESPONSE**
103 **TO ITS REQUEST FOR PROPOSALS RETURN THE ELECTRONIC**
104 **DEVICE TO THE OFFEROR AFTER THE CONTRACT AWARD.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

If an offeror submits a proposal to a governmental body in response to the governmental body's request for proposals (RFP) and the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

proposal is submitted on one or more electronic devices that costs over \$50 each, the bill requires the governmental body to return each electronic device to the respective offerors after the contract award. The governmental body is required to return the electronic device regardless of whether the offeror submitted the proposal on such device by choice or because it was required in the RFP.

The procurement officer for the governmental body or his or her designee is required to ensure that:

- ! Upon receipt of a proposal on an electronic device, the electronic device is labeled as the property of the offeror; and
- ! Prior to returning the electronic device to the offeror, the content of the offeror's proposal is erased and each electronic device is returned to the factory settings.

The governmental body may require each offeror to pay the costs associated with returning the electronic devices to the respective offeror.

The executive director is required to promulgate procedures to facilitate the implementation of the bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-103-203.5 as
3 follows:

4 **24-103-203.5. Proposals submitted on electronic devices -**
5 **definition.** (1) IF AN OFFEROR SUBMITS A PROPOSAL TO A GOVERNMENTAL
6 BODY IN RESPONSE TO THE GOVERNMENTAL BODY'S REQUEST FOR
7 PROPOSALS PURSUANT TO THE CODE OR PURSUANT TO THE "INTEGRATED
8 DELIVERY METHOD FOR PUBLIC PROJECTS ACT", ARTICLE 93 OF THIS
9 TITLE, AND THE PROPOSAL IS SUBMITTED ON ONE OR MORE ELECTRONIC
10 DEVICES EITHER BY THE OFFEROR'S CHOICE OR BECAUSE IT IS REQUIRED BY
11 THE REQUEST FOR PROPOSALS, THE GOVERNMENTAL BODY MUST RETURN
12 EACH ELECTRONIC DEVICE TO THE RESPECTIVE OFFERORS AFTER THE
13 CONTRACT AWARD. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC
14 DEVICE" MEANS AN ELECTRONIC DEVICE THAT COSTS MORE THAN FIFTY
15 DOLLARS.

1 (2) UPON RECEIPT OF A PROPOSAL ON ONE OR MORE ELECTRONIC
2 DEVICES, THE GOVERNMENTAL BODY'S PROCUREMENT OFFICER OR HIS OR
3 HER DESIGNEE SHALL ENSURE THAT EACH ELECTRONIC DEVICE IS LABELED
4 AS THE PROPERTY OF THE OFFEROR TO FACILITATE THE RETURN OF THE
5 ELECTRONIC DEVICE TO THE APPROPRIATE OFFEROR.

6 (3) BEFORE RETURNING EACH ELECTRONIC DEVICE TO THE
7 APPROPRIATE OFFEROR, THE GOVERNMENTAL BODY'S PROCUREMENT
8 OFFICER OR HIS OR HER DESIGNEE SHALL ENSURE THAT ALL CONTENT
9 CONTAINING THE OFFEROR'S PROPOSAL IS ERASED AND THAT EACH
10 ELECTRONIC DEVICE IS RETURNED TO THE FACTORY SETTINGS.

11 (4) THE GOVERNMENTAL BODY MAY REQUIRE EACH OFFEROR TO
12 PAY THE COSTS ASSOCIATED WITH RETURNING THE ELECTRONIC DEVICES
13 TO THE RESPECTIVE OFFEROR. IF THE OFFEROR WILL BE REQUIRED TO PAY
14 SUCH COSTS, THE GOVERNMENTAL BODY MUST INCLUDE NOTICE OF THE
15 REQUIREMENT IN THE REQUEST FOR PROPOSALS.

16 (5) THE EXECUTIVE DIRECTOR SHALL PROMULGATE, IN
17 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
18 ARTICLE 4 OF THIS TITLE, PROCEDURES TO FACILITATE THE
19 IMPLEMENTATION OF THIS SECTION, INCLUDING THE FOLLOWING:

20 (a) A PROCEDURE, DEVELOPED IN CONSULTATION WITH THE
21 APPROPRIATE STATE INFORMATION TECHNOLOGY PERSONNEL, TO ERASE
22 FROM EACH ELECTRONIC DEVICE ALL CONTENT CONTAINING AN OFFEROR'S
23 PROPOSAL AND TO RETURN THE ELECTRONIC DEVICE TO THE FACTORY
24 SETTINGS;

25 (b) A PROCEDURE TO LABEL EACH ELECTRONIC DEVICE ON WHICH
26 A GOVERNMENTAL BODY RECEIVES A PROPOSAL AS THE PROPERTY OF
27 EACH RESPECTIVE OFFEROR; AND

1 (c) A PROCEDURE TO SHIP, DELIVER, MAKE AVAILABLE FOR PICKUP,
2 OR OTHERWISE RETURN EACH ELECTRONIC DEVICE TO THE APPROPRIATE
3 OFFEROR AFTER THE CONTRACT AWARD.

4 **SECTION 2. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 7, 2013, if adjournment sine die is on May 8,
8 2013); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2014 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

14 (2) This act applies to requests for proposals issued on or after the
15 applicable effective date of this act.