



February 5, 2018

The Honorable John Peter “Pete” Ricketts
State Capitol
1445 K Street, Suite 2316
Lincoln, NE 68509-4848

The Honorable John Murante
State Capitol
Room 1423
Lincoln, NE 68509-4848

RE: Legislative Bill 814

Dear Governor Ricketts and Senator Murante,

Please see the attached letter expressing the IT Alliance for Public Sector (ITAPS)¹ strong support of Senator Schumacher’s legislation, LB 814. As an advocate for leading technology companies—most of which compete regularly for state and federal technology contracts—ITAPS is committed to promoting fair procurement mechanisms for states to employ selecting the most qualified vendors as quickly and effectively as possible. The bill is a step in the right direction for Nebraska to ensure all stakeholder’s interests are protected in the procurement process and will help to attract more qualified vendors in state solicitations—ultimately leading to greater competition and cost savings for Nebraska, consistent with the vast majority of other states’ procurement statutes, for taxpayers.

Please feel free to contact me with questions or comments.

Sincerely,

Jordan Kroll
Director, State, Local and Education Technology

Cc: Senator Paul Schumacher
Senator David Karnes

¹ About ITAPS. ITAPS, a division of the Information Technology Industry Council (ITI), is an alliance of leading technology companies building and integrating the latest innovative technologies for the public sector market. With a focus on the federal, state, and local levels of government, as well as on educational institutions, ITAPS advocates for improved procurement policies and practices, while identifying business development opportunities and sharing market intelligence with our industry participants. Visit itaps.itic.org to learn more. Follow us on Twitter @ITAlliancePS.



February 5, 2018

The Honorable Paul Schumacher
Room #1124
P.O. Box 94604
Lincoln, NE 68509

RE: Legislative Bill 814

Dear Senator Schumacher,

On behalf of the IT Alliance for Public Sector (ITAPS),¹ an alliance of national technology companies, I am writing to express our strong support of your legislation, LB 814. The need for a streamlined and transparent review process for major state procurement decisions is long overdue. Requiring the Department of Administrative Services to treat significant procurement decisions as contested cases under the Administrative Procedure Act (and therefore allow potential judicial review) would provide an important mechanism to ensure both good business practices for the State and due process for vendors. It is our belief that providing possible independent agency and judicial review in these procurement decisions will help protect all stakeholders' and taxpayers' interests in the Nebraska state contract procurement process and ultimately attract more qualified and experienced vendors to state solicitations. As an advocate for leading technology companies—most of which compete regularly for state and federal technology contracts—ITAPS is committed to promoting fair procurement mechanisms for states to employ selecting the most qualified vendors as quickly and effectively as possible.

Under current law, the State of Nebraska provides no express right of judicial review of bid protests for disappointed vendors, leaving final decisions of protest disputes to the discretion of the Director of Department of Administrative Services (DAS). Unlike in most states and at the federal level, bidders in Nebraska have no right to an agency hearing, and no express right to even limited judicial review. The lack of due process for disappointed vendors creates a great deal of uncertainty and risk to potential vendors in determining whether to bid on a project in the State of Nebraska, and creates concerns that they will be subject to excessive discretion or bias by unelected bureaucrats. As you know, bidders for large and complex technology contracts spend many thousands of dollars preparing their proposals; the flaws in Nebraska's current procurement system discourage national technology companies from investing their resources to compete in Nebraska.

Further complicating a prospective vendor's decision on whether to respond to a state solicitation is the fact that the lack of independent agency or judicial review in the procurement process is fundamentally out of step with a majority of U.S. states (including many of Nebraska's neighboring states) and also the federal government. Because of this, many high performing vendors may opt to focus their procurement resources on competing for contracts outside of Nebraska where fair processes are in place. Indeed, some of our members have expressed deep misgivings about investing scarce company resources in states that lack even the most basic procurement review procedures. The lack of participation in the marketplace due to these issues not only limits the number of competitive bids and leads to

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higher costs for the State and its taxpayers,² but could leave the State with less qualified solutions that do not fully address the State's needs. The State of Nebraska prides itself on being business-friendly,³ and the Legislature must act to ensure that it continues to promote the inclusion of qualified national vendors through truly competitive state solicitations and awards.

We note that LB 814 has left open the dollar-amount threshold for application of these reforms. We understand that it cannot be efficient to allow contested case hearings for all contracts. We would urge that the threshold amount in LB 814 be set at \$1 million, to strike a balance which ensures the opportunity for review of larger contracts that present the most risk and largest investment by both vendors and to the State.

We appreciate your leadership in recognizing the barrier to the marketplace the current system imposes, and we will be urging the Legislature to approve Legislative Bill 814. The bill is a step in the right direction for Nebraska to ensure all stakeholder's interests are protected in the procurement process and will help to attract more qualified vendors in state solicitations—ultimately leading to greater competition and cost savings for Nebraska, consistent with the vast majority of other states' procurement statutes, for taxpayers.

Please feel free to contact me with questions or comments. We attach for your information a listing of ITAPS members.

Sincerely,

A handwritten signature in black ink that reads "Jordan Kroll". The signature is written in a cursive, flowing style.

Jordan Kroll
Director, State, Local and Education Technology

² Kenny, T., Fox, E. and Blinn, M., "Caveat Vendor: The Case for Repairing Nebraska's Contract Procurement Process," THE NEBRASKA LAWYER (2017)..

³ [Gov. Ricketts Celebrates Business-Friendly Ranking for Nebraska](#)



Associate Participants

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