
SUBSTITUTE HOUSE BILL 1093

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Transportation (originally sponsored by Representatives K. Schmidt, Johnson, Romero and Wolfe; by request of Department of General Administration)

Read first time 02/21/95.

1 AN ACT Relating to streamlining purchasing provisions for state
2 agencies including Washington state ferries; amending RCW 43.19.1906,
3 43.19.1911, and 47.60.140; and repealing RCW 47.60.651, 47.60.653,
4 47.60.655, 47.60.657, 47.60.659, and 47.60.661.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 43.19.1906 and 1994 c 300 s 1 are each amended to read
7 as follows:

8 Insofar as practicable, all purchases ~~((and sales))~~ of materials,
9 supplies, equipment, and services shall be based on a competitive
10 ~~((bids))~~ process, and a formal sealed invitation for bid procedure
11 ~~((shall)), or a request for proposal process may be used ((as standard~~
12 ~~procedure))~~ for all purchases and contracts ~~((for purchases and sales))~~
13 executed by the state purchasing and material control director ~~((and))~~
14 under the powers granted by RCW 43.19.190 through 43.19.1939. This
15 requirement also applies to purchases and contracts ~~((for purchases and~~
16 ~~sales))~~ executed by agencies ~~((, including educational institutions,))~~
17 under any delegated authority granted in accordance with provisions of
18 RCW 43.19.190 ~~((or)), and to educational institutions~~ under RCW
19 28B.10.029. ~~((However,))~~

1 A formal sealed invitation for bid shall include the specifications
2 or purchase description for the services or items to be procured and
3 the bid evaluation factors and criteria as described in RCW
4 43.19.1911(1).

5 A request for proposal solicitation shall include a functional
6 description of the needs and requirements of the state and the
7 significant proposal evaluation factors and criteria as described in
8 RCW 43.19.1911(1).

9 A formal (~~sealed bidding~~) competitive process is not necessary
10 for:

11 (1) Emergency purchases made (~~pursuant to RCW 43.19.200 if the~~
12 ~~sealed bidding procedure would prevent or hinder the emergency from~~
13 ~~being met appropriately~~) in response to unforeseen circumstances
14 beyond the control of the agency that present a real, immediate, and
15 extreme threat to the proper performance of essential functions or that
16 may reasonably be expected to result in excessive loss or damage to
17 property, bodily injury, or loss of life. The purchase file shall
18 contain a written description of the emergency and the circumstances
19 leading up to the emergency and an explanation of why the circumstances
20 required an emergency purchase;

21 (2) Purchases not exceeding the sealed bid limitation of thirty-
22 five thousand dollars(~~(7)~~) or subsequent limits (~~as calculated by the~~
23 ~~office of financial management~~) established pursuant to subsection (8)
24 of this section: PROVIDED, That the state director of general
25 administration shall establish procedures to assure that purchases made
26 by or on behalf of the various state agencies shall not be made so as
27 to avoid the (~~thirty-five thousand dollar~~) sealed bid limitation(~~(7~~
28 ~~or subsequent bid limitations as calculated by the office of financial~~
29 ~~management~~): PROVIDED FURTHER, That the state purchasing and material
30 control director is authorized to reduce the (~~formal~~) sealed bid
31 (~~limits of thirty five thousand dollars, or subsequent limits as~~
32 ~~calculated by the office of financial management,~~) limit to a lower
33 dollar amount for purchases by individual state agencies if considered
34 necessary to maintain full disclosure of competitive procurement or
35 otherwise to achieve overall state efficiency and economy in purchasing
36 and material control. Quotations from (~~four~~) one thousand five
37 hundred dollars to thirty-five thousand dollars, or subsequent limits
38 (~~as calculated by the office of financial management~~) established
39 pursuant to subsection (8) of this section, shall be secured from at

1 least three vendors to assure establishment of a competitive price and
2 may be obtained by telephone or written quotations, or both. The
3 agency shall invite at least one quotation each from a certified
4 minority and a certified women-owned vendor who shall otherwise qualify
5 to perform such work. Immediately after the award is made, the bid
6 quotations obtained shall be recorded and open to public inspection and
7 shall be available by telephone inquiry. A record of competition for
8 all such purchases from (~~four~~) one thousand five hundred dollars to
9 thirty-five thousand dollars, or subsequent limits (~~as calculated by~~
10 ~~the office of financial management~~) established pursuant to subsection
11 (8) of this section, shall be documented for audit purposes. Purchases
12 up to (~~four~~) one thousand five hundred dollars may be made without
13 competitive bids based on buyer experience and knowledge of the market
14 in achieving maximum quality at minimum cost(~~(: PROVIDED, That this~~
15 ~~four hundred dollar direct buy limit without competitive bids may be~~
16 ~~increased incrementally as required to a maximum of eight hundred~~
17 ~~dollars with the approval of at least ten of the members of the state~~
18 ~~supply management advisory board, if warranted by increases in~~
19 ~~purchasing costs due to inflationary trends))~~);

20 (3) Purchases which are clearly and legitimately limited to a
21 single source of supply and purchases involving special facilities,
22 services, or market conditions, in which instances the purchase price
23 may be best established by direct negotiation;

24 (4) Purchases of insurance and bonds by the risk management office
25 under RCW 43.19.1935;

26 (5) Purchases and contracts for vocational rehabilitation clients
27 of the department of social and health services: PROVIDED, That this
28 exemption is effective only when the state purchasing and material
29 control director, after consultation with the director of the division
30 of vocational rehabilitation and appropriate department of social and
31 health services procurement personnel, declares that such purchases may
32 be best executed through direct negotiation with one or more suppliers
33 in order to expeditiously meet the special needs of the state's
34 vocational rehabilitation clients;

35 (6) Purchases by universities for hospital operation or biomedical
36 teaching or research purposes and by the state purchasing and material
37 control director, as the agent for state hospitals as defined in RCW
38 72.23.010, and for health care programs provided in state correctional
39 institutions as defined in RCW 72.65.010(3) and veterans' institutions

1 as defined in RCW 72.36.010 and 72.36.070, made by participating in
2 contracts for materials, supplies, and equipment entered into by
3 nonprofit cooperative hospital group purchasing organizations;

4 (7) Purchases by institutions of higher education not exceeding
5 thirty-five thousand dollars or subsequent limits established pursuant
6 to subsection (8) of this section: PROVIDED, That for purchases
7 between two thousand five hundred dollars and thirty-five thousand
8 dollars or subsequent limits established pursuant to subsection (8) of
9 this section quotations shall be secured from at least three vendors to
10 assure establishment of a competitive price and may be obtained by
11 telephone or written quotations, or both. For purchases between two
12 thousand five hundred dollars and thirty-five thousand dollars or
13 subsequent limits established pursuant to subsection (8) of this
14 section, each institution of higher education shall invite at least one
15 quotation each from a certified minority and a certified women-owned
16 vendor who shall otherwise qualify to perform such work. A record of
17 competition for all such purchases made from two thousand five hundred
18 to thirty-five thousand dollars or subsequent limits established
19 pursuant to subsection (8) of this section shall be documented for
20 audit purposes; and

21 (8) Beginning on July 1, 1995, and on July 1 of each succeeding
22 odd-numbered year, the dollar limits specified in this section shall be
23 adjusted as follows: The office of financial management shall
24 calculate such limits by adjusting the previous biennium's limits by
25 the appropriate federal inflationary index reflecting the rate of
26 inflation for the previous biennium. Such amounts shall be rounded to
27 the nearest one hundred dollars.

28 **Sec. 2.** RCW 43.19.1911 and 1989 c 431 s 60 are each amended to
29 read as follows:

30 (1) When purchases are made through (~~competitive bidding~~) a
31 formal sealed invitation for bid procedure, the contract shall be
32 (~~let~~) awarded to the lowest responsible bidder, subject to any
33 preferences provided by law to and for Washington products and vendors
34 (~~and~~) pursuant to RCW 43.19.704 or for recycled materials or products
35 pursuant to chapter 43.19A RCW, and taking into consideration the
36 quality of the articles proposed to be supplied, their conformity with
37 specifications, the purposes for which required, and the times of
38 delivery: PROVIDED, That the state may reject any and all bids.

1 ~~Whenever ((there is reason to))~~ the state believes that the lowest
2 ~~((acceptable))~~ responsible bid is not the best price obtainable, ~~((all~~
3 ~~bids may be rejected and))~~ the division of purchasing may call for new
4 bids or enter into direct negotiations to achieve the best possible
5 price. Each bid with the name of the bidder shall be entered of record
6 and each record, with the successful bid indicated, shall, after
7 ~~((letting))~~ notice of ~~((the))~~ contract award, be open to public
8 inspection. In determining "lowest responsible bidder", in addition to
9 price, the following elements ~~((shall))~~ may be given consideration:

10 ~~((+1))~~ (a) The ability, capacity, and skill of the bidder to
11 perform the contract or provide the service required;

12 ~~((+2))~~ (b) The character, integrity, reputation, judgment,
13 experience, and efficiency of the bidder;

14 ~~((+3))~~ (c) Whether the bidder can perform the contract within the
15 time specified;

16 ~~((+4))~~ (d) The quality of performance of previous contracts or
17 services;

18 ~~((+5))~~ (e) The previous and existing compliance by the bidder with
19 laws relating to the contract or services;

20 ~~((+6))~~ (f) Objective, measurable criteria defined in the
21 invitation for bid. These criteria may include but are not limited to
22 items such as discounts, delivery costs, maintenance services costs,
23 installation costs, and transportation costs; and

24 (g) Such other information as may be secured having a bearing on
25 the decision to award the contract: PROVIDED, That in considering bids
26 for purchase, manufacture, or lease, and in determining the "lowest
27 responsible bidder," whenever there is reason to believe that applying
28 the "life cycle costing" technique to bid evaluation would result in
29 lowest total cost to the state, first consideration shall be given by
30 state purchasing activities to the bid with the lowest life cycle cost
31 which complies with specifications. "Life cycle cost" means the total
32 cost of an item to the state over its estimated useful life, including
33 costs of selection, acquisition, operation, maintenance, and where
34 applicable, disposal, as far as these costs can reasonably be
35 determined, minus the salvage value at the end of its estimated useful
36 life. The "estimated useful life" of an item means the estimated time
37 from the date of acquisition to the date of replacement or disposal,
38 determined in any reasonable manner. ~~((Nothing in this section shall~~
39 ~~prohibit any state agency, department, board, commission, committee, or~~

1 ~~other state level entity from allowing for preferential purchase of~~
2 ~~products made from recycled materials or products that may be recycled~~
3 ~~or reused.))~~

4 (2) The request for proposal shall contain the significant factors,
5 including price, to be considered in evaluating the proposals received
6 and the relative weight to be given such factors. Factors that may be
7 considered in evaluating proposals include but are not limited to:
8 Maintainability, reliability, commonality, performance levels, life
9 cycle cost, research and development capability, technological
10 superiority, and the criteria listed in subsection (1) (a) through (g)
11 of this section. When purchases are made through a request for
12 proposal process, proposals received shall be evaluated based on the
13 evaluation factors set forth in the request for proposal. No criteria
14 may be used in evaluating a proposal that is not listed in the request
15 for proposal. The purchaser may reject any and all proposals received.
16 If the proposals are not rejected, the award shall be made to the
17 proposer whose proposal is most advantageous to the purchaser,
18 considering the evaluation factors set forth in the request for
19 proposal.

20 **Sec. 3.** RCW 47.60.140 and 1987 c 69 s 1 are each amended to read
21 as follows:

22 (1) The department is empowered to operate such ferry system,
23 including all operations, whether intrastate or international, upon any
24 route or routes, and toll bridges as a revenue-producing and self-
25 liquidating undertaking. The department has full charge of the
26 construction, rehabilitation, rebuilding, enlarging, improving,
27 operation, and maintenance of the ferry system, including toll bridges,
28 approaches, and roadways incidental thereto that may be authorized by
29 the department, including the collection of tolls and other charges for
30 the services and facilities of the undertaking. The department has the
31 exclusive right to enter into leases and contracts for use and
32 occupancy by other parties of the concessions and space located on the
33 ferries, wharves, docks, approaches, and landings, but, except as
34 provided in subsection (2) of this section, no such leases or contracts
35 may be entered into for more than ~~((five years, nor without public~~
36 ~~advertisement for bids as may be prescribed by the department.~~
37 ~~However, except as provided in subsection (2) of this section, the~~
38 ~~Colman Dock facilities may be leased for a period not to exceed)) ten~~

1 years, nor without a competitive contract process, except as otherwise
2 provided in this section. The competitive process shall be either an
3 invitation for bids (IFB) or a request for proposals (RFP) process.
4 The department has the sole discretion to select the actual contract
5 process used for any such contract.

6 (2) As part of a joint development agreement under which a public
7 or private developer constructs or installs improvements on ferry
8 system property, the department may lease all or part of such property
9 and improvements to such developers for that period of time, not to
10 exceed fifty-five years, or not to exceed thirty years for those areas
11 located within harbor areas, which the department determines is
12 necessary to allow the developer to make reasonable recovery on its
13 initial investment. Any lease entered into as provided for in this
14 subsection that involves state aquatic lands shall conform with the
15 Washington state Constitution and applicable statutory requirements as
16 determined by the department of natural resources. That portion of the
17 lease rate attributable to the state aquatic lands shall be distributed
18 in the same manner as other lease revenues derived from state aquatic
19 lands as provided in RCW 79.24.580.

20 NEW SECTION. Sec. 4. The following acts or parts of acts are each
21 repealed:

- 22 (1) RCW 47.60.651 and 1987 c 183 s 1;
- 23 (2) RCW 47.60.653 and 1987 c 183 s 2;
- 24 (3) RCW 47.60.655 and 1987 c 183 s 3;
- 25 (4) RCW 47.60.657 and 1987 c 183 s 4;
- 26 (5) RCW 47.60.659 and 1987 c 183 s 5; and
- 27 (6) RCW 47.60.661 and 1987 c 183 s 6.

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