

HOUSE BILL REPORT

SHB 1193

As Passed Legislature

Title: An act relating to personal service contracts.

Brief Description: Controlling personal service contracts.

Sponsors: By House Committee on Government Administration (originally sponsored by Representatives D. Schmidt, Dunn, L. Thomas, Wolfe, Scott and Wensman).

Brief History:

Committee Activity:

Government Administration: 2/7/97, 2/12/97 [DPS].

Floor Activity:

Passed House: 3/10/97, 95-0;

Passed House: 1/14/98, 95-0.

Senate Amended.

House Concurred.

Passed Legislature.

HOUSE COMMITTEE ON GOVERNMENT ADMINISTRATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives D. Schmidt, Chairman; D. Sommers, Vice Chairman; Scott, Ranking Minority Member; Gardner, Assistant Ranking Minority Member; Doumit; Dunn; Murray; Reams; Smith; L. Thomas; Wensman and Wolfe.

Staff: Steven Lundin (786-7127).

Background: A personal services contract is an agreement with a consultant to provide professional or technical expertise to accomplish a specific study, project, task, or other work statement. An agency may only enter into a personal services contract to resolve a particular agency problem or to expedite a specific temporary project. The agency must demonstrate that the service is critical to agency responsibilities or is mandated or authorized by the Legislature; that sufficient staffing or expertise is not available within the agency to perform the service; and that other qualified public resources aren't available to perform the service.

Personal service contracts generally must go through a competitive solicitation process unless it is an emergency contract, sole source contract, a contract amendment, or a contract of less than \$10,000. A contract of \$2,500 or more but less than \$10,000 must have documented evidence of competition. The Office of Financial Management (OFM) must approve any state-funded sole source contract of \$10,000 or more. The dollar thresholds for competitive solicitation have not been adjusted for many years.

The competitive solicitation process requires an agency to conduct a documented formal process providing an equal and open opportunity for qualified parties to participate. The selection criteria must include factors such as the consultant's fees, ability, capacity, experience, reputation, responsiveness to time limitations and solicitation requirements, quality of previous performance, and compliance with laws relating to contracts or services. If a personal services contract is subject to competitive solicitation, any subcontract of that contract is also subject to competitive solicitation requirements.

Copies of personal service contracts which are subject to competitive solicitation and are state-funded, or which are sole source and are state-funded, or which have a substantial amendment made to them, or which are an emergency, must be filed with the OFM and the Joint Legislative Audit and Review Committee (JLARC). The contract must be made available for public inspection at least 10 days before the starting date of the contract.

Summary of Bill: The threshold amount for a personal services contract to be subject to competitive solicitation requirements is raised from \$10,000 to \$20,000. Contracts of \$5,000 or greater but less than \$20,000 must have documented evidence of competition. The OFM must approve any sole source contract of \$20,000 or more. References to "state-funded" contracts are deleted.

At the beginning of each biennium, the director of the OFM may adjust the dollar thresholds for personal service contracts by an amount not to exceed the percentage increase in the implicit price deflator. The adjusted dollar thresholds must be rounded to the nearest \$500 increment.

The provisions mandating a subcontract to comply with competitive solicitation requirements, if the underlying personal services contract was subject to competitive solicitation, are repealed.

The JLARC no longer receives copies of personal service contracts. Personal service contracts awarded by institutions of higher education from non-state funds do not have to be filed in advance with the OFM. These contracts are subject to all other provisions of law.

The delay of a minimum of 10 days after a personal service contract is made available for public inspection, before the contract may start, only applies if the contract relates to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will simplify the current process but maintain accountability. This bill reflects the recommendations of a procurement committee. The term "state-funded" creates confusion.

Testimony Against: None.

Testified: Susan Johnsen and John Toohey, Office of Financial Management; and Kerry Kahl, University of Washington.