

SENATE BILL REPORT

SHB 1193

As Reported By Senate Committee On:
Government Operations, February 19, 1998

Title: An act relating to personal service contracts.

Brief Description: Controlling personal service contracts.

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

Brief History:

Committee Activity: Government Operations: 3/25/97, 4/1/97 [DPA]; 2/19/98 [DPA].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: Do pass as amended.

Signed by Senators Hale, Vice Chair; Haugen, Horn, Patterson and T. Sheldon.

Staff: Diane Smith (786-7410)

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 are not 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 OFM and the Joint Legislative Audit and Review Committee (JLARC).

Summary of Amended 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. 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 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.

Personal service contracts subject to competitive solicitation that provide services relating to management consulting, organizational development, marketing, communications, employee training, or employee recruiting must be filed with OFM, reviewed and approved by OFM and be made available for public inspection at least ten working days prior to the proposed starting date of the contract. All other personal service contracts subject to competitive solicitation must be filed with OFM and are effective no earlier than the date they are filed with OFM.

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 or approved by OFM. These contracts are subject to all other provisions of law.

Amended Bill Compared to Original Bill: The amended bill raises the threshold amounts to \$20,000, \$5,000 more than does the original bill. The amended bill clarifies that all but stated categories of personal service contracts subject to competitive solicitation must be filed with OFM and are effective on or after the date they are filed.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill is the product of a multi-agency committee on improvement of service to the taxpayer, streamlining the processing of small procurements with minimum risk to the state.

Testimony Against: None.

Testified: PRO: Susan Johnson, OFM; Jessica Jensen, DSHS.