
SENATE BILL 5176

State of Washington

55th Legislature

1997 Regular Session

By Senators McCaslin and Haugen

Read first time 01/17/97. Referred to Committee on Government Operations.

1 AN ACT Relating to personal service contracts; amending RCW
2 39.29.003, 39.29.006, 39.29.011, 39.29.018, 39.29.025, 39.29.040,
3 39.29.055, 39.29.065, and 39.29.068; and repealing RCW 39.29.035.

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

5 **Sec. 1.** RCW 39.29.003 and 1993 c 433 s 1 are each amended to read
6 as follows:

7 It is the intent of this chapter to establish a policy of open
8 competition for all personal service contracts ((and subcontracts to
9 personal service contracts)) entered into by state agencies, unless
10 specifically exempted under this chapter. It is further the intent to
11 provide for legislative and executive review of all personal service
12 contracts, to centralize the location of information about personal
13 service contracts for ease of public review, and ensure proper
14 accounting of personal services expenditures.

15 **Sec. 2.** RCW 39.29.006 and 1993 c 433 s 2 are each amended to read
16 as follows:

17 As used in this chapter:

1 (1) "Agency" means any state office or activity of the executive
2 and judicial branches of state government, including state agencies,
3 departments, offices, divisions, boards, commissions, and educational,
4 correctional, and other types of institutions.

5 (2) "Client services" means services provided directly to agency
6 clients including, but not limited to, medical and dental services,
7 employment and training programs, residential care, and subsidized
8 housing.

9 (3) "Competitive solicitation" means a documented formal process
10 providing an equal and open opportunity to qualified parties and
11 culminating in a selection based on criteria which may include such
12 factors as the consultant's fees or costs, ability, capacity,
13 experience, reputation, responsiveness to time limitations,
14 responsiveness to solicitation requirements, quality of previous
15 performance, and compliance with statutes and rules relating to
16 contracts or services.

17 (4) "Consultant" means an independent individual or firm
18 contracting with an agency to perform a service or render an opinion or
19 recommendation according to the consultant's methods and without being
20 subject to the control of the agency except as to the result of the
21 work. The agency monitors progress under the contract and authorizes
22 payment.

23 (5) "Emergency" means a set of unforeseen circumstances beyond the
24 control of the agency that either:

25 (a) Present a real, immediate threat to the proper performance of
26 essential functions; or

27 (b) May result in material loss or damage to property, bodily
28 injury, or loss of life if immediate action is not taken.

29 (6) "Evidence of competition" means documentation demonstrating
30 that the agency has solicited responses from multiple firms in
31 selecting a consultant.

32 (7) "Personal service" means professional or technical expertise
33 provided by a consultant to accomplish a specific study, project, task,
34 or other work statement. This term does not include purchased services
35 as defined under subsection (9) of this section. This term does
36 include client services.

37 (8) "Personal service contract" means an agreement, or any
38 amendment thereto, with a consultant for the rendering of personal
39 services to the state which is consistent with RCW 41.06.380.

1 (9) "Purchased services" means services provided by a vendor to
2 accomplish routine, continuing and necessary functions. This term
3 includes, but is not limited to, services acquired under RCW 43.19.190
4 or 43.105.041 for equipment maintenance and repair; operation of a
5 physical plant; security; computer hardware and software maintenance;
6 data entry; key punch services; and computer time-sharing, contract
7 programming, and analysis.

8 (10) "Sole source" means a consultant providing professional or
9 technical expertise of such a unique nature that the consultant is
10 clearly and justifiably the only practicable source to provide the
11 service. The justification shall be based on either the uniqueness of
12 the service or sole availability at the location required.

13 (~~((11) "Subcontract" means a contract assigning some of the work of
14 a contract to a third party.))~~)

15 **Sec. 3.** RCW 39.29.011 and 1987 c 414 s 3 are each amended to read
16 as follows:

17 All personal service contracts shall be entered into pursuant to
18 competitive solicitation, except for:

19 (1) Emergency contracts;

20 (2) Sole source contracts;

21 (3) Contract amendments;

22 (4) Contracts between a consultant and an agency of less than
23 ~~((ten))~~ fifteen thousand dollars. However, contracts of ~~((two))~~ five
24 thousand ~~((five hundred))~~ dollars or greater but less than ~~((ten))~~
25 fifteen thousand dollars shall have documented evidence of competition.

26 Agencies shall not structure contracts to evade these requirements; and

27 (5) Other specific contracts or classes or groups of contracts
28 exempted from the competitive solicitation process by the director of
29 the office of financial management when it has been determined that a
30 competitive solicitation process is not appropriate or cost-effective.

31 **Sec. 4.** RCW 39.29.018 and 1996 c 288 s 30 are each amended to read
32 as follows:

33 (1) Sole source contracts shall be filed with the office of
34 financial management ~~((and the joint legislative audit and review
35 committee))~~ and made available for public inspection at least ten
36 working days prior to the proposed starting date of the contract.
37 Documented justification for sole source contracts shall be provided to

1 the office of financial management (~~and the joint legislative audit~~
2 ~~and review committee~~) when the contract is filed. For sole source
3 contracts of (~~ten~~) fifteen thousand dollars or more (~~that are state~~
4 ~~funded~~), documented justification shall include evidence that the
5 agency attempted to identify potential consultants by advertising
6 through state-wide or regional newspapers.

7 (2) The office of financial management shall approve sole source
8 contracts of (~~ten~~) fifteen thousand dollars or more (~~that are state~~
9 ~~funded,~~) before any such contract becomes binding and before any
10 services may be performed under the contract. These requirements shall
11 also apply to sole source contracts of less than (~~ten~~) fifteen
12 thousand dollars if the total amount of such contracts between an
13 agency and the same consultant is (~~ten~~) fifteen thousand dollars or
14 more within a fiscal year. Agencies shall ensure that the costs, fees,
15 or rates negotiated in filed sole source contracts of (~~ten~~) fifteen
16 thousand dollars or more are reasonable.

17 **Sec. 5.** RCW 39.29.025 and 1996 c 288 s 31 are each amended to read
18 as follows:

19 (1) Substantial changes in either the scope of work specified in
20 the contract or in the scope of work specified in the formal
21 solicitation document must generally be awarded as new contracts.
22 Substantial changes executed by contract amendments must be submitted
23 to the office of financial management (~~and the joint legislative audit~~
24 ~~and review committee~~), and are subject to approval by the office of
25 financial management.

26 (2) An amendment or amendments to personal service contracts, if
27 the value of the amendment or amendments, whether singly or
28 cumulatively, exceeds fifty percent of the value of the original
29 contract must be provided to the office of financial management (~~and~~
30 ~~the joint legislative audit and review committee~~)).

31 (3) The office of financial management shall approve amendments
32 provided to it under this section before the amendments become binding
33 and before services may be performed under the amendments.

34 (4) The amendments must be filed with the office of financial
35 management and made available for public inspection at least ten
36 working days prior to the proposed starting date of services under the
37 amendments.

1 (5) The office of financial management shall approve amendments
2 provided to it under this section only if they meet the criteria for
3 approval of the amendments established by the director of the office of
4 financial management.

5 **Sec. 6.** RCW 39.29.040 and 1996 c 2 s 19 are each amended to read
6 as follows:

7 This chapter does not apply to:

8 (1) Contracts specifying a fee of less than ~~((two))~~ five thousand
9 ~~((five hundred))~~ dollars if the total of the contracts from that agency
10 with the contractor within a fiscal year does not exceed ~~((two))~~ five
11 thousand ~~((five hundred))~~ dollars;

12 (2) Contracts awarded to companies that furnish a service where the
13 tariff is established by the utilities and transportation commission or
14 other public entity;

15 (3) Intergovernmental agreements awarded to any governmental
16 entity, whether federal, state, or local and any department, division,
17 or subdivision thereof;

18 (4) Contracts awarded for services to be performed for a standard
19 fee, when the standard fee is established by the contracting agency or
20 any other governmental entity and a like contract is available to all
21 qualified applicants;

22 (5) Contracts for services that are necessary to the conduct of
23 collaborative research if prior approval is granted by the funding
24 source;

25 (6) Contracts for client services;

26 (7) Contracts for architectural and engineering services as defined
27 in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

28 (8) Contracts for the employment of expert witnesses for the
29 purposes of litigation; and

30 (9) Contracts for bank supervision authorized under RCW 30.38.040.

31 **Sec. 7.** RCW 39.29.055 and 1996 c 288 s 32 are each amended to read
32 as follows:

33 (1) ~~((State-funded))~~ Personal service contracts subject to
34 competitive solicitation shall be filed with the office of financial
35 management ~~((and the joint legislative audit and review committee))~~ and
36 made available for public inspection at least ten working days before
37 the proposed starting date of the contract.

1 (2) The office of financial management shall review and approve
2 (~~state-funded~~) personal service contracts subject to competitive
3 solicitation that provide services relating to management consulting,
4 organizational development, marketing, communications, employee
5 training, or employee recruiting.

6 **Sec. 8.** RCW 39.29.065 and 1987 c 414 s 8 are each amended to read
7 as follows:

8 To implement this chapter, the director of the office of financial
9 management shall establish procedures for the competitive solicitation
10 and award of personal service contracts, recordkeeping requirements,
11 and procedures for the reporting and filing of contracts. For
12 reporting purposes, the director may establish categories for grouping
13 of contracts. The procedures required under this section shall also
14 include the criteria for amending personal service contracts. At the
15 beginning of each biennium, the director may, by administrative policy,
16 adjust the dollar thresholds prescribed in RCW 39.29.011, 39.29.018,
17 39.29.040, and 39.29.068 to levels not to exceed the percentage
18 increase in the implicit price deflator. Adjusted dollar thresholds
19 shall be rounded to the nearest five hundred dollar increment.

20 **Sec. 9.** RCW 39.29.068 and 1993 c 433 s 8 are each amended to read
21 as follows:

22 The office of financial management shall maintain a publicly
23 available list of all personal service contracts entered into by state
24 agencies during each fiscal year. The list shall identify the
25 contracting agency, the contractor, the purpose of the contract,
26 effective dates and periods of performance, the cost of the contract
27 and funding source, any modifications to the contract, and whether the
28 contract was competitively procured or awarded on a sole source basis.
29 The office of financial management shall also ensure that state
30 accounting definitions and procedures are consistent with RCW 39.29.006
31 and permit the reporting of personal services expenditures by agency
32 and by type of service. Designations of type of services shall
33 include, but not be limited to, management and organizational services,
34 legal and expert witness services, financial services, computer and
35 information services, social or technical research, marketing,
36 communications, and employee training or recruiting services. The
37 office of financial management shall report annually to the fiscal

1 committees of the senate and house of representatives on sole source
2 contracts filed under this chapter. The report shall describe: (1)
3 The number and aggregate value of contracts for each category
4 established in this section; (2) the number and aggregate value of
5 contracts of ((two)) five thousand ((five hundred)) dollars or greater
6 but less than ((ten)) fifteen thousand dollars; (3) the number and
7 aggregate value of contracts of ((ten)) fifteen thousand dollars or
8 greater; (4) the justification provided by agencies for the use of sole
9 source contracts; and (5) any trends in the use of sole source
10 contracts.

11 NEW SECTION. **Sec. 10.** RCW 39.29.035 and 1993 c 433 s 4 are each
12 repealed.

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