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ENGROSSED SUBSTITUTE HOUSE BILL 1851

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State of Washington

65th Legislature

2017 Regular Session

By House Transportation (originally sponsored by Representatives Dolan, Harris, Hudgins, MacEwen, Kilduff, Haler, Robinson, Bergquist, Fitzgibbon, Doglio, Pollet, Ormsby, and Stanford)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to protecting taxpayers by providing for  
2 accountability and transparency in government contracting; amending  
3 RCW 39.26.180, 43.19.008, 39.26.200, and 41.06.142; adding a new  
4 section to chapter 39.26 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
7 increase transparency and accountability of the work performed by  
8 private entities and nonprofit organizations pursuant to contracts  
9 and the work performed by public employees pursuant to project plans  
10 by requiring better evaluation of their performance. Such evaluation  
11 should include an assessment of whether decisions to "contract out"  
12 government goods and services to the private sector are achieving  
13 their stated objectives. In addition, it is the intent of the  
14 legislature to ensure that public contractors and agencies given  
15 access to state resources are held to ethical standards consistent  
16 with public values.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 39.26  
18 RCW to read as follows:

19 (1) Prior to issuing a request for a proposal under this chapter  
20 to contract out to purchase from a private sector entity or nonprofit

1 organization goods and services that have been customarily and  
2 historically provided by a public employee or employees, an agency  
3 must meet the criteria specified in RCW 41.06.142 and also conduct a  
4 comprehensive impact assessment if the estimated cost of contract  
5 performance is greater than twenty thousand dollars. This section  
6 applies only to contracts entered under this chapter and does not  
7 apply to contracts awarded under alternate procurement statutes or to  
8 contracts awarded for the purposes of or by the department of  
9 transportation.

10 (a) To assist the agency in determining whether the decision to  
11 contract out is beneficial, the comprehensive impact assessment must  
12 include at a minimum the following comparative analysis of the  
13 estimated costs of providing the goods and services through public  
14 employees and the costs of providing the goods and services through a  
15 contract:

16 (i) For goods and services provided by public employees:

17 (A) An estimate of the cost of the goods and services, including  
18 the fully allocated costs of the good or service, the cost of the  
19 employees' salaries and benefits, space, equipment, materials, and  
20 other costs necessary to perform the function. The estimate shall  
21 include the state's indirect overhead costs that can be specifically  
22 attributed to delivering the goods and services over the period of  
23 the proposed contract; and

24 (B) A statement of the performance objectives to be achieved; and

25 (ii) For goods and services contracted out:

26 (A) An estimate of the cost of the goods and services, including  
27 the cost of allocating sufficient public employee staff time and  
28 resources to monitor the contract and ensure its proper performance  
29 by the contractor; and

30 (B) A statement of the performance objectives to be achieved by  
31 contracting with a private sector or nonprofit entity.

32 (b) The comprehensive assessment may also include an assessment  
33 of the potential impacts on the public from outsourcing the contract,  
34 such as gain or loss of employment, effect on social services and  
35 public assistance programs, economic impacts on local businesses and  
36 local tax revenues, and environmental impacts.

37 (2) Upon completion of the comprehensive impact assessment  
38 required under subsection (1) of this section a written record must  
39 be prepared:

1 (a) If an agency decides to contract out a good or service that  
2 has been customarily and historically provided by public employees,  
3 the agency must prepare a written record of the basis of the decision  
4 and provide it to the department. The written record must include the  
5 comprehensive impact assessment and an itemization of performance  
6 standards in the contract for the goods or services.

7 (b) If an agency decides to provide the good or service through  
8 public employees, the agency must prepare a written record of the  
9 basis of the decision and provide it to the department. The written  
10 record must include the comprehensive impact assessment and a  
11 quantifiable analysis demonstrating the agency's ability to meet or  
12 exceed performance standards in the agency project plan for providing  
13 the goods or services.

14 (c) The agency must maintain the written record in the agency's  
15 files for five years or the term of the contract, whichever is  
16 longer.

17 (3) Every five years or upon completion of the contract or  
18 provision of the goods or services by the agency's public employees,  
19 whichever comes first, the agency must prepare and file with the  
20 department a report, which must include at a minimum the following  
21 information:

22 (a) Documentation of the contractor's or agency's performance as  
23 measured by the itemized performance standards;

24 (b) Itemization of any contract extensions or change orders made  
25 by the contractor or comparable project plan revisions by the agency  
26 that resulted in a change in the dollar value or cost of the goods or  
27 services; and

28 (c) A report of any remedial actions that were taken to enforce  
29 compliance with the contract or project plan, together with an  
30 estimate of the cost incurred by the public in enforcing such  
31 compliance.

32 (4) In addition to any other terms required by law:

33 (a) For goods and services contracted out, the terms of the  
34 contract must include the following:

35 (i) A cancellation clause allowing the agency to cancel the  
36 contract if the contractor fails to meet quality standards or budget  
37 specifications;

38 (ii) Terms ensuring periodic review of performance of the  
39 contract on a semiannual basis or more frequently;

1 (iii) Terms requiring the contractor to reimburse the agency for  
2 certain additional costs including, but not limited to, the costs of  
3 the agency's employee time to mitigate or otherwise perform a  
4 contract that failed inspection, that the contractor failed to  
5 complete on schedule, or that the contractor failed to complete to  
6 specified quality standards;

7 (iv) A term requiring the contractor to make available to the  
8 agency the following information at the start of the contract's term  
9 and updated each fiscal year:

10 (A) The name and license number, if applicable, of the contractor  
11 and all subcontractors; and

12 (B) A list of individuals or entities performing or providing the  
13 goods or services, reflected as full-time equivalent positions,  
14 including the hourly wage rate for each position, and the status of  
15 the individual as an employee, subcontractor, independent contractor,  
16 or consultant of the contractor; and

17 (v) A waiver of confidentiality of, and agreement to provide to  
18 the agency upon request, basic financial information related to the  
19 contract, other than financial, commercial, or proprietary  
20 information specifically exempted from disclosure to the public under  
21 RCW 42.56.270; or

22 (b) For goods and services provided by public employees, the  
23 terms of an agency project plan must include the following:

24 (i) A clause allowing the agency to cancel the good or service if  
25 the agency fails to meet quality standards or budget specifications;

26 (ii) Terms ensuring periodic review of performance of the project  
27 plan on a semiannual basis or more frequently;

28 (iii) Terms requiring the agency to absorb certain additional  
29 costs including, but not limited to, the costs of the agency's  
30 employee time to mitigate or otherwise perform a project plan that  
31 failed inspection, that the agency failed to complete on schedule, or  
32 that the agency failed to complete to specified quality standards. In  
33 circumstances in which agencies are required to absorb certain  
34 additional costs or employee business units and other agencies are  
35 required to compensate an agency for certain additional costs, funds  
36 appropriated, allotted, or otherwise intended for other purposes may  
37 not be used to supplement or supplant funds for the purpose of  
38 acquiring the good or service; and

1 (iv) A term requiring the agency to make available to the  
2 department the following information at the start of the project plan  
3 and updated each fiscal year:

4 (A) The name and license number, if applicable, of any  
5 contractors and subcontractors; and

6 (B) A list of individuals or entities performing or providing the  
7 goods or services, reflected as full-time equivalent positions,  
8 including the hourly wage rate for each position, and the status of  
9 the individual as an employee, subcontractor, independent contractor,  
10 or consultant of the agency.

11 (5) The provisions applicable to contracts with a private sector  
12 entity or nonprofit organization set forth in this section also apply  
13 to contracts with employee business units under RCW 41.06.142 and  
14 interlocal agreements with other agencies under chapter 39.34 RCW.

15 **Sec. 3.** RCW 39.26.180 and 2012 c 224 s 20 are each amended to  
16 read as follows:

17 (1) The department must adopt uniform policies and procedures for  
18 the effective and efficient management of contracts or agency project  
19 plans by all state agencies. The policies and procedures must, at a  
20 minimum, include:

21 (a) Precontract procedures for selecting potential contractors  
22 based on their qualifications and ability to perform, including  
23 procedures to ensure compliance with chapter 39.19 RCW, providing for  
24 participation of minority and women-owned businesses;

25 (b) Model complaint and protest procedures;

26 (c) Alternative dispute resolution processes;

27 (d) Incorporation of performance measures and measurable  
28 benchmarks in contracts or agency project plans;

29 (e) Model ~~((contract))~~ terms to ensure ~~((contract))~~ performance  
30 and compliance with state and federal standards, including terms to  
31 facilitate recovery of the costs of public employee staff time that  
32 must be expended to achieve substantial compliance;

33 (f) Executing contracts using electronic signatures;

34 (g) Criteria for contract or project plan amendments;

35 (h) Postcontract or postproject procedures;

36 (i) Procedures and criteria for terminating contracts or project  
37 plans for cause or otherwise, including procedures and criteria for  
38 not achieving performance standards; and

1 (j) Any other subject related to effective and efficient contract  
2 or project plan management.

3 (2) An agency may not enter into a contract or adopt a project  
4 plan under which the contractor or agency could charge additional  
5 costs to the agency, the department, the joint legislative audit and  
6 review committee, or the state auditor for access to data generated  
7 under the contract or project plan. A contractor or agency under such  
8 a contract or project plan must provide access to data generated  
9 under the contract or project plan to the contracting agency or  
10 department, the joint legislative audit and review committee, and the  
11 state auditor.

12 (3) To the extent practicable, agencies should enter into  
13 performance-based contracts or adopt performance-based project plans.  
14 Performance-based contracts and project plans identify expected  
15 deliverables and performance measures or outcomes. Performance-based  
16 contracts and project plans also use appropriate techniques, which  
17 may include, but are not limited to, either consequences or  
18 incentives or both to ensure that agreed upon value to the state is  
19 received. Payment for goods and services under performance-based  
20 contracts should be contingent on ~~((the contractor))~~ achieving  
21 performance outcomes. Agencies or the department must monitor  
22 performance-based contracts or project plans at least on a semiannual  
23 basis to ensure that all aspects are being properly performed and  
24 that performance standards are being achieved.

25 (4) An agency and contractor may execute a contract using  
26 electronic signatures.

27 (5) As used in subsection (2) of this section, "data" includes  
28 all information that supports the findings, conclusions, and  
29 recommendations of the contractor's or agency's reports, including  
30 computer models and the methodology for those models.

31 (6) The provisions applicable to contracts and contractors set  
32 forth in this section also apply to contracts with employee business  
33 units under RCW 41.06.142 and interlocal agreements with other  
34 agencies under chapter 39.34 RCW.

35 **Sec. 4.** RCW 43.19.008 and 2011 1st sp.s. c 43 s 104 are each  
36 amended to read as follows:

37 (1) The executive powers and management of the department, and  
38 oversight through review or audit by the office of financial

1 management, the joint legislative audit and review committee, or  
2 state auditor, shall be administered as described in this section.

3 (2) The executive head and appointing authority of the department  
4 is the director. The director is appointed by the governor, subject  
5 to confirmation by the senate. The director serves at the pleasure of  
6 the governor. The director is paid a salary fixed by the governor in  
7 accordance with RCW 43.03.040. If a vacancy occurs in the position of  
8 director while the senate is not in session, the governor shall make  
9 a temporary appointment until the next meeting of the senate at which  
10 time he or she shall present to that body his or her nomination for  
11 the position.

12 (3) The director may employ staff members, who are exempt from  
13 chapter 41.06 RCW, and any additional staff members as are necessary  
14 to administer this chapter, and such other duties as may be  
15 authorized by law. The director may delegate any power or duty vested  
16 in ~~((him or her))~~ the position by chapter 43, Laws of 2011 1st sp.  
17 sess. or other law, including authority to make final decisions and  
18 enter final orders in hearings conducted under chapter 34.05 RCW.

19 (4) The internal affairs of the department are under the control  
20 of the director in order that the director may manage the department  
21 in a flexible and intelligent manner as dictated by changing  
22 contemporary circumstances. Unless specifically limited by law, the  
23 director has complete charge and supervisory powers over the  
24 department. The director may create the administrative structures as  
25 the director deems appropriate, except as otherwise specified by law,  
26 and the director may employ personnel as may be necessary in  
27 accordance with chapter 41.06 RCW, except as otherwise provided by  
28 law.

29 (5) Until June 30, ~~((2018))~~ 2019, at the beginning of each fiscal  
30 biennium, unless the joint legislative audit and review committee or  
31 the state auditor is otherwise directed to do so in the omnibus  
32 operating budget, the office of financial management shall conduct a  
33 review of the programs, goods, and services that are performed by the  
34 department to determine whether the program, goods, or services may  
35 be performed by the private sector, an employee business unit under  
36 RCW 41.06.142, or another agency pursuant to an interlocal agreement  
37 under chapter 39.34 RCW in a more cost-efficient and effective manner  
38 than being performed by the department. In conducting this review,  
39 the office of financial management shall:

1 (a) Examine the existing activities currently being performed by  
2 the department, including but not limited to an examination of goods  
3 or services for their performance, cost compared to revenue impact,  
4 staffing, capital requirements, and mission. Programs may be broken  
5 down into discrete goods, services, or activities or reviewed as a  
6 whole; and

7 (b) Examine the activities to determine which specific goods or  
8 services are available in the marketplace and what potential for  
9 efficiency gains or savings exist.

10 (i) As part of the review in this subsection (5), the office of  
11 financial management shall select up to six activities, goods, or  
12 services that have been determined as an activity that may be  
13 provided by the private sector in a cost-effective and efficient  
14 manner(~~(, including for the 2011-2013 fiscal biennium the bulk~~  
15 ~~printing services)).~~ The office of financial management may consult  
16 with affected industry stakeholders in making its decision on which  
17 activities to contract for goods or services. Priority for selection  
18 shall be given to agency activities, goods, or services that are  
19 significant, ongoing functions or projects with an initial project  
20 plan of two hundred fifty thousand dollars or more.

21 (ii) The office of financial management must consider the  
22 consequences and potential mitigation of improper or failed  
23 performance by the contractor or agency, if the activity was  
24 performed by public employees.

25 (iii) For each of the selected activities, the department or  
26 agency shall use a request for information, request for proposal, or  
27 other procurement process to determine if a contract for the activity  
28 would result in the activity being provided at a reduced cost and  
29 with greater efficiency. This must include, but is not limited to,  
30 consideration of the cost of the agency staff time and resources that  
31 may be required to monitor and ensure proper performance of the  
32 contract by the contractor or project plan by the agency.

33 (iv) The request for information, request for proposal, or other  
34 procurement process must contain measurable standards for the  
35 performance of the contract.

36 (v) If contracting out will afford taxpayers a cost savings or  
37 efficiency, the department may contract with one or more vendors to  
38 provide the good or service as a result of the procurement process.

39 (vi) If the office of financial management determines via the  
40 procurement process that the activity cannot be provided by the

1 private sector at a reduced cost and greater efficiency, the  
2 department of enterprise services may cancel the procurement without  
3 entering into a contract and shall promptly notify the legislative  
4 fiscal committees of such a decision along with the cost analysis and  
5 basis for the decision.

6 (vii) The department of enterprise services, in consultation with  
7 the office of financial management, must establish a contract or  
8 project plan monitoring process to measure contract or project plan  
9 performance, costs, service delivery quality, and other contract or  
10 project plan standards, and to cancel contracts or projects that do  
11 not meet those standards. No contracts or project extensions,  
12 expansions, future upgrades, or phases may be renewed without a  
13 review of these measures.

14 (viii) The office of financial management shall prepare a  
15 biennial report summarizing the results of the examination of the  
16 agency's programs, goods, and services. In addition to the programs,  
17 goods, and services examined and the result of the examination, the  
18 report shall provide information on any procurement process that does  
19 not result in a contract for the goods or services. The biennial  
20 report must include updates reporting any unanticipated costs  
21 incurred as a result of contracting out or from the agency providing  
22 the goods or services pursuant to this section and an estimate of  
23 staff hours devoted by employees of the office of financial  
24 management and department of enterprise services in conducting the  
25 program review required by this section. During each regular  
26 legislative session held in odd-numbered years, the legislative  
27 fiscal committees shall hold a public hearing on the report and the  
28 department's activities under this section. This report must be made  
29 available on the web site of the agency that was the subject of the  
30 report.

31 (ix) The joint legislative audit and review committee shall  
32 conduct an audit of the implementation of this subsection (5), and  
33 report to the legislature by January 1, 2018, on the results of the  
34 audit. The report must include an analysis and estimate of additional  
35 costs or savings to taxpayers as a result of the contracting out or  
36 project plan provisions. This analysis must, at a minimum, include  
37 the following:

38 (A) An estimate of the cost of performance of the selected  
39 activities, if the activities had been performed by public employees;

1 (B) An estimate of the cost of performance of the contract or  
2 project plan by the contractor, including the cost of any change  
3 orders, project plan, or contract revisions and the costs of  
4 allocating sufficient public employee staff time and resources to  
5 monitor the contract and ensure its proper performance by the  
6 contractor;

7 (C) An analysis of the extent to which performance objectives  
8 were achieved by outsourcing the contract or by having the agency  
9 perform the activity; and

10 (D) An assessment of potential impacts on the public of  
11 outsourcing the contract or by having the agency perform the  
12 activities.

13 **Sec. 5.** RCW 39.26.200 and 2015 c 44 s 1 are each amended to read  
14 as follows:

15 (1)(a) The director shall provide notice to the contractor of the  
16 director's intent to either fine or debar with the specific reason  
17 for either the fine or debarment. The department must establish the  
18 debarment and fining processes by rule.

19 (b) After reasonable notice to the contractor and reasonable  
20 opportunity for that contractor to be heard, the director has the  
21 authority to debar a contractor for cause from consideration for  
22 award of contracts. The debarment must be for a period of not more  
23 than three years.

24 (2) The director may either fine or debar a contractor based on a  
25 finding of one or more of the following causes:

26 (a) Conviction for commission of a criminal offense as an  
27 incident to obtaining or attempting to obtain a public or private  
28 contract or subcontract, or in the performance of such contract or  
29 subcontract;

30 (b) Conviction or a final determination in a civil action under  
31 state or federal statutes of fraud, embezzlement, theft, forgery,  
32 bribery, falsification or destruction of records, receiving stolen  
33 property, violation of the federal false claims act, 31 U.S.C. Sec.  
34 3729 et seq., or the state medicaid fraud false claims act, chapter  
35 74.66 RCW, or any other offense indicating a lack of business  
36 integrity or business honesty that currently, seriously, and directly  
37 affects responsibility as a state contractor;

38 (c) Conviction under state or federal antitrust statutes arising  
39 out of the submission of bids or proposals;

1 (d) Two or more violations within the previous five years of the  
2 (~~federal~~) national labor relations act as determined by the  
3 national labor relations board or court of competent jurisdiction;

4 (e) Violation of contract provisions, as set forth in this  
5 subsection, of a character that is regarded by the director to be so  
6 serious as to justify debarment action:

7 (i) Deliberate failure without good cause to perform in  
8 accordance with the specifications or within the time limit provided  
9 in the contract; or

10 (ii) A recent record of failure to perform or of unsatisfactory  
11 performance in accordance with the terms of one or more contracts,  
12 however the failure to perform or unsatisfactory performance caused  
13 by acts beyond the control of the contractor may not be considered to  
14 be a basis for debarment;

15 (f) Violation of ethical standards set forth in RCW 39.26.020;  
16 and

17 (g) Any other cause the director determines to be so serious and  
18 compelling as to affect responsibility as a state contractor,  
19 including debarment by another governmental entity for any cause  
20 listed in regulations.

21 (3) The director must issue a written decision to debar. The  
22 decision must:

23 (a) State the reasons for the action taken; and

24 (b) Inform the debarred contractor of the contractor's rights to  
25 judicial or administrative review.

26 **Sec. 6.** RCW 41.06.142 and 2011 1st sp.s. c 43 s 408 are each  
27 amended to read as follows:

28 (1) Any department, agency, or institution of higher education  
29 may purchase services, including services that have been customarily  
30 and historically provided by employees in the classified service  
31 under this chapter, by contracting with individuals, nonprofit  
32 organizations, businesses, employee business units, or other entities  
33 if the following criteria are met:

34 (a) The invitation for bid or request for proposal contains  
35 measurable standards for the performance of the contract;

36 (b) Employees in the classified service whose positions or work  
37 would be displaced by the contract are provided an opportunity to  
38 offer alternatives to purchasing services by contract and, if these

1 alternatives are not accepted, compete for the contract under  
2 competitive contracting procedures in subsection (4) of this section;

3 (c) The contract with an entity other than an employee business  
4 unit includes a provision requiring the entity to consider employment  
5 of state employees who may be displaced by the contract;

6 (d) The department, agency, or institution of higher education  
7 has established a contract monitoring process to measure contract  
8 performance, costs, service delivery quality, and other contract  
9 standards, and to cancel contracts that do not meet those standards;  
10 and

11 (e) The department, agency, or institution of higher education  
12 has determined that the contract results in savings or efficiency  
13 improvements. The contracting agency must consider the consequences  
14 and potential mitigation of improper or failed performance by the  
15 contractor.

16 (2) Any provision contrary to or in conflict with this section in  
17 any collective bargaining agreement in effect on July 1, 2005, is not  
18 effective beyond the expiration date of the agreement.

19 (3) Contracting for services that is expressly mandated by the  
20 legislature or was authorized by law prior to July 1, 2005, including  
21 contracts and agreements between public entities, shall not be  
22 subject to the processes set forth in subsections (1), (4), and (5)  
23 of this section.

24 (4) Competitive contracting shall be implemented as follows:

25 (a) At least ninety days prior to the date the contracting agency  
26 requests bids from private entities for a contract for services  
27 provided by classified employees, the contracting agency shall notify  
28 the classified employees whose positions or work would be displaced  
29 by the contract. The employees shall have sixty days from the date of  
30 notification to offer alternatives to purchasing services by  
31 contract, and the agency shall consider the alternatives before  
32 requesting bids.

33 (b) If the employees decide to compete for the contract, they  
34 shall notify the contracting agency of their decision. Employees must  
35 form one or more employee business units for the purpose of  
36 submitting a bid or bids to perform the services.

37 (c) The department of enterprise services, with the advice and  
38 assistance of the office of financial management, shall develop and  
39 make available to employee business units training in the bidding  
40 process and general bid preparation.

1 (d) The director of enterprise services, with the advice and  
2 assistance of the office of financial management, shall, by rule,  
3 establish procedures to ensure that bids are submitted and evaluated  
4 in a fair and objective manner and that there exists a competitive  
5 market for the service. Such rules shall include, but not be limited  
6 to: (i) Prohibitions against participation in the bid evaluation  
7 process by employees who prepared the business unit's bid or who  
8 perform any of the services to be contracted; (ii) provisions to  
9 ensure no bidder receives an advantage over other bidders and that  
10 bid requirements are applied equitably to all parties; and (iii)  
11 procedures that require the contracting agency to receive complaints  
12 regarding the bidding process and to consider them before awarding  
13 the contract. Appeal of an agency's actions under this subsection is  
14 an adjudicative proceeding and subject to the applicable provisions  
15 of chapter 34.05 RCW, the administrative procedure act, with the  
16 final decision to be rendered by an administrative law judge assigned  
17 under chapter 34.12 RCW.

18 (e) An employee business unit's bid must include the fully  
19 allocated costs of the service, including the cost of the employees'  
20 salaries and benefits, space, equipment, materials, and other costs  
21 necessary to perform the function. An employee business unit's cost  
22 shall not include the state's indirect overhead costs unless those  
23 costs can be attributed directly to the function in question and  
24 would not exist if that function were not performed in state service.

25 (f) A department, agency, or institution of higher education may  
26 contract with the department of enterprise services to conduct the  
27 bidding process.

28 (5) As used in this section:

29 (a) "Employee business unit" means a group of employees who  
30 perform services to be contracted under this section and who submit a  
31 bid for the performance of those services under subsection (4) of  
32 this section.

33 (b) "Indirect overhead costs" means the pro rata share of  
34 existing agency administrative salaries and benefits, and rent,  
35 equipment costs, utilities, and materials associated with those  
36 administrative functions.

37 (c) "Competitive contracting" means the process by which  
38 classified employees of a department, agency, or institution of  
39 higher education compete with businesses, individuals, nonprofit

1 organizations, or other entities for contracts authorized by  
2 subsection (1) of this section.

3 (6) The processes set forth in subsections (1), (4), and (5) of  
4 this section do not apply to:

5 (a) RCW 74.13.031(~~(5)~~) (6); and

6 (b) The acquisition of printing services by a state agency(~~and~~  
7 ~~(c) Contracting for services or activities by the department of~~  
8 ~~enterprise services under RCW 43.19.008 and the department may~~  
9 ~~continue to contract for such services and activities after June 30,~~  
10 ~~2018.~~

11 ~~(7) The processes set forth in subsections (1), (4), and (5) of~~  
12 ~~this section do not apply to the consolidated technology services~~  
13 ~~agency when contracting for services or activities as follows:~~

14 ~~(a) Contracting for services and activities that are necessary to~~  
15 ~~establish, operate, or manage the state data center, including~~  
16 ~~architecture, design, engineering, installation, and operation of the~~  
17 ~~facility that are approved by the technology services board created~~  
18 ~~in RCW 43.41A.070.~~

19 ~~(b) Contracting for services and activities recommended by the~~  
20 ~~chief information officer through a business plan and approved by the~~  
21 ~~technology services board created in RCW 43.41A.070).~~

22 NEW SECTION. **Sec. 7.** This act may be known and cited as the  
23 "taxpayer protection act."

--- END ---