
HOUSE BILL 1133

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Valle, Ferguson, Belcher, Bowman, Sprenkle, Brekke, Pruitt, Dellwo, Sheldon, Morris, Jones, Betrozoff and Orr.

Read first time January 21, 1991. Referred to Committee on State Government.

1 AN ACT Relating to personal service contracts; amending RCW
2 39.29.003, 39.29.018, and 39.29.006; adding new sections to chapter
3 39.29 RCW; creating a new section; and declaring an emergency.

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

5 **Sec. 1.** RCW 39.29.003 and 1987 c 414 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 entered into by state
9 agencies, unless specifically exempted under this chapter. It is
10 further the intent to provide for legislative and executive review of
11 all personal service contracts (~~((negotiated without an open competitive
12 process))~~) to centralize the location of personal service contracts for
13 ease of public review, and ensure proper accounting of personal
14 services expenditures.

1 **Sec. 2.** RCW 39.29.018 and 1987 c 414 s 5 are each amended to read
2 as follows:

3 (1) Sole source contracts and modifications thereto shall be filed
4 with the office of financial management and the legislative budget
5 committee and made available for public inspection at least ten working
6 days prior to the proposed starting date of the contract. Documented
7 justification for sole source contracts shall be provided to the office
8 of financial management and the legislative budget committee when the
9 contract is filed.

10 (2) The office of financial management shall approve sole source
11 contracts of ten thousand dollars or more and modifications thereto
12 before any such contract or modification becomes binding and before any
13 services may be performed under the contract. These requirements shall
14 also apply to sole source contracts of less than ten thousand dollars
15 if the total amount of such contracts and their amendments between an
16 agency and the same consultant is ten thousand dollars or more within
17 a fiscal year.

18 **Sec. 3.** RCW 39.29.006 and 1987 c 414 s 2 are each amended to read
19 as follows:

20 As used in this chapter:

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

25 (2) "Client services" means services provided directly to agency
26 clients including, but not limited to, medical and dental services,
27 employment and training programs, residential care, and subsidized
28 housing.

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

9 (4) "Consultant" means an independent individual or firm
10 contracting with an agency to perform a service or render an opinion or
11 recommendation according to the consultant's methods and without being
12 subject to the control of the agency except as to the result of the
13 work. The agency monitors progress under the contract and authorizes
14 payment.

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

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

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

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

24 (7) "Personal service" means professional or technical expertise
25 provided by a consultant to accomplish a specific study, project, task,
26 or other work statement. Personal services shall be procured to
27 resolve a particular agency problem or issue or to expedite a specific
28 project, the duration of which is short term. Agencies may procure
29 personal services from private sources or other public agencies if they
30 demonstrate need and are able to document insufficient staffing or

1 expertise to perform the service. This term does not include purchased
2 services as defined under subsection (9) of this section. This term
3 does include client services.

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

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

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

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.29 RCW
20 to read as follows:

21 (1) Personal service contracts subject to competitive solicitation,
22 and modifications thereto, shall be filed with the office of financial
23 management and the legislative evaluation and accountability program
24 committee and made available for public inspection at least ten working
25 days before the proposed starting date of the contract. Each agency
26 filing a personal service contract pursuant to this section shall
27 include certification that the procedures and requirements adopted by
28 the office of financial management pursuant to RCW 39.29.065 have been

1 met, and that the process used by the agency to competitively solicit
2 potential consultants has been documented.

3 (2) The legislative evaluation and accountability program committee
4 shall approve personal service contracts, and modifications thereto,
5 subject to solicitation of ten thousand dollars or more before any such
6 contract becomes binding and before any services may be performed under
7 the contract. The legislative evaluation and accountability program
8 committee may forward questionable contracts to the fiscal committees
9 of the legislature for further review.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 39.29 RCW
11 to read as follows:

12 The office of financial management shall maintain a list of all
13 personal service contracts entered into by state agencies during each
14 fiscal year. The list shall identify the contracting agency, the
15 contractor, the purpose of the contract, effective dates and periods of
16 performance, and whether the contract, including amendments, was
17 competitively procured or awarded on a sole source basis. The office
18 of financial management shall also ensure that state accounting
19 definitions and procedures are consistent with RCW 39.29.006 and permit
20 the reporting of personal services expenditures by agency and by type
21 of service. Designations of type of services shall include, but not be
22 limited to, management and organizational services, legal services,
23 financial services, social or technical research, marketing, and
24 employee training or recruiting services.

25 NEW SECTION. **Sec. 6.** (1) The legislative evaluation and
26 accountability program committee shall conduct a study of agency
27 expenditures for personal services incurred during the 1989-91
28 biennium. The study shall:

1 (a) Review all contracts for personal services and their
2 amendments, including emergency contracts and contracts for services
3 exempted by RCW 39.29.040 except architectural and engineering
4 contracts;

5 (b) Determine whether contracts for personal services have met the
6 requirements of chapter 39.29 RCW and have complied with the office of
7 financial management's requirements for using outside consultants; and

8 (c) Determine the extent and use of contract amendments and the
9 need for improvements to state accounting procedures, definitions, and
10 controls relating to personal services expenditures.

11 (2) The legislative evaluation and accountability program committee
12 may limit its review to the ten agencies that incurred the most
13 expenditures for personal services during the biennium.

14 (3) The legislative evaluation and accountability program committee
15 shall report its findings and make recommendations for improvements to
16 the fiscal committees of the legislature on or before December 1, 1991.

17 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and shall take
20 effect immediately.