

SENATE BILL REPORT

SB 5085

As of January 17, 1995

Title: An act relating to streamlining purchasing provisions for state agencies including Washington state ferries.

Brief Description: Revising bidding procedures for public agencies.

Sponsors: Senators Owen, Haugen, Pelz, Wood, Franklin, Deccio and Sheldon; by request of Department of General Administration.

Brief History:

Committee Activity: Transportation: 1/17/95.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Vicki Fabre (786-7313)

Background: The 1993 Legislature authorized construction of three new Jumbo Mark II Class ferries. Washington State Ferries proposed purchase of the propulsion system from a single vendor in order to compress delivery time for the vessels and to assure the selection of compatible technology for the vessels.

The procurement of the propulsion system by the Department of General Administration, Office of State Procurement (OSP), was conducted using the traditional Invitation for Bid Process (IFB) which requires evaluation and selection based on price alone. Price was determined through several variables, including life cycle cost (the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance and disposal).

In its cost analysis, OSP determined that the life cycle cost component distorted the value of the product to the state. OSP maintained that strict application of life cycle cost resulted in fuel consumption factors that unreasonably outweighed other factors that are of value to Washington State Ferries (WSF) as a public mass transportation system, such as maintainability, reliability and performance. For these reasons, OSP eliminated it as a price evaluation criteria.

In September 1993, the propulsion system contract was awarded to Siemens Energy and Automation, Inc. An unsuccessful bidder on the engine component brought suit against the state, alleging that the state had failed to apply life cycle cost analysis. The court found that the state had failed to adequately document its determination that the application of life cycle cost analysis would not result in the lowest cost to the state.

The state and the complaining party subsequently reached an agreement to let the award of the propulsion system contract stand, and to rebid the engine component. The settlement

order also reserved WSF's right to rectify the procurement process through a legislative remedy.

The 1994 Legislature in SHB 2863 (Chapter 181, Laws of 1994) authorized the purchase of the propulsion systems for the Jumbo Mark II Class ferries through a Request for Proposals (RFP) process, utilizing specific evaluation criteria to determine the proposal most advantageous to the state. The propulsion system engines were subsequently awarded under this RFP process.

SHB 2863 also directed the Department of Transportation, Department of General Administration, and the Office of Financial Management, in consultation with the Legislative Transportation Committee (LTC), to review OSP's acquisition authorities to determine the impact on the operation of WSF as a public mass transportation system and to report on any proposed legislation. The multi-agency review resulted in a series of recommendations on procurement methods and statutory changes that are responsive to the needs of WSF and that streamline the procurement process for all state agencies. The study results and proposed legislation were reported to the LTC in December 1994.

Summary of Bill: The authority of the Office of State Procurement to utilize a Request for Proposal (RFP) process for complex technical procurements as an optional sealed bid process is clarified.

The dollar limit under which small purchases may be made without competitive bid is raised from \$800 to \$2,500.

Emergency purchase provisions are revised by removing the requirement that agencies file reports with the Department of General Administration following each emergency acquisition. Agencies are responsible for documenting and auditing emergency purchases internally.

The Department of Transportation is authorized to enter into concession contracts for up to ten years and to use an Invitation for Bid or Request for Proposal process for concession contracts. Joint development agreements between the department and a public or private entity are expanded to include installed improvements.

Existing statutes authorizing the acquisition of passenger-only ferries through a competitive RFP process are repealed.

Appropriation: None.

Fiscal Note: Available.

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