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HOUSE BILL 1808

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By Representatives Miloscia, Anderson, Hunt, Clements, D. Schmidt, Haigh, Boldt, Romero, Delvin, McDermott, Kessler, Schindler and Ruderman

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1 AN ACT Relating to state agency contract accountability; amending  
2 RCW 28B.10.350, 28B.50.330, 39.04.155, 39.80.050, 43.30.300, 43.78.110,  
3 43.105.041, 47.28.090, 47.56.030, and 77.12.210; reenacting and  
4 amending RCW 28B.10.029, 43.19.1906, and 79A.05.030; and adding a new  
5 section to chapter 43.41 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.41 RCW  
8 to read as follows:

9 (1) The director of financial management shall devise a modern and  
10 complete system for achieving accountability for the use of public  
11 funds in all contracts made by any state agency. The director shall  
12 consult with stakeholder groups when devising the system.

13 (2) The system shall address, but not be limited to, contractor  
14 selection; contract provisions, including performance measures that may  
15 be required under RCW 43.88.090; contract management; contract  
16 monitoring; auditing and postevaluation; timely resolution of  
17 monitoring and audit findings and recommendations; and financial  
18 accountability expectations. The financial accountability expectations  
19 shall include, but not be limited to, cost allocation principles,

1 allowability of costs, terms of reimbursement, compliance requirements,  
2 and timely recovery of overpayments and unallowable program costs. The  
3 system shall also take into account the need to coordinate the  
4 activities of multiple funding sources to preclude duplication of  
5 effort and funding.

6 (3) The system shall apply to contracts of any sort that a state  
7 agency awards, including, but not limited to, contracts awarded for any  
8 public work, maintenance, or other work or for the purchase of  
9 materials, supplies, equipment, or any type of service including  
10 personal services and client services as defined in chapter 39.29 RCW.

11 (4) The director shall update the system on a yearly basis. When  
12 updating the system, the director shall examine proven and effective  
13 systems for achieving contract accountability nationwide and adopt such  
14 systems or parts thereof to meet the needs of the state.

15 (5) The director shall also provide resource materials and training  
16 for state officials and contract officers and contractors on the  
17 system.

18 (6) All branches of state government, or any division thereof, must  
19 implement the system.

20 (7) In order to support state agencies with consolidated, readily  
21 available information on contracts and the historical performance of  
22 contractors, the director shall establish and maintain a data base  
23 containing information regarding contractors and subcontractors who  
24 have done business with the state government. The data base must  
25 contain a list of businesses that have been debarred under subsection  
26 (8) of this section.

27 (8)(a) As part of the system required by subsection (1) of this  
28 section, the director shall establish standards and procedures under  
29 which contractors or subcontractors may be debarred from contracting  
30 with the state government for two years.

31 (b) The standards must clearly specify the conduct that may subject  
32 a contractor or subcontractor to debarment.

33 (c) The procedures must provide for a hearing before debarment,  
34 which must be held under chapter 34.05 RCW.

35 (9) The state auditor shall perform performance verifications and  
36 performance audits of state government to evaluate the implementation  
37 of the system required by subsection (1) of this section. For purposes  
38 of this subsection:

1 (a) "Performance verification" has the same meaning as in RCW  
2 43.88.020; and

3 (b) "Performance audit" has the same meaning as in RCW 44.28.005.

4 (10) For purposes of this section, "state government" includes the  
5 executive, legislative, and judicial branches.

6 **Sec. 2.** RCW 28B.10.029 and 1998 c 344 s 5 and 1998 c 111 s 2 are  
7 each reenacted and amended to read as follows:

8 (1) An institution of higher education may exercise independently  
9 those powers otherwise granted to the director of general  
10 administration in chapter 43.19 RCW in connection with the purchase and  
11 disposition of all material, supplies, services, and equipment needed  
12 for the support, maintenance, and use of the respective institution of  
13 higher education. Property disposition policies followed by  
14 institutions of higher education shall be consistent with policies  
15 followed by the department of general administration. Purchasing  
16 policies and procedures followed by institutions of higher education  
17 shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and  
18 RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937,  
19 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560  
20 through 43.19.637. The community and technical colleges shall comply  
21 with RCW 43.19.450. Except for the University of Washington,  
22 institutions of higher education shall comply with RCW 43.19.1935,  
23 43.19.19363, and 43.19.19368. If an institution of higher education  
24 can satisfactorily demonstrate to the director of the office of  
25 financial management that the cost of compliance is greater than the  
26 value of benefits from any of the following statutes, then it shall be  
27 exempt from them: RCW 43.19.685; 43.19.534; and 43.19.637. Any  
28 institution of higher education that chooses to exercise independent  
29 purchasing authority for a commodity or group of commodities shall  
30 notify the director of general administration. Thereafter the director  
31 of general administration shall not be required to provide those  
32 services for that institution for the duration of the general  
33 administration contract term for that commodity or group of  
34 commodities.

35 (2) An institution of higher education may exercise independently  
36 those powers otherwise granted to the public printer in chapter 43.78  
37 RCW in connection with the production or purchase of any printing and  
38 binding needed by the respective institution of higher education.

1 Purchasing policies and procedures followed by institutions of higher  
2 education shall be in compliance with chapter 39.19 RCW. Any  
3 institution of higher education that chooses to exercise independent  
4 printing production or purchasing authority shall notify the public  
5 printer. Thereafter the public printer shall not be required to  
6 provide those services for that institution.

7 (3) Contracts awarded under this section are subject to the modern  
8 and complete system for achieving accountability developed by the  
9 office of financial management under section 1 of this act.

10 **Sec. 3.** RCW 28B.10.350 and 2000 c 138 s 202 are each amended to  
11 read as follows:

12 (1) When the cost to The Evergreen State College, any regional  
13 university, or state university, of any building, construction,  
14 renovation, remodeling, or demolition other than maintenance or repairs  
15 will equal or exceed the sum of twenty-five thousand dollars, complete  
16 plans and specifications for such work shall be prepared and such work  
17 shall be put out for public bids and the contract shall be awarded to  
18 the lowest responsible bidder if in accordance with the bid  
19 specifications: PROVIDED, That when the estimated cost of such  
20 building, construction, renovation, remodeling, or demolition equals or  
21 exceeds the sum of twenty-five thousand dollars, such project shall be  
22 deemed a public works and "the prevailing rate of wage," under chapter  
23 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when  
24 such building, construction, renovation, remodeling, or demolition  
25 involves one trade or craft area and the estimated cost exceeds ten  
26 thousand dollars, complete plans and specifications for such work shall  
27 be prepared and such work shall be put out for public bids, and the  
28 contract shall be awarded to the lowest responsible bidder if in  
29 accordance with the bid specifications. This subsection shall not  
30 apply when a contract is awarded by the small works roster procedure  
31 authorized in RCW 39.04.155 or under any other procedure authorized for  
32 an institution of higher education.

33 (2) The Evergreen State College, any regional university, or state  
34 university may require a project to be put to public bid even when it  
35 is not required to do so under subsection (1) of this section.

36 (3) Where the estimated cost to The Evergreen State College, any  
37 regional university, or state university of any building, construction,  
38 renovation, remodeling, or demolition is less than twenty-five thousand

1 dollars or the contract is awarded by the small works roster procedure  
2 authorized in RCW 39.04.155, the publication requirements of RCW  
3 39.04.020 shall be inapplicable.

4 (4) In the event of any emergency when the public interest or  
5 property of The Evergreen State College, regional university, or state  
6 university would suffer material injury or damage by delay, the  
7 president of such college or university may declare the existence of  
8 such an emergency and reciting the facts constituting the same may  
9 waive the requirements of this section with reference to any contract  
10 in order to correct the condition causing the emergency: PROVIDED,  
11 That an "emergency," for the purposes of this section, means a  
12 condition likely to result in immediate physical injury to persons or  
13 to property of such college or university in the absence of prompt  
14 remedial action or a condition which immediately impairs the  
15 institution's ability to perform its educational obligations.

16 (5) Contracts awarded under this section are subject to the modern  
17 and complete system for achieving accountability developed by the  
18 office of financial management under section 1 of this act.

19 **Sec. 4.** RCW 28B.50.330 and 1993 c 379 s 108 are each amended to  
20 read as follows:

21 The boards of trustees of college districts are empowered in  
22 accordance with the provisions of this chapter to provide for the  
23 construction, reconstruction, erection, equipping, demolition, and  
24 major alterations of buildings and other capital assets, and the  
25 acquisition of sites, rights-of-way, easements, improvements, or  
26 appurtenances for the use of the aforementioned colleges as authorized  
27 by the college board in accordance with RCW 28B.50.140; to be financed  
28 by bonds payable out of special funds from revenues hereafter derived  
29 from income received from such facilities, gifts, bequests, or grants,  
30 and such additional funds as the legislature may provide, and payable  
31 out of a bond retirement fund to be established by the respective  
32 district boards in accordance with rules and regulations of the state  
33 board. With respect to building, improvements, or repairs, or other  
34 work, where the estimated cost exceeds twenty-five thousand dollars,  
35 complete plans and specifications for such work shall be prepared and  
36 such work shall be put out for public bids and the contract shall be  
37 awarded to the lowest responsible bidder if in accordance with the bid  
38 specifications: PROVIDED, That when such building, construction,

1 renovation, remodeling, or demolition involves one trade or craft area  
2 and the estimated cost exceeds ten thousand dollars, complete plans and  
3 specifications for such work shall be prepared and such work shall be  
4 put out for public bids, and the contract shall be awarded to the  
5 lowest responsible bidder if in accordance with the bid specifications.  
6 This subsection shall not apply when a contract is awarded by the small  
7 works procedure authorized in RCW ((39.04.150)) 39.04.155: PROVIDED  
8 FURTHER, That any project regardless of dollar amount may be put to  
9 public bid.

10 Where the estimated cost to any college of any building,  
11 improvements, or repairs, or other work, is less than twenty-five  
12 thousand dollars, the publication requirements of RCW 39.04.020 shall  
13 be inapplicable.

14 Contracts awarded under this section are subject to the modern and  
15 complete system for achieving accountability developed by the office of  
16 financial management under section 1 of this act.

17 **Sec. 5.** RCW 39.04.155 and 2000 c 138 s 101 are each amended to  
18 read as follows:

19 (1) This section provides uniform small works roster provisions to  
20 award contracts for construction, building, renovation, remodeling,  
21 alteration, repair, or improvement of real property that may be used by  
22 state agencies and by any local government that is expressly authorized  
23 to use these provisions. These provisions may be used in lieu of other  
24 procedures to award contracts for such work with an estimated cost of  
25 two hundred thousand dollars or less.

26 (2) A state agency or authorized local government may create a  
27 single general small works roster, or may create a small works roster  
28 for different specialties or categories of anticipated work. Where  
29 applicable, small works rosters may make distinctions between  
30 contractors based upon different geographic areas served by the  
31 contractor. The small works roster or rosters shall consist of all  
32 responsible contractors who have requested to be on the list, and where  
33 required by law are properly licensed or registered to perform such  
34 work in this state. A state agency or local government establishing a  
35 small works roster or rosters may require eligible contractors desiring  
36 to be placed on a roster or rosters to keep current records of any  
37 applicable licenses, certifications, registrations, bonding, insurance,  
38 or other appropriate matters on file with the state agency or local

1 government as a condition of being placed on a roster or rosters. At  
2 least once a year, the state agency or local government shall publish  
3 in a newspaper of general circulation within the jurisdiction a notice  
4 of the existence of the roster or rosters and solicit the names of  
5 contractors for such roster or rosters. In addition, responsible  
6 contractors shall be added to an appropriate roster or rosters at any  
7 time they submit a written request and necessary records. Master  
8 contracts may be required to be signed that become effective when a  
9 specific award is made using a small works roster.

10 (3) A state agency establishing a small works roster or rosters  
11 shall adopt rules implementing this section. A local government  
12 establishing a small works roster or rosters shall adopt an ordinance  
13 or resolution implementing this section. Procedures included in rules  
14 adopted by the department of general administration in implementing  
15 this section must be included in any rules providing for a small works  
16 roster or rosters that is adopted by another state agency, if the  
17 authority for that state agency to engage in these activities has been  
18 delegated to it by the department of general administration under  
19 chapter 43.19 RCW. An interlocal contract or agreement between two or  
20 more state agencies or local governments establishing a small works  
21 roster or rosters to be used by the parties to the agreement or  
22 contract must clearly identify the lead entity that is responsible for  
23 implementing the provisions of this section.

24 (4) Procedures shall be established for securing telephone,  
25 written, or electronic quotations from contractors on the appropriate  
26 small works roster to assure that a competitive price is established  
27 and to award contracts to the lowest responsible bidder, as defined in  
28 RCW 43.19.1911. Invitations for quotations shall include an estimate  
29 of the scope and nature of the work to be performed as well as  
30 materials and equipment to be furnished. However, detailed plans and  
31 specifications need not be included in the invitation. This section  
32 does not eliminate other requirements for architectural or engineering  
33 approvals as to quality and compliance with building codes. Quotations  
34 may be invited from all appropriate contractors on the appropriate  
35 small works roster. As an alternative, quotations may be invited from  
36 at least five contractors on the appropriate small works roster who  
37 have indicated the capability of performing the kind of work being  
38 contracted, in a manner that will equitably distribute the opportunity  
39 among the contractors on the appropriate roster. However, if the

1 estimated cost of the work is from one hundred thousand dollars to two  
2 hundred thousand dollars, a state agency or local government, other  
3 than a port district, that chooses to solicit bids from less than all  
4 the appropriate contractors on the appropriate small works roster must  
5 also notify the remaining contractors on the appropriate small works  
6 roster that quotations on the work are being sought. The government  
7 has the sole option of determining whether this notice to the remaining  
8 contractors is made by: (a) Publishing notice in a legal newspaper in  
9 general circulation in the area where the work is to be done; (b)  
10 mailing a notice to these contractors; or (c) sending a notice to these  
11 contractors by facsimile or other electronic means. For purposes of  
12 this subsection, "equitably distribute" means that a state agency or  
13 local government soliciting bids may not favor certain contractors on  
14 the appropriate small works roster over other contractors on the  
15 appropriate small works roster who perform similar services.

16 (5) A contract awarded from a small works roster under this section  
17 need not be advertised.

18 (6) Immediately after an award is made, the bid quotations obtained  
19 shall be recorded, open to public inspection, and available by  
20 telephone inquiry.

21 (7) The breaking of any project into units or accomplishing any  
22 projects by phases is prohibited if it is done for the purpose of  
23 avoiding the maximum dollar amount of a contract that may be let using  
24 the small works roster process.

25 (8) As used in this section, "state agency" means the department of  
26 general administration, the state parks and recreation commission, the  
27 department of natural resources, the department of fish and wildlife,  
28 the department of transportation, any institution of higher education  
29 as defined under RCW 28B.10.016, and any other state agency delegated  
30 authority by the department of general administration to engage in  
31 construction, building, renovation, remodeling, alteration,  
32 improvement, or repair activities.

33 (9) Contracts awarded under this section are subject to the modern  
34 and complete system for achieving accountability developed by the  
35 office of financial management under section 1 of this act.

36 **Sec. 6.** RCW 39.80.050 and 1981 c 61 s 5 are each amended to read  
37 as follows:



1 (1) The agency shall negotiate a contract with the most qualified  
2 firm for architectural and engineering services at a price which the  
3 agency determines is fair and reasonable to the agency. In making its  
4 determination, the agency shall take into account the estimated value  
5 of the services to be rendered as well as the scope, complexity, and  
6 professional nature thereof.

7 (2) If the agency is unable to negotiate a satisfactory contract  
8 with the firm selected at a price the agency determines to be fair and  
9 reasonable, negotiations with that firm shall be formally terminated  
10 and the agency shall select other firms in accordance with RCW  
11 39.80.040 and continue in accordance with this section until an  
12 agreement is reached or the process is terminated.

13 (3) Contracts awarded under this section are subject to the modern  
14 and complete system for achieving accountability developed by the  
15 office of financial management under section 1 of this act.

16 **Sec. 7.** RCW 43.19.1906 and 1999 sp.s. c 1 s 606, 1999 c 195 s 1,  
17 and 1999 c 106 s 1 are each reenacted and amended to read as follows:

18 Insofar as practicable, all purchases and sales shall be based on  
19 competitive bids, and a formal sealed bid procedure shall be used as  
20 standard procedure for all purchases and contracts for purchases and  
21 sales executed by the state purchasing and material control director  
22 and under the powers granted by RCW 43.19.190 through 43.19.1939.  
23 Contracts awarded under this section are subject to the modern and  
24 complete system for achieving accountability developed by the office of  
25 financial management under section 1 of this act. This requirement  
26 also applies to purchases and contracts for purchases and sales  
27 executed by agencies, including educational institutions, under  
28 delegated authority granted in accordance with provisions of RCW  
29 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is  
30 not necessary for:

31 (1) Emergency purchases made pursuant to RCW 43.19.200 if the  
32 sealed bidding procedure would prevent or hinder the emergency from  
33 being met appropriately;

34 (2) Purchases not exceeding thirty-five thousand dollars, or  
35 subsequent limits as calculated by the office of financial management:  
36 PROVIDED, That the state director of general administration shall  
37 establish procedures to assure that purchases made by or on behalf of  
38 the various state agencies shall not be made so as to avoid the thirty-

1 five thousand dollar bid limitation, or subsequent bid limitations as  
2 calculated by the office of financial management: PROVIDED FURTHER,  
3 That the state purchasing and material control director is authorized  
4 to reduce the formal sealed bid limits of thirty-five thousand dollars,  
5 or subsequent limits as calculated by the office of financial  
6 management, to a lower dollar amount for purchases by individual state  
7 agencies if considered necessary to maintain full disclosure of  
8 competitive procurement or otherwise to achieve overall state  
9 efficiency and economy in purchasing and material control. Quotations  
10 from three thousand dollars to thirty-five thousand dollars, or  
11 subsequent limits as calculated by the office of financial management,  
12 shall be secured from at least three vendors to assure establishment of  
13 a competitive price and may be obtained by telephone or written  
14 quotations, or both. The agency shall invite at least one quotation  
15 each from a certified minority and a certified women-owned vendor who  
16 shall otherwise qualify to perform such work. Immediately after the  
17 award is made, the bid quotations obtained shall be recorded and open  
18 to public inspection and shall be available by telephone inquiry. A  
19 record of competition for all such purchases from three thousand  
20 dollars to thirty-five thousand dollars, or subsequent limits as  
21 calculated by the office of financial management, shall be documented  
22 for audit purposes. Purchases up to three thousand dollars may be made  
23 without competitive bids based on buyer experience and knowledge of the  
24 market in achieving maximum quality at minimum cost;

25 (3) Purchases which are clearly and legitimately limited to a  
26 single source of supply and purchases involving special facilities,  
27 services, or market conditions, in which instances the purchase price  
28 may be best established by direct negotiation;

29 (4) Purchases of insurance and bonds by the risk management office  
30 under RCW 43.19.1935;

31 (5) Purchases and contracts for vocational rehabilitation clients  
32 of the department of social and health services: PROVIDED, That this  
33 exemption is effective only when the state purchasing and material  
34 control director, after consultation with the director of the division  
35 of vocational rehabilitation and appropriate department of social and  
36 health services procurement personnel, declares that such purchases may  
37 be best executed through direct negotiation with one or more suppliers  
38 in order to expeditiously meet the special needs of the state's  
39 vocational rehabilitation clients;

1 (6) Purchases by universities for hospital operation or biomedical  
2 teaching or research purposes and by the state purchasing and material  
3 control director, as the agent for state hospitals as defined in RCW  
4 72.23.010, and for health care programs provided in state correctional  
5 institutions as defined in RCW 72.65.010(3) and veterans' institutions  
6 as defined in RCW 72.36.010 and 72.36.070, made by participating in  
7 contracts for materials, supplies, and equipment entered into by  
8 nonprofit cooperative hospital group purchasing organizations;

9 (7) Purchases for resale by institutions of higher education to  
10 other than public agencies when such purchases are for the express  
11 purpose of supporting instructional programs and may best be executed  
12 through direct negotiation with one or more suppliers in order to meet  
13 the special needs of the institution;

14 (8) Purchases by institutions of higher education not exceeding  
15 thirty-five thousand dollars: PROVIDED, That for purchases between  
16 three thousand dollars and thirty-five thousand dollars quotations  
17 shall be secured from at least three vendors to assure establishment of  
18 a competitive price and may be obtained by telephone or written  
19 quotations, or both. For purchases between three thousand dollars and  
20 thirty-five thousand dollars, each institution of higher education  
21 shall invite at least one quotation each from a certified minority and  
22 a certified women-owned vendor who shall otherwise qualify to perform  
23 such work. A record of competition for all such purchases made from  
24 three thousand to thirty-five thousand dollars shall be documented for  
25 audit purposes; and

26 (9) Negotiation of a contract by the department of transportation,  
27 valid until June 30, 2001, with registered tow truck operators to  
28 provide roving service patrols in one or more Washington state patrol  
29 tow zones whereby those registered tow truck operators wishing to  
30 participate would cooperatively, with the department of transportation,  
31 develop a demonstration project upon terms and conditions negotiated by  
32 the parties.

33 Beginning on July 1, 1995, and on July 1 of each succeeding odd-  
34 numbered year, the dollar limits specified in this section shall be  
35 adjusted as follows: The office of financial management shall  
36 calculate such limits by adjusting the previous biennium's limits by  
37 the appropriate federal inflationary index reflecting the rate of  
38 inflation for the previous biennium. Such amounts shall be rounded to  
39 the nearest one hundred dollars. However, the three thousand dollar

1 figure in subsections (2) and (8) of this section may not be adjusted  
2 to exceed five thousand dollars.

3 **Sec. 8.** RCW 43.30.300 and 1987 c 472 s 13 are each amended to read  
4 as follows:

5 The department of natural resources is authorized:

6 (1) To construct, operate, and maintain primitive outdoor  
7 recreation and conservation facilities on lands under its jurisdiction  
8 which are of primitive character when deemed necessary by the  
9 department to achieve maximum effective development of such lands and  
10 resources consistent with the purposes for which the lands are held.  
11 This authority shall be exercised only after review by the interagency  
12 committee for outdoor recreation and determination by the committee  
13 that the department is the most appropriate agency to undertake such  
14 construction, operation and maintenance. Such review is not required  
15 for campgrounds designated and prepared or approved by the department.

16 (2) To acquire right of way and develop public access to lands  
17 under the jurisdiction of the department of natural resources and  
18 suitable for public outdoor recreation and conservation purposes.

19 (3) To receive and expend funds from federal and state outdoor  
20 recreation funding measures for the purposes of RCW 43.30.300 and  
21 (~~79.08.109~~) 79A.50.110.

22 (4) Contracts awarded under this section are subject to the modern  
23 and complete system for achieving accountability developed by the  
24 office of financial management under section 1 of this act.

25 **Sec. 9.** RCW 43.78.110 and 1993 c 379 s 107 are each amended to  
26 read as follows:

27 Whenever in the judgment of the public printer certain printing,  
28 ruling, binding, or supplies can be secured from private sources more  
29 economically than by doing the work or preparing the supplies in the  
30 state printing plant, the public printer may obtain such work or  
31 supplies from such private sources. Contracts awarded under this  
32 section are subject to the modern and complete system for achieving  
33 accountability developed by the office of financial management under  
34 section 1 of this act.

35 In event any work or supplies are secured on behalf of the state  
36 under this section the state printing plant shall be entitled to add up  
37 to five percent to the cost thereof to cover the handling of the orders

1 which shall be added to the bills and charged to the respective  
2 authorities ordering the work or supplies. The five percent handling  
3 charge shall not apply to contracts with institutions of higher  
4 education.

5 **Sec. 10.** RCW 43.105.041 and 1999 c 285 s 5 are each amended to  
6 read as follows:

7 (1) The board shall have the following powers and duties related to  
8 information services:

9 (a) To develop standards governing the acquisition and disposition  
10 of equipment, proprietary software and purchased services, and  
11 confidentiality of computerized data;

12 (b) To purchase, lease, rent, or otherwise acquire, dispose of, and  
13 maintain equipment, proprietary software, and purchased services, or to  
14 delegate to other agencies and institutions of state government, under  
15 appropriate standards, the authority to purchase, lease, rent, or  
16 otherwise acquire, dispose of, and maintain equipment, proprietary  
17 software, and purchased services: PROVIDED, That, agencies and  
18 institutions of state government are expressly prohibited from  
19 acquiring or disposing of equipment, proprietary software, and  
20 purchased services without such delegation of authority. The  
21 acquisition and disposition of equipment, proprietary software, and  
22 purchased services is exempt from RCW 43.19.1919 and, as provided in  
23 RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200.  
24 Contracts awarded under this section are subject to the modern and  
25 complete system for achieving accountability developed by the office of  
26 financial management under section 1 of this act. This subsection  
27 (1)(b) does not apply to the legislative branch;

28 (c) To develop statewide or interagency technical policies,  
29 standards, and procedures;

30 (d) To review and approve standards and common specifications for  
31 new or expanded telecommunications networks proposed by agencies,  
32 public postsecondary education institutions, educational service  
33 districts, or statewide or regional providers of K-12 information  
34 technology services, and to assure the cost-effective development and  
35 incremental implementation of a statewide video telecommunications  
36 system to serve: Public schools; educational service districts;  
37 vocational-technical institutes; community colleges; colleges and

1 universities; state and local government; and the general public  
2 through public affairs programming;

3 (e) To provide direction concerning strategic planning goals and  
4 objectives for the state. The board shall seek input from the  
5 legislature and the judiciary;

6 (f) To develop and implement a process for the resolution of  
7 appeals by:

8 (i) Vendors concerning the conduct of an acquisition process by an  
9 agency or the department; or

10 (ii) A customer agency concerning the provision of services by the  
11 department or by other state agency providers;

12 (g) To establish policies for the periodic review by the department  
13 of agency performance which may include but are not limited to analysis  
14 of:

15 (i) Planning, management, control, and use of information services;

16 (ii) Training and education; and

17 (iii) Project management;

18 (h) To set its meeting schedules and convene at scheduled times, or  
19 meet at the request of a majority of its members, the chair, or the  
20 director; and

21 (i) To review and approve that portion of the department's budget  
22 requests that provides for support to the board.

23 (2) Statewide technical standards to promote and facilitate  
24 electronic information sharing and access are an essential component of  
25 acceptable and reliable public access service and complement content-  
26 related standards designed to meet those goals. The board shall:

27 (a) Establish technical standards to facilitate electronic access  
28 to government information and interoperability of information systems.  
29 Local governments are strongly encouraged to follow the standards  
30 established by the board; and

31 (b) Require agencies to consider electronic public access needs  
32 when planning new information systems or major upgrades of systems.

33 In developing these standards, the board is encouraged to include  
34 the state library, state archives, and appropriate representatives of  
35 state and local government.

36 (3)(a) The board, in consultation with the K-20 board, has the duty  
37 to govern, operate, and oversee the technical design, implementation,  
38 and operation of the K-20 network including, but not limited to, the  
39 following duties: Establishment and implementation of K-20 network

1 technical policy, including technical standards and conditions of use;  
2 review and approval of network design; procurement of shared network  
3 services and equipment; and resolving user/provider disputes concerning  
4 technical matters. The board shall delegate general operational and  
5 technical oversight to the K-20 network technical steering committee as  
6 appropriate.

7 (b) The board has the authority to adopt rules under chapter 34.05  
8 RCW to implement the provisions regarding the technical operations and  
9 conditions of use of the K-20 network.

10 **Sec. 11.** RCW 47.28.090 and 1985 c 242 s 3 are each amended to read  
11 as follows:

12 At the time and place named in the call for bids the department of  
13 transportation shall publicly open and read the final figure in each of  
14 the bid proposals that have been properly filed and read only the unit  
15 prices of the three lowest bids, and shall award the contract to the  
16 lowest responsible bidder unless the department has, for good cause,  
17 continued the date of opening bids to a day certain, or rejected that  
18 bid. Any bid may be rejected if the bidder has previously defaulted in  
19 the performance of and failed to complete a written public contract, or  
20 has been convicted of a crime arising from a previous public contract.  
21 If the lowest responsible bidder fails to meet the provisions or  
22 specifications requiring compliance with chapter 39.19 RCW and the  
23 rules adopted to implement that chapter, the department may award the  
24 contract to the next lowest responsible bidder which does meet the  
25 provisions or specifications or may reject all bids and readvertise.  
26 All bids shall be under sealed cover and accompanied by deposit in  
27 cash, certified check, cashier's check, or surety bond in an amount  
28 equal to five percent of the amount of the bid, and a bid shall not be  
29 considered unless the deposit is enclosed with it.

30 Contracts awarded under this section are subject to the modern and  
31 complete system for achieving accountability developed by the office of  
32 financial management under section 1 of this act.

33 **Sec. 12.** RCW 47.56.030 and 1995 1st sp.s. c 4 s 1 are each amended  
34 to read as follows:

35 The department of transportation shall have full charge of the  
36 construction of all toll bridges and other toll facilities including  
37 the Washington state ferries, and the operation and maintenance

1 thereof. The transportation commission shall determine and establish  
2 the tolls and charges thereon, and shall perform all duties and  
3 exercise all powers relating to the financing, refinancing, and fiscal  
4 management of all toll bridges and other toll facilities including the  
5 Washington state ferries, and bonded indebtedness in the manner  
6 provided by law. The department shall have full charge of design of  
7 all toll facilities. The department shall proceed with the  
8 construction of such toll bridges and other facilities and the  
9 approaches thereto by contract in the manner of state highway  
10 construction immediately upon there being made available funds for such  
11 work and shall prosecute such work to completion as rapidly as  
12 practicable. The department is authorized to negotiate contracts for  
13 any amount without bid in order to make repairs to ferries or ferry  
14 terminal facilities or removal of such facilities whenever continued  
15 use of ferries or ferry terminal facilities constitutes a real or  
16 immediate danger to the traveling public or precludes prudent use of  
17 such ferries or facilities.

18 The department shall proceed with the procurement of materials,  
19 supplies, services, and equipment needed for the support, maintenance,  
20 and use of a ferry, ferry terminal, or other facility operated by  
21 Washington state ferries, in accordance with chapter 43.19 RCW except  
22 as follows:

23 (1) When the secretary of the department of transportation  
24 determines in writing that the use of invitation for bid is either not  
25 practicable or not advantageous to the state and it may be necessary to  
26 make competitive evaluations, including technical or performance  
27 evaluations among acceptable proposals to complete the contract award,  
28 a contract may be entered into by use of a competitive sealed proposals  
29 method, and a formal request for proposals solicitation. Such formal  
30 request for proposals solicitation shall include a functional  
31 description of the needs and requirements of the state and the  
32 significant factors.

33 (2) When purchases are made through a formal request for proposals  
34 solicitation the contract shall be awarded to the responsible proposer  
35 whose competitive sealed proposal is determined in writing to be the  
36 most advantageous to the state taking into consideration price and  
37 other evaluation factors set forth in the request for proposals. No  
38 significant factors may be used in evaluating a proposal that are not  
39 specified in the request for proposals. Factors that may be considered



1 in evaluating proposals include but are not limited to: Price  
2 maintainability; reliability; commonality; performance levels; life  
3 cycle cost if applicable under this section; cost of transportation or  
4 delivery; delivery schedule offered; installation cost; cost of spare  
5 parts; availability of parts and service offered; and the following:

6 (a) The ability, capacity, and skill of the proposer to perform the  
7 contract or provide the service required;

8 (b) The character, integrity, reputation, judgment, experience, and  
9 efficiency of the proposer;

10 (c) Whether the proposer can perform the contract within the time  
11 specified;

12 (d) The quality of performance of previous contracts or services;

13 (e) The previous and existing compliance by the proposer with laws  
14 relating to the contract or services;

15 (f) Objective, measurable criteria defined in the request for  
16 proposal. These criteria may include but are not limited to items such  
17 as discounts, delivery costs, maintenance services costs, installation  
18 costs, and transportation costs; and

19 (g) Such other information as may be secured having a bearing on  
20 the decision to award the contract.

21 When purchases are made through a request for proposal process,  
22 proposals received shall be evaluated based on the evaluation factors  
23 set forth in the request for proposal. When a life cycle cost analysis  
24 is used, the life cycle cost of a proposal shall be given at least the  
25 same relative importance as the initial price element specified in the  
26 request of proposal documents. The department may reject any and all  
27 proposals received. If the proposals are not rejected, the award shall  
28 be made to the proposer whose proposal is most advantageous to the  
29 department, considering price and the other evaluation factors set  
30 forth in the request for proposal.

31 (3) The legislative transportation committee shall review the  
32 secretary's use of the request for proposals solicitation for  
33 Washington state ferries projects to determine if the process  
34 established under chapter 4, Laws of 1995 1st sp. sess. is appropriate.  
35 The results of the review, including recommendations for modification  
36 of the request for proposal process, shall be reported to the house of  
37 representatives and senate transportation committees by January 1,  
38 1997.

1       (4) Contracts awarded under this section are subject to the modern  
2 and complete system for achieving accountability developed by the  
3 office of financial management under section 1 of this act.

4       **Sec. 13.** RCW 77.12.210 and 2000 c 107 s 218 are each amended to  
5 read as follows:

6       The director shall maintain and manage real or personal property  
7 owned, leased, or held by the department and shall control the  
8 construction of buildings, structures, and improvements in or on the  
9 property, and the contracts awarded under this section are subject to  
10 the modern and complete system for achieving accountability developed  
11 by the office of financial management under section 1 of this act. The  
12 director may adopt rules for the operation and maintenance of the  
13 property.

14       The commission may authorize the director to sell, lease, convey,  
15 or grant concessions upon real or personal property under the control  
16 of the department. This includes the authority to sell timber, gravel,  
17 sand, and other materials or products from real property held by the  
18 department, and to sell or lease the department's real or personal  
19 property or grant concessions or rights of way for roads or utilities  
20 in the property. Oil and gas resources owned by the state which lie  
21 below lands owned, leased, or held by the department shall be offered  
22 for lease by the commissioner of public lands pursuant to chapter 79.14  
23 RCW with the proceeds being deposited in the state wildlife fund:  
24 PROVIDED, That the commissioner of public lands shall condition such  
25 leases at the request of the department to protect wildlife and its  
26 habitat.

27       If the commission determines that real or personal property held by  
28 the department cannot be used advantageously by the department, the  
29 director may dispose of that property if it is in the public interest.

30       If the state acquired real property with use limited to specific  
31 purposes, the director may negotiate terms for the return of the  
32 property to the donor or grantor. Other real property shall be sold to  
33 the highest bidder at public auction. After appraisal, notice of the  
34 auction shall be published at least once a week for two successive  
35 weeks in a newspaper of general circulation within the county where the  
36 property is located at least twenty days prior to sale.

37       Proceeds from the sales shall be deposited in the state wildlife  
38 fund.

1       **Sec. 14.** RCW 79A.05.030 and 1999 c 249 s 302, 1999 c 155 s 1, and  
2 1999 c 59 s 1 are each reenacted and amended to read as follows:

3       The commission shall:

4       (1) Have the care, charge, control, and supervision of all parks  
5 and parkways acquired or set aside by the state for park or parkway  
6 purposes.

7       (2) Adopt policies, and adopt, issue, and enforce rules pertaining  
8 to the use, care, and administration of state parks and parkways. The  
9 commission shall cause a copy of the rules to be kept posted in a  
10 conspicuous place in every state park to which they are applicable, but  
11 failure to post or keep any rule posted shall be no defense to any  
12 prosecution for the violation thereof.

13       (3) Permit the use of state parks and parkways by the public under  
14 such rules as shall be adopted.

15       (4) Clear, drain, grade, seed, and otherwise improve or beautify  
16 parks and parkways, and erect structures, buildings, fireplaces, and  
17 comfort stations and build and maintain paths, trails, and roadways  
18 through or on parks and parkways. Any contracts awarded for this work  
19 are subject to the modern and complete system for achieving  
20 accountability developed by the office of financial management under  
21 section 1 of this act.

22       (5) Grant concessions or leases in state parks and parkways, upon  
23 such rentals, fees, or percentage of income or profits and for such  
24 terms, in no event longer than fifty years, and upon such conditions as  
25 shall be approved by the commission: PROVIDED, That leases exceeding  
26 a twenty-year term shall require a unanimous vote of the commission:  
27 PROVIDED FURTHER, That if, during the term of any concession or lease,  
28 it is the opinion of the commission that it would be in the best  
29 interest of the state, the commission may, with the consent of the  
30 concessionaire or lessee, alter and amend the terms and conditions of  
31 such concession or lease: PROVIDED FURTHER, That television station  
32 leases shall be subject to the provisions of RCW 79A.05.085, only:  
33 PROVIDED FURTHER, That the rates of such concessions or leases shall be  
34 renegotiated at five-year intervals. No concession shall be granted  
35 which will prevent the public from having free access to the scenic  
36 attractions of any park or parkway.

37       (6) Employ such assistance as it deems necessary. Commission  
38 expenses relating to its use of volunteer assistance shall be limited  
39 to premiums or assessments for the insurance of volunteers by the

1 department of labor and industries, compensation of staff who assist  
2 volunteers, materials and equipment used in authorized volunteer  
3 projects, training, reimbursement of volunteer travel as provided in  
4 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to  
5 volunteer recognition. The commission, at its discretion, may waive  
6 commission fees otherwise applicable to volunteers. The commission  
7 shall not use volunteers to replace or supplant classified positions.  
8 The use of volunteers may not lead to the elimination of any employees  
9 or permanent positions in the bargaining unit.

10 (7) By majority vote of its authorized membership select and  
11 purchase or obtain options upon, lease, or otherwise acquire for and in  
12 the name of the state such tracts of land, including shore and tide  
13 lands, for park and parkway purposes as it deems proper. If the  
14 commission cannot acquire any tract at a price it deems reasonable, it  
15 may, by majority vote of its authorized membership, obtain title  
16 thereto, or any part thereof, by condemnation proceedings conducted by  
17 the attorney general as provided for the condemnation of rights of way  
18 for state highways. Option agreements executed under authority of this  
19 subsection shall be valid only if:

20 (a) The cost of the option agreement does not exceed one dollar;  
21 and

22 (b) Moneys used for the purchase of the option agreement are from  
23 (i) funds appropriated therefor, or (ii) funds appropriated for  
24 undesignated land acquisitions, or (iii) funds deemed by the commission  
25 to be in excess of the amount necessary for the purposes for which they  
26 were appropriated; and

27 (c) The maximum amount payable for the property upon exercise of  
28 the option does not exceed the appraised value of the property.

29 (8) Cooperate with the United States, or any county or city of this  
30 state, in any matter pertaining to the acquisition, development,  
31 redevelopment, renovation, care, control, or supervision of any park or  
32 parkway, and enter into contracts in writing to that end. All parks or  
33 parkways, to which the state contributed or in whose care, control, or  
34 supervision the state participated pursuant to the provisions of this  
35 section, shall be governed by the provisions hereof.

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