

# HOUSE BILL REPORT

## HB 1439

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### As Passed Legislature

**Title:** An act relating to electronic and web-based bidding.

**Brief Description:** Allowing the state purchasing and material control director to receive electronic and web-based bids.

**Sponsors:** By Representatives Green, Nixon, Haigh, Upthegrove, Chase and Dunn; by request of Department of General Administration.

**Brief History:**

**Committee Activity:**

State Government Operations & Accountability: 2/2/05, 2/16/05 [DP].

**Floor Activity:**

Passed House: 3/8/05, 98-0.

**Floor Activity:**

Passed House: 1/11/06, 96-0.

Senate Amended.

Passed Senate: 3/3/06, 48-0.

House Concurred.

Passed House: 3/6/06, 98-0.

Passed Legislature.

### Brief Summary of Bill

- Allows for electronic or web-based bids to be used for competitive bidding procedures for purchases and contracts for purchases made by the state purchasing and material control director and state agencies.
- Requires that competitive bids for certain public works projects, personal services, purchasing, leasing, or acquiring information technology equipment or proprietary software may not be cancelled after bid opening without a compelling reason.

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### HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

**Majority Report:** Do pass. Signed by 9 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt, McDermott, Miloscia, Schindler and Sump.

**Staff:** Marsha Reilly (786-7135).

**Background:**

The state purchasing and material control director of the Department of General Administration (GA) is responsible for, among other things, the purchase of all materials, supplies, services and equipment needed for the operation of all state institutions. With some exceptions, a formal sealed bid procedure is required for all purchases and contracts for purchases and sales above a certain dollar amount.

Public works bids are addressed throughout statute and described individually for different public bodies. Under most circumstances, contractors are selected through competitive bidding. The contract is awarded to the lowest responsible bidder, although the public body selecting the contractor is permitted to reject any or all bids.

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**Summary of Bill:**

The state law governing the state's purchase of goods and services is amended to allow for electronic or web-based bid procedures for all purchases and contracts for purchases executed by the GA. Under competitive bidding procedures, the bid must be given in a written or electronic format. Bid prices may not be disclosed during an electronic or web-based bidding process.

Certain competitive bidding processes may not be rejected after bids are opened unless there is a compelling reason. This applies to: (1) public works projects undertaken by any state agency, city with a population greater than 100,000, or county with a population greater than 500,000; (2) any agency or institution of state government for personal services contracts; and (3) the Information Services Board when purchasing, leasing, renting, or acquiring equipment, proprietary software, or other purchased services.

The circumstances in which a solicitation may be canceled and all bids rejected before the award, but after bid opening, are as follows:  
unavailable, inadequate, ambiguous specifications, terms, conditions or requirements were cited; specifications, terms, conditions, or requirements have been revised; services being contracted for are no longer required; solicitation did not provide for the consideration of all cost factors; bids received indicate that needs can be met by a less expensive article or process; all otherwise acceptable bids received are at unreasonable prices or only one bid is received or the public entity cannot determine the reasonableness of the bid; no responsive bid was received from a responsible bidder; or the bid process was not fair or equitable.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** This bill moves state procurement of goods and services into the twenty-first century. Several years ago, the GA gained the ability to use electronic and web-based systems to notify bidders and this law would allow the department to receive those bids back in the same way. Emerging technologies allow for more efficient and cost-effective contracting. The identity of bidders in these auctions is not disclosed to other bidders.

(With concerns) This bill should not apply to public works contracting or to a reverse auction process for equipment purchases. The reverse auction process is not a good approach due to the limited time allowed for bidding.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Green, prime sponsor; and Bill Joplin, Department of General Administration.

(With concerns) Larry Stevens, Mechanical Contractors Association of Western Washington and National Electrical Contractors Association; and Gary Smith, Independent Business Association of Washington State.

**Persons Signed In To Testify But Not Testifying:** None.