

HOUSE BILL REPORT

HB 1439

As Amended by the Senate

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.

Brief Summary of Bill

- Makes electronic or web-based competitive bidding procedures standard for purchases and contracts for purchases made by the state purchasing and material control director and state agencies.

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) has responsibility for, among other things, the purchase of all materials, supplies, services and equipment needed for the operation of all state institutions. All purchases and sales are based on competitive bids, and a formal sealed bid procedure is used

as a standard procedure for all purchases and contracts. Formal sealed bidding is not used in certain instances, such as:

- emergency purchases;
- purchases not exceeding \$35,000;
- single source supply purchases;
- insurance and bonds by the risk management division;
- contracts and purchases for vocational rehabilitation clients; and
- certain purchases for higher education.

Public bids are solicited by public notice, mailings, and electronic transmissions. All bids must be made in writing. Bids are made available for public inspection after the bidding process has been completed and the bid has been awarded.

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, and the bid prices may be disclosed during an electronic or web-based bidding process.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment adds a provision that prohibits bid prices from being disclosed during electronic or web-based bidding prior to the award of the contract.

The Senate amendment also adds new sections to chapters 39.04 RCW, Public Works, 39.29 RCW, Personal Service Contracts, and 43.105, Department of Information Services, that stipulate public entities may not reject all bids after opening unless there is a compelling reason. 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.

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.