

SENATE BILL REPORT

SB 6509

As Reported By Senate Committee On:
Government Operations & Elections, February 2, 2006

Title: An act relating to modifying the bid cancellation process for public contracts.

Brief Description: Modifying the cancellation process for public contracts.

Sponsors: Senator Kastama.

Brief History:

Committee Activity: Government Operations & Elections: 1/31/06, 2/2/06 [DPS].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: That Substitute Senate Bill No. 6509 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kastama, Chair; Berkey, Vice Chair; Roach, Ranking Minority Member; Benton, Fairley, Haugen, Kline, McCaslin, Mulliken and Pridemore.

Staff: Mac Nicholson (786-7445)

Background: A personal service contract is an agreement with a consultant for the rendering of personal services to the state. Personal services are professional or technical services provided by a consultant to accomplish a specific study, project, or task. Examples of personal services include accounting, marketing, engineering, architecture, legal services, and auditing. Competitive bidding is required for personal service contracts of \$5,000 or more. Personal service contracts subject to competitive solicitation must be filed with, reviewed, and approved by the Office of Financial Management (OFM). A state agency entering into a personal service contract must comply with guidelines established by OFM.

The Information Services Board (ISB) has the exclusive authority to purchase, lease, rent, or otherwise acquire information technology (IT) equipment and services for state agencies and institutions. The ISB may delegate this authority as appropriate. IT purchases in excess of \$10,000 must be done through a competitive solicitation process and in compliance with rules and guidelines established by the ISB.

State agencies and municipalities must use competitive bidding processes for public works projects in excess of specific dollar thresholds set throughout the RCWs. The dollar threshold varies depending on the agency, and for municipalities the threshold varies depending on the type of municipality (i.e. city, county, or special purpose district). For cities and counties specifically, the threshold varies depending on the population of the city or county and the type of project being constructed.

Summary of Substitute Bill: Agencies procuring personal services or purchasing, leasing, or otherwise acquiring IT equipment using a competitive solicitation process cannot reject all solicitations after opening unless there is a compelling reason.

Similarly, state agencies, cities with a population over 100,000, and counties with a population over 500,000 that execute public works projects using a competitive bidding process cannot cancel all bids after opening without a compelling reason.

In order to cancel personal service, IT, and public works solicitations after opening, a compelling reason must be determined in writing and can be based on factors such as inadequate or ambiguous specifications or conditions that were cited in the solicitation; specifications that have been revised; the services being contracted for are no longer required; and the bid process was not fair or equitable.

After bid opening, a solicitation may not be canceled and re-solicited solely because of an increase in requirements. An increase in requirements may be treated as a new acquisition.

Substitute Bill Compared to Original Bill: The substitute bill adds the provision preventing state agencies, cities with a population over 100,000, and counties with a population over 500,000 from cancelling all public works bids after opening unless there is a compelling reason.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Contractors want to see uniform standards when it comes to cancelling all bids. It's expensive to prepare and submit a bid, and there are too many situations where public owners simply reject all bids. Public owners should explain in writing why the solicitation is being cancelled.

Testimony Against: None.

Testimony Other: The bill should be amended to include all public works projects. When all bids are rejected, the public owner loses bidders who won't re-bid, which lowers the pool of available contractors resulting in an inefficient use of tax payer dollars.

Who Testified: PRO: Dave Ducharme, Utility Contractors Association of Washington.

OTHER: Larry Stevens, NECA and MCA.