

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1471

68th Legislature
2024 Regular Session

Passed by the House March 5, 2024
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate February 28,
2024
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1471** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1471

AS AMENDED BY THE SENATE

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Representatives Stearns, Ramos, Gregerson, and Ryu; by request of Department of Enterprise Services

Read first time 01/20/23. Referred to Committee on State Government & Tribal Relations.

1 AN ACT Relating to modifying state procurement procedures for
2 competitive, sole source, convenience, and emergency goods and
3 services contracts; and amending RCW 39.26.010, 39.26.070, 39.26.130,
4 39.26.140, and 39.26.200.

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

6 **Sec. 1.** RCW 39.26.010 and 2022 c 71 s 12 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Agency" means any state office or activity of the executive
11 and judicial branches of state government, including state agencies,
12 departments, offices, divisions, boards, commissions, institutions of
13 higher education as defined in RCW 28B.10.016, and correctional and
14 other types of institutions. "Agency" does not include a
15 comprehensive cancer center participating in a collaborative
16 arrangement as defined in RCW 28B.10.930 that is operated in
17 conformance with RCW 28B.10.930.

18 (2) "Bid" means an offer, proposal, or quote for goods or
19 services in response to a solicitation issued for such goods or
20 services by the department or an agency of Washington state
21 government.

1 (3) "Bidder" means an individual or entity who submits a bid,
2 quotation, or proposal in response to a solicitation issued for such
3 goods or services by the department or an agency of Washington state
4 government.

5 (4) "Client services" means services provided directly to agency
6 clients including, but not limited to, medical and dental services,
7 employment and training programs, residential care, and subsidized
8 housing.

9 (5) "Community rehabilitation program of the department of social
10 and health services" means any entity that:

11 (a) Is registered as a nonprofit corporation with the secretary
12 of state; and

13 (b) Is recognized by the department of social and health
14 services, division of vocational rehabilitation as eligible to do
15 business as a community rehabilitation program.

16 (6) "Competitive solicitation" means a documented formal process
17 providing an equal and open opportunity to bidders and culminating in
18 a selection based on predetermined criteria.

19 (7) "Contractor" means an individual or entity awarded a contract
20 with an agency to perform a service or provide goods.

21 (8) "Debar" means to prohibit a contractor, individual, or other
22 entity from submitting a bid, having a bid considered, or entering
23 into a state contract during a specified period of time as set forth
24 in a debarment order.

25 (9) "Department" means the department of enterprise services.

26 (10) "Director" means the director of the department of
27 enterprise services.

28 (11) "Estimated useful life" of an item means the estimated time
29 from the date of acquisition to the date of replacement or disposal,
30 determined in any reasonable manner.

31 (12) "Goods" means products, materials, supplies, or equipment
32 provided by a contractor.

33 (13) "In-state business" means a business that has its principal
34 office located in Washington.

35 (14) "Life-cycle cost" means the total cost of an item to the
36 state over its estimated useful life, including costs of selection,
37 acquisition, operation, maintenance, and where applicable, disposal,
38 as far as these costs can reasonably be determined, minus the salvage
39 value at the end of its estimated useful life.

1 (15) "Master contracts" means a contract for specific goods or
2 services, or both, that is solicited and established by the
3 department in accordance with procurement laws and rules on behalf of
4 and for general use by agencies as specified by the department.

5 (16) "Microbusiness" means any business entity, including a sole
6 proprietorship, corporation, partnership, or other legal entity,
7 that: (a) Is owned and operated independently from all other
8 businesses; and (b) has a gross revenue of less than (~~one million~~
9 ~~dollars~~) \$1,000,000 annually as reported on its federal tax return
10 or on its return filed with the department of revenue.

11 (17) "Minibusiness" means any business entity, including a sole
12 proprietorship, corporation, partnership, or other legal entity,
13 that: (a) Is owned and operated independently from all other
14 businesses; and (b) has a gross revenue of less than (~~three million~~
15 ~~dollars~~) \$3,000,000, but (~~one million dollars~~) \$1,000,000 or more
16 annually as reported on its federal tax return or on its return filed
17 with the department of revenue.

18 (18) "Polychlorinated biphenyls" means any polychlorinated
19 biphenyl congeners and homologs.

20 (19) "Practical quantification limit" means the lowest
21 concentration that can be reliably measured within specified limits
22 of precision, accuracy, representativeness, completeness, and
23 comparability during routine laboratory operating conditions.

24 (20) "Purchase" means the acquisition of goods or services,
25 including the leasing or renting of goods.

26 (21) "Services" means labor, work, analysis, or similar
27 activities provided by a contractor to accomplish a specific scope of
28 work.

29 (22) "Small business" means an in-state business, including a
30 sole proprietorship, corporation, partnership, or other legal entity,
31 that:

32 (a) Certifies, under penalty of perjury, that it is owned and
33 operated independently from all other businesses and has either:

34 (i) Fifty or fewer employees; or

35 (ii) A gross revenue of less than (~~seven million dollars~~)
36 \$7,000,000 annually as reported on its federal income tax return or
37 its return filed with the department of revenue over the previous
38 three consecutive years; or

39 (b) Is certified with the office of women and minority business
40 enterprises under chapter 39.19 RCW.

1 (23) "Sole source" means a contractor providing goods or services
2 of such a unique nature or sole availability (~~at the location~~
3 ~~required~~) that the contractor is clearly and justifiably the only
4 practicable source to provide the goods or services.

5 (24) "Washington grown" has the definition in RCW 15.64.060.

6 **Sec. 2.** RCW 39.26.070 and 2015 c 79 s 6 are each amended to read
7 as follows:

8 A convenience contract is a contract for specific goods or
9 services, or both, that is solicited and established in accordance
10 with procurement laws and rules for use by (~~a specific agency or~~) a
11 specified group of agencies (~~as needed from time to time~~). A
12 convenience contract is not available for general use and (~~may~~
13 ~~only~~) must be (~~used as specified~~) approved by the department.
14 Convenience contracts are not intended to replace or supersede master
15 contracts as defined in this chapter.

16 **Sec. 3.** RCW 39.26.130 and 2012 c 224 s 15 are each amended to
17 read as follows:

18 (1) An agency may make emergency purchases as defined in
19 subsection (~~(3)~~) (4) of this section. When an emergency purchase is
20 made, the agency head shall submit written notification of the
21 purchase within (~~three~~) 10 business days of the purchase to the
22 director. This notification must contain a description of the
23 purchase, a description of the emergency and the circumstances
24 leading up to the emergency, and an explanation of why the
25 circumstances required an emergency purchase.

26 (2) Emergency contracts must be submitted to the department and
27 made available for public inspection within (~~three working~~) 10
28 business days following the commencement of work or execution of the
29 contract, whichever occurs first.

30 (3) The department may authorize exceptions to this section due
31 to exigent circumstances.

32 (4) As used in this section, "emergency" means a set of
33 unforeseen circumstances beyond the control of the agency that
34 either:

35 (a) Present a real, immediate, and extreme threat to the proper
36 performance of essential functions; or

1 (b) May reasonably be expected to result in material loss or
2 damage to property, bodily injury, or loss of life, if immediate
3 action is not taken.

4 **Sec. 4.** RCW 39.26.140 and 2012 c 224 s 16 are each amended to
5 read as follows:

6 (1) Agencies must submit sole source contracts to the department
7 and make the contracts available for public inspection not (~~less~~)
8 fewer than (~~ten~~) 15 working days before the proposed starting date
9 of the contract. Agencies must provide documented justification for
10 sole source contracts to the department when the contract is
11 submitted, and must include evidence that the agency posted the
12 contract opportunity at a minimum on the state's enterprise vendor
13 registration and bid notification system.

14 (2) The department must approve sole source contracts before any
15 such contract becomes binding and before any services may be
16 performed or goods provided under the contract. These requirements
17 shall also apply to all sole source contracts except as otherwise
18 exempted by the director.

19 (3) The director may provide an agency an exemption from the
20 requirements of this section for a contract or contracts. Requests
21 for exemptions must be submitted to the director in writing.

22 (4) Contracts awarded by institutions of higher education from
23 nonstate funds are exempt from the requirements of this section.

24 **Sec. 5.** RCW 39.26.200 and 2020 c 269 s 3 are each amended to
25 read as follows:

26 (1)(a) The director shall provide notice to the contractor of the
27 director's intent to either fine or debar with the specific reason
28 for either the fine or debarment. The department must establish the
29 debarment and fining processes by rule.

30 (b) After reasonable notice to the contractor and reasonable
31 opportunity for that contractor to be heard, the director has the
32 authority to debar a contractor for cause from consideration for
33 award of contracts. The debarment must be for a period of not more
34 than three years.

35 (2) The director may either fine or debar a contractor based on a
36 finding of one or more of the following causes:

37 (a) Conviction for commission of a criminal offense as an
38 incident to obtaining or attempting to obtain a public or private

1 contract or subcontract, or in the performance of such contract or
2 subcontract;

3 (b) Conviction or a final determination in a civil action under
4 state or federal statutes of fraud, embezzlement, theft, forgery,
5 bribery, falsification or destruction of records, receiving stolen
6 property, violation of the federal false claims act, 31 U.S.C. Sec.
7 3729 et seq., or the state medicaid fraud false claims act, chapter
8 74.66 RCW, or any other offense indicating a lack of business
9 integrity or business honesty that currently, seriously, and directly
10 affects responsibility as a state contractor;

11 (c) Conviction under state or federal antitrust statutes arising
12 out of the submission of bids or proposals;

13 (d) Two or more violations within the previous five years of the
14 national labor relations act as determined by the national labor
15 relations board or court of competent jurisdiction;

16 (e) Violation of contract provisions, as set forth in this
17 subsection, of a character that is regarded by the director to be so
18 serious as to justify debarment action:

19 (i) Deliberate failure without good cause to perform in
20 accordance with the specifications or within the time limit provided
21 in the contract; or

22 (ii) A recent record of failure to perform or of unsatisfactory
23 performance in accordance with the terms of one or more contracts,
24 however the failure to perform or unsatisfactory performance caused
25 by acts beyond the control of the contractor may not be considered to
26 be a basis for debarment;

27 (f) Violation of ethical standards set forth in RCW 39.26.020;

28 (g) Any other cause the director determines to be so serious and
29 compelling as to affect responsibility as a state contractor,
30 including debarment by another governmental entity for any cause
31 listed in regulations; and

32 (h) (~~During the 2017-2019 fiscal biennium, the~~) The failure to
33 comply with a provision in a state master contract or other agreement
34 with a state agency that requires equality among its workers by
35 ensuring similarly employed individuals are compensated as equals.

36 (3) The director must issue a written decision to debar. The
37 decision must:

38 (a) State the reasons for the action taken; and

1 (b) Inform the debarred contractor of the contractor's rights to
2 judicial or administrative review.

--- **END** ---