

HOUSE BILL REPORT

HB 1681

*As Reported By House Committee on:
Local Government*

Title: An act relating to bidding practices of municipalities.

Brief Description: Revising bidding practices for municipalities.

Sponsor(s): Representatives Cooper, Ferguson, Haugen, Horn and R. Meyers.

Brief History:

Reported by House Committee on:
Local Government, March 5, 1991, DPS.

**HOUSE COMMITTEE ON
LOCAL GOVERNMENT**

Majority Report: *That Substitute House Bill No. 1681 be substituted therefor, and the substitute bill do pass.*
Signed by 15 members: Representatives Haugen, Chair; Cooper, Vice Chair; Ferguson, Ranking Minority Member; Mitchell, Assistant Ranking Minority Member; Bray; Edmondson; Franklin; Horn; Nealey; Nelson; Rayburn; Roland; Wood; Wynne; and Zellinsky.

Staff: Bill Lynch (786-7092).

Background:

A. Small Works Rosters

Generally, large public works contracts must be let by using formal sealed competitive bidding requirements; medium size public works contracts may be let by using a less formal process through a small works roster; and small public works contracts may be let without following any competitive bidding procedures.

A small works roster usually consists of all contractors who are properly licensed or registered to perform the type of work who have requested to be on the roster. The governing body of the local government establishes a procedure for securing quotations from enough contractors to assure that a competitive price is established, and awards the contract to

the lowest responsible bidder. A contractor that has had an opportunity to bid on a proposal is not offered another opportunity to submit another proposal until all contractors on the small works roster have had an opportunity to submit a proposal on a contract. There is little consistency among local government statutes for establishing small works rosters for public works contracts.

B. Purchasing Requirements

Local governments are generally authorized to award medium-size contracts for the purchase of materials, supplies, and equipment without using a formal sealed bidding process. The local government is usually required to establish a procedure for securing quotations from enough vendors to assure that a competitive price is established, and award the contract to the lowest responsible bidder. There is little consistency among local government statutes for establishing informal purchasing procedures.

Although some units of local government may buy materials, equipment, or supplies at a public auction, there is no authorization for these entities to buy these items at private auctions.

Counties are required to establish an array of general categories in which contracts, leases, or purchases are anticipated. A roster must be developed for each category consisting of all potential bidders who have requested to be on the roster. The county must invite proposals from every vendor listed on the roster.

Each first class county, class A county, and class AA county is required to establish a county purchasing department.

Counties have a separate bid limit statute for contracts for purchases awarded from the equipment rental and revolving fund and the county road fund. The statutes for other units of local government do not distinguish between types of funds for purposes of establishing bid limits.

C. Small Works Roster Limits

Public hospital districts currently are not authorized to create small works rosters or to use informal procedures for small purchases.

Informal bidding procedures may be used by fire districts for purchases between \$4500 and \$10,000. There is no small works roster for public works contracts for fire districts. Any public work in excess of \$2500 must be competitively bid.

D. Sales of Surplus Property

The statutes which govern how some local governments dispose of surplus property generally require that the legislative body publish a notice of sale and then conduct the sale. These formal sale requirements do not apply if the value of the property is less than a certain dollar amount. The dollar amount of \$500 established for counties, water districts, and sewer districts to dispose of surplus property without going through formal sale procedures is lower than the amount of \$2500 established for port districts.

If a county wishes to dispose of county property, there is no specific authority for the county to set a minimum sale price on the property proposed for sale. County property must be sold at public auction. There is no express authority for a county to sell property by consignment auction or by sealed bid.

E. Required Notice for Contracts

Generally, local governments are required to publish notice whenever they wish to let a contract. The notice usually must be published in a newspaper of general circulation in the area. In addition to publishing notice, counties and cities are also required to post a notice of these contracts. The time requirements for publishing the notice also differ among some local governments.

Summary of Substitute Bill:

A. Small Works Rosters for Public Works

A standardized procedure is established for local governments to create small works rosters. Local governments are authorized to create a single small works roster or a small works roster for different categories of work. The small works roster must contain all responsible contractors who have requested to be on the list. A contractor must be properly licensed or registered to perform the work as required by state law. At least once each year, the local government must publish a notice of the existence of the rosters and solicit the names of contractors for inclusion on the rosters.

Procedures for securing telephone or written quotations must be established by the local government governing body in order to ensure that a competitive price is established. Invitations for bids must include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished.

The local government must invite at least five contractors to submit bids whenever possible. If a contractor has been afforded an opportunity to submit a proposal, then the contractor shall not be offered another opportunity to submit a proposal until all other appropriate contractors have been given an opportunity to submit a proposal on a contract. Contracts must be awarded to the lowest responsible bidder.

Contracts awarded from a small works roster need not be advertised. After a contract has been awarded from a small works roster, the bid quotations must be recorded and made open to public inspection and available by telephone inquiry.

B. Procedures for Awarding Contracts for Purchases

A uniform process is established for local governments to award contracts for the purchase of materials, equipment, or supplies in lieu of the requirements for formal sealed bidding.

A local government may establish a procedure by resolution for securing quotations to assure that a competitive price is established, and that contracts are awarded to the lowest responsible bidder. The local government must obtain quotations from at least three different vendors whenever possible. After the award is made, the bid quotations must be recorded and made open to public inspection and available by telephone inquiry. A contract awarded pursuant to this process need not be advertised.

Any municipality may purchase materials, equipment, or supplies at a public or private auction without utilizing the bidding process if these items can be obtained at a competitive price.

Counties are no longer required to establish an array for each category of purchase. First class, class A, and class AA counties are no longer required to establish county purchasing departments.

The separate bid limit statute for county purchases from the county equipment and revolving fund and the county road fund is repealed.

C. Small Works Roster Limits

Public hospital districts are authorized to establish small works rosters to award public works contracts in excess of \$5000 up to \$15,000. The public hospital districts must

follow the standardized process established for creating small works rosters.

Public hospital districts may award contracts for purchases in excess of \$5,000 up to \$15,000 through the uniform process established for local governments for purchasing without formal sealed bidding.

A fire district may use a small works roster to award public works contracts estimated between \$2,500 to \$10,000.

D. Sales of Surplus Property

The dollar amount for counties, sewer districts, and water districts to dispose of surplus property without going through formal sale requirements is raised from \$500 to \$2,500.

County property may be sold by consignment auction or sealed bid, in addition to public auction. The county legislative authority may establish a minimum sale price for the sale of county property.

E. Required Notice for Contracts

Cities and counties are no longer required to post notice when letting a contract.

All local governments that utilize either the small works roster process or the procedure for awarding contracts for purchases without formal sealed bidding, must post a list of the contracts awarded pursuant to these procedures at least once every two months. The list must contain the name of the contractor or vendor awarded the contract, the amount of the contract, a brief description of the contract, and the date it was awarded. The list must also state the location where the bid quotations for these contracts are available for public inspection.

Notice calling for bids must be published at least 10 days prior to the date fixed for opening the bids.

Substitute Bill Compared to Original Bill: The ability of a municipality to purchase materials, equipment, or supplies from correctional industries without being subject to competitive bidding requirements is deleted. The section that raised the competitive bid limits for school districts is deleted. The small works roster limit for cities remains at \$100,000 instead of \$125,000. Provisions are added pertaining to the disposal of county property. The small works roster limits are not raised for fire district purchases.

Fiscal Note: Not requested.

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

Testimony For: The standard procedures for awarding contracts will simplify the process. Many of the current laws regarding county purchases are unwieldy and inefficient. Hospital districts should have a small works roster. Fire districts should have a small works roster for public works. It costs more to sell some surplus property than the property is worth.

Testimony Against: Any change in bid limits should be closely scrutinized.

Witnesses: (All Pro, with changes): Joe Daniels, Washington State Association of Water/Wastewater Districts; Duke Schaub, Associated General Contractors; Michael Clark, Pierce County; Larry Stevens, National Electrical Contractors Association; Don White, Washington Public Ports Association; Roger Ferris, Washington Fire Commissioners Association; Dick Ducharme, Utility Contractors Association of Washington; Greg Vigdor, Washington State Hospital Association; and Cliff Webster, Associated Builders Contractors.