
HOUSE BILL 3005

State of Washington 58th Legislature 2004 Regular Session

By Representatives Miloscia, Simpson, G. and Boldt

Read first time 01/26/2004. Referred to Committee on State Government.

1 AN ACT Relating to state agency contract accountability; amending
2 RCW 28B.10.350, 28B.50.330, 39.04.155, 39.80.050, 43.19.1906,
3 79.10.140, 43.78.110, 43.105.041, 47.28.090, 47.56.030, and 77.12.210;
4 reenacting and amending RCW 28B.10.029 and 79A.05.030; and adding a new
5 section to chapter 43.41 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.41 RCW
8 to read as follows:

9 (1) The director of financial management shall devise a modern and
10 complete system for achieving accountability for the use of public
11 funds in all contracts made by any state agency. The director shall
12 consult with stakeholder groups when devising the system.

13 (2) The system must address, but not be limited to, contractor
14 selection; contract provisions, including performance measures that may
15 be required under RCW 43.88.090; contract management; contract
16 monitoring; auditing and postevaluation; timely resolution of
17 monitoring and audit findings and recommendations; and financial
18 accountability expectations. The financial accountability expectations
19 must include, but not be limited to, cost allocation principles,

1 allowability of costs, terms of reimbursement, compliance requirements,
2 and timely recovery of overpayments and unallowable program costs. The
3 system must also take into account the need to coordinate the
4 activities of multiple funding sources to preclude duplication of
5 effort and funding.

6 (3) The system must apply to contracts of any sort that a state
7 agency awards, including, but not limited to, contracts awarded for any
8 public work, maintenance, or other work or for the purchase of
9 materials, supplies, equipment, or any type of service including
10 personal services and client services as defined in chapter 39.29 RCW.

11 (4) The director shall update the system on a yearly basis. When
12 updating the system, the director shall examine proven and effective
13 systems for achieving contract accountability nationwide and adopt
14 those systems or parts thereof to meet the needs of the state.

15 (5) The director shall also provide resource materials and training
16 for state officials and contract officers and contractors on the
17 system.

18 (6) All branches of state government, or any division thereof, must
19 implement the system.

20 (7) In order to support state agencies with consolidated, readily
21 available information on contracts and the historical performance of
22 contractors, the director shall establish and maintain a data base
23 containing information regarding contractors and subcontractors who
24 have done business with the state government. The data base must
25 contain a list of businesses that have been debarred under subsection
26 (8) of this section.

27 (8)(a) As part of the system required by subsection (1) of this
28 section, the director shall establish standards and procedures under
29 which contractors or subcontractors may be debarred from contracting
30 with the state government for two years.

31 (b) The standards must clearly specify the conduct that may subject
32 a contractor or subcontractor to debarment.

33 (c) The procedures must provide for a hearing before debarment,
34 which must be held under chapter 34.05 RCW.

35 (9) The state auditor shall perform performance verifications and
36 performance audits of state government to evaluate the implementation
37 of the system required by subsection (1) of this section. For purposes
38 of this subsection:

1 (a) "Performance verification" has the same meaning as in RCW
2 43.88.020; and

3 (b) "Performance audit" has the same meaning as in RCW 44.28.005.

4 (10) For purposes of this section, "state government" includes the
5 executive, legislative, and judicial branches.

6 **Sec. 2.** RCW 28B.10.029 and 1998 c 344 s 5 and 1998 c 111 s 2 are
7 each reenacted and amended to read as follows:

8 (1) An institution of higher education may exercise independently
9 those powers otherwise granted to the director of general
10 administration in chapter 43.19 RCW in connection with the purchase and
11 disposition of all material, supplies, services, and equipment needed
12 for the support, maintenance, and use of the respective institution of
13 higher education. Property disposition policies followed by
14 institutions of higher education shall be consistent with policies
15 followed by the department of general administration. Purchasing
16 policies and procedures followed by institutions of higher education
17 shall be in compliance with chapters 39.19, 39.29, and 43.03 RCW, and
18 RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917, 43.19.1937,
19 43.19.534, 43.19.685, 43.19.700 through 43.19.704, and 43.19.560
20 through 43.19.637. The community and technical colleges shall comply
21 with RCW 43.19.450. Except for the University of Washington,
22 institutions of higher education shall comply with RCW (~~43.19.1935,~~
23 ~~43.19.19363, and 43.19.19368~~) 43.41.310, 43.41.290, and 43.41.350. If
24 an institution of higher education can satisfactorily demonstrate to
25 the director of the office of financial management that the cost of
26 compliance is greater than the value of benefits from any of the
27 following statutes, then it shall be exempt from them: RCW 43.19.685;
28 43.19.534; and 43.19.637. Any institution of higher education that
29 chooses to exercise independent purchasing authority for a commodity or
30 group of commodities shall notify the director of general
31 administration. Thereafter the director of general administration
32 shall not be required to provide those services for that institution
33 for the duration of the general administration contract term for that
34 commodity or group of commodities.

35 (2) An institution of higher education may exercise independently
36 those powers otherwise granted to the public printer in chapter 43.78
37 RCW in connection with the production or purchase of any printing and

1 binding needed by the respective institution of higher education.
2 Purchasing policies and procedures followed by institutions of higher
3 education shall be in compliance with chapter 39.19 RCW. Any
4 institution of higher education that chooses to exercise independent
5 printing production or purchasing authority shall notify the public
6 printer. Thereafter the public printer shall not be required to
7 provide those services for that institution.

8 (3) Contracts awarded under this section are subject to the modern
9 and complete system for achieving accountability developed by the
10 office of financial management under section 1 of this act.

11 **Sec. 3.** RCW 28B.10.350 and 2001 c 38 s 1 are each amended to read
12 as follows:

13 (1) When the cost to The Evergreen State College, any regional
14 university, or state university, of any building, construction,
15 renovation, remodeling, or demolition other than maintenance or repairs
16 will equal or exceed the sum of thirty-five thousand dollars, complete
17 plans and specifications for such work shall be prepared and such work
18 shall be put out for public bids and the contract shall be awarded to
19 the lowest responsible bidder if in accordance with the bid
20 specifications: PROVIDED, That when the estimated cost of such
21 building, construction, renovation, remodeling, or demolition equals or
22 exceeds the sum of twenty-five thousand dollars, such project shall be
23 deemed a public works and "the prevailing rate of wage," under chapter
24 39.12 RCW shall be applicable thereto: PROVIDED FURTHER, That when
25 such building, construction, renovation, remodeling, or demolition
26 involves one trade or craft area and the estimated cost exceeds fifteen
27 thousand dollars, complete plans and specifications for such work shall
28 be prepared and such work shall be put out for public bids, and the
29 contract shall be awarded to the lowest responsible bidder if in
30 accordance with the bid specifications. This subsection shall not
31 apply when a contract is awarded by the small works roster procedure
32 authorized in RCW 39.04.155 or under any other procedure authorized for
33 an institution of higher education.

34 (2) The Evergreen State College, any regional university, or state
35 university may require a project to be put to public bid even when it
36 is not required to do so under subsection (1) of this section.

1 (3) Where the estimated cost to The Evergreen State College, any
2 regional university, or state university of any building, construction,
3 renovation, remodeling, or demolition is less than twenty-five thousand
4 dollars or the contract is awarded by the small works roster procedure
5 authorized in RCW 39.04.155, the publication requirements of RCW
6 39.04.020 shall be inapplicable.

7 (4) In the event of any emergency when the public interest or
8 property of The Evergreen State College, regional university, or state
9 university would suffer material injury or damage by delay, the
10 president of such college or university may declare the existence of
11 such an emergency and reciting the facts constituting the same may
12 waive the requirements of this section with reference to any contract
13 in order to correct the condition causing the emergency: PROVIDED,
14 That an "emergency," for the purposes of this section, means a
15 condition likely to result in immediate physical injury to persons or
16 to property of such college or university in the absence of prompt
17 remedial action or a condition which immediately impairs the
18 institution's ability to perform its educational obligations.

19 (5) Contracts awarded under this section are subject to the modern
20 and complete system for achieving accountability developed by the
21 office of financial management under section 1 of this act.

22 **Sec. 4.** RCW 28B.50.330 and 1993 c 379 s 108 are each amended to
23 read as follows:

24 The boards of trustees of college districts are empowered in
25 accordance with the provisions of this chapter to provide for the
26 construction, reconstruction, erection, equipping, demolition, and
27 major alterations of buildings and other capital assets, and the
28 acquisition of sites, rights-of-way, easements, improvements, or
29 appurtenances for the use of the aforementioned colleges as authorized
30 by the college board in accordance with RCW 28B.50.140; to be financed
31 by bonds payable out of special funds from revenues hereafter derived
32 from income received from such facilities, gifts, bequests, or grants,
33 and such additional funds as the legislature may provide, and payable
34 out of a bond retirement fund to be established by the respective
35 district boards in accordance with rules and regulations of the state
36 board. With respect to building, improvements, or repairs, or other
37 work, where the estimated cost exceeds twenty-five thousand dollars,

1 complete plans and specifications for such work shall be prepared and
2 such work shall be put out for public bids and the contract shall be
3 awarded to the lowest responsible bidder if in accordance with the bid
4 specifications: PROVIDED, That when such building, construction,
5 renovation, remodeling, or demolition involves one trade or craft area
6 and the estimated cost exceeds ten thousand dollars, complete plans and
7 specifications for such work shall be prepared and such work shall be
8 put out for public bids, and the contract shall be awarded to the
9 lowest responsible bidder if in accordance with the bid specifications.
10 This subsection shall not apply when a contract is awarded by the small
11 works procedure authorized in RCW (~~39.04.150~~) 39.04.155: PROVIDED
12 FURTHER, That any project regardless of dollar amount may be put to
13 public bid.

14 Where the estimated cost to any college of any building,
15 improvements, or repairs, or other work, is less than twenty-five
16 thousand dollars, the publication requirements of RCW 39.04.020 shall
17 be inapplicable.

18 Contracts awarded under this section are subject to the modern and
19 complete system for achieving accountability developed by the office of
20 financial management under section 1 of this act.

21 **Sec. 5.** RCW 39.04.155 and 2001 c 284 s 1 are each amended to read
22 as follows:

23 (1) This section provides uniform small works roster provisions to
24 award contracts for construction, building, renovation, remodeling,
25 alteration, repair, or improvement of real property that may be used by
26 state agencies and by any local government that is expressly authorized
27 to use these provisions. These provisions may be used in lieu of other
28 procedures to award contracts for such work with an estimated cost of
29 two hundred thousand dollars or less. The small works roster process
30 includes the limited public works process authorized under subsection
31 (3) of this section and any local government authorized to award
32 contracts using the small works roster process under this section may
33 award contracts using the limited public works process under subsection
34 (3) of this section.

35 (2)(a) A state agency or authorized local government may create a
36 single general small works roster, or may create a small works roster
37 for different specialties or categories of anticipated work. Where

1 applicable, small works rosters may make distinctions between
2 contractors based upon different geographic areas served by the
3 contractor. The small works roster or rosters shall consist of all
4 responsible contractors who have requested to be on the list, and where
5 required by law are properly licensed or registered to perform such
6 work in this state. A state agency or local government establishing a
7 small works roster or rosters may require eligible contractors desiring
8 to be placed on a roster or rosters to keep current records of any
9 applicable licenses, certifications, registrations, bonding, insurance,
10 or other appropriate matters on file with the state agency or local
11 government as a condition of being placed on a roster or rosters. At
12 least once a year, the state agency or local government shall publish
13 in a newspaper of general circulation within the jurisdiction a notice
14 of the existence of the roster or rosters and solicit the names of
15 contractors for such roster or rosters. In addition, responsible
16 contractors shall be added to an appropriate roster or rosters at any
17 time they submit a written request and necessary records. Master
18 contracts may be required to be signed that become effective when a
19 specific award is made using a small works roster.

20 (b) A state agency establishing a small works roster or rosters
21 shall adopt rules implementing this subsection. A local government
22 establishing a small works roster or rosters shall adopt an ordinance
23 or resolution implementing this subsection. Procedures included in
24 rules adopted by the department of general administration in
25 implementing this subsection must be included in any rules providing
26 for a small works roster or rosters that is adopted by another state
27 agency, if the authority for that state agency to engage in these
28 activities has been delegated to it by the department of general
29 administration under chapter 43.19 RCW. An interlocal contract or
30 agreement between two or more state agencies or local governments
31 establishing a small works roster or rosters to be used by the parties
32 to the agreement or contract must clearly identify the lead entity that
33 is responsible for implementing the provisions of this subsection.

34 (c) Procedures shall be established for securing telephone,
35 written, or electronic quotations from contractors on the appropriate
36 small works roster to assure that a competitive price is established
37 and to award contracts to the lowest responsible bidder, as defined in
38 RCW 43.19.1911. Invitations for quotations shall include an estimate

1 of the scope and nature of the work to be performed as well as
2 materials and equipment to be furnished. However, detailed plans and
3 specifications need not be included in the invitation. This subsection
4 does not eliminate other requirements for architectural or engineering
5 approvals as to quality and compliance with building codes. Quotations
6 may be invited from all appropriate contractors on the appropriate
7 small works roster. As an alternative, quotations may be invited from
8 at least five contractors on the appropriate small works roster who
9 have indicated the capability of performing the kind of work being
10 contracted, in a manner that will equitably distribute the opportunity
11 among the contractors on the appropriate roster. However, if the
12 estimated cost of the work is from one hundred thousand dollars to two
13 hundred thousand dollars, a state agency or local government, other
14 than a port district, that chooses to solicit bids from less than all
15 the appropriate contractors on the appropriate small works roster must
16 also notify the remaining contractors on the appropriate small works
17 roster that quotations on the work are being sought. The government
18 has the sole option of determining whether this notice to the remaining
19 contractors is made by: (i) Publishing notice in a legal newspaper in
20 general circulation in the area where the work is to be done; (ii)
21 mailing a notice to these contractors; or (iii) sending a notice to
22 these contractors by facsimile or other electronic means. For purposes
23 of this subsection (2)(c), "equitably distribute" means that a state
24 agency or local government soliciting bids may not favor certain
25 contractors on the appropriate small works roster over other
26 contractors on the appropriate small works roster who perform similar
27 services.

28 (d) A contract awarded from a small works roster under this section
29 need not be advertised.

30 (e) Immediately after an award is made, the bid quotations obtained
31 shall be recorded, open to public inspection, and available by
32 telephone inquiry.

33 (3) In lieu of awarding contracts under subsection (2) of this
34 section, a state agency or authorized local government may award a
35 contract for work, construction, alteration, repair, or improvement
36 (~~(project [projects])~~) projects estimated to cost less than thirty-five
37 thousand dollars using the limited public works process provided under
38 this subsection. Public works projects awarded under this subsection

1 are exempt from the other requirements of the small works roster
2 process provided under subsection (2) of this section and are exempt
3 from the requirement that contracts be awarded after advertisement as
4 provided under RCW 39.04.010.

5 For limited public works projects, a state agency or authorized
6 local government shall solicit electronic or written quotations from a
7 minimum of three contractors from the appropriate small works roster
8 and shall award the contract to the lowest responsible bidder as
9 defined under RCW 43.19.1911. After an award is made, the quotations
10 shall be open to public inspection and available by electronic request.
11 A state agency or authorized local government shall attempt to
12 distribute opportunities for limited public works projects equitably
13 among contractors willing to perform in the geographic area of the
14 work. A state agency or authorized local government shall maintain a
15 list of the contractors contacted and the contracts awarded during the
16 previous twenty-four months under the limited public works process,
17 including the name of the contractor, the contractor's registration
18 number, the amount of the contract, a brief description of the type of
19 work performed, and the date the contract was awarded. For limited
20 public works projects, a state agency or authorized local government
21 may waive the payment and performance bond requirements of chapter
22 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
23 assuming the liability for the contractor's nonpayment of laborers,
24 mechanics, subcontractors, materialmen, suppliers, and taxes imposed
25 under Title 82 RCW that may be due from the contractor for the limited
26 public works project, however the state agency or authorized local
27 government shall have the right of recovery against the contractor for
28 any payments made on the contractor's behalf.

29 (4) The breaking of any project into units or accomplishing any
30 projects by phases is prohibited if it is done for the purpose of
31 avoiding the maximum dollar amount of a contract that may be let using
32 the small works roster process or limited public works process.

33 (5) As used in this section, "state agency" means the department of
34 general administration, the state parks and recreation commission, the
35 department of natural resources, the department of fish and wildlife,
36 the department of transportation, any institution of higher education
37 as defined under RCW 28B.10.016, and any other state agency delegated

1 authority by the department of general administration to engage in
2 construction, building, renovation, remodeling, alteration,
3 improvement, or repair activities.

4 (6) Contracts awarded under this section are subject to the modern
5 and complete system for achieving accountability developed by the
6 office of financial management under section 1 of this act.

7 **Sec. 6.** RCW 39.80.050 and 1981 c 61 s 5 are each amended to read
8 as follows:

9 (1) The agency shall negotiate a contract with the most qualified
10 firm for architectural and engineering services at a price which the
11 agency determines is fair and reasonable to the agency. In making its
12 determination, the agency shall take into account the estimated value
13 of the services to be rendered as well as the scope, complexity, and
14 professional nature thereof.

15 (2) If the agency is unable to negotiate a satisfactory contract
16 with the firm selected at a price the agency determines to be fair and
17 reasonable, negotiations with that firm shall be formally terminated
18 and the agency shall select other firms in accordance with RCW
19 39.80.040 and continue in accordance with this section until an
20 agreement is reached or the process is terminated.

21 (3) Contracts awarded under this section are subject to the modern
22 and complete system for achieving accountability developed by the
23 office of financial management under section 1 of this act.

24 **Sec. 7.** RCW 43.19.1906 and 2002 c 332 s 4 are each amended to read
25 as follows:

26 Insofar as practicable, all purchases and sales shall be based on
27 competitive bids, and a formal sealed bid procedure shall be used as
28 standard procedure for all purchases and contracts for purchases and
29 sales executed by the state purchasing and material control director
30 and under the powers granted by RCW 43.19.190 through 43.19.1939.
31 Contracts awarded under this section are subject to the modern and
32 complete system for achieving accountability developed by the office of
33 financial management under section 1 of this act. This requirement
34 also applies to purchases and contracts for purchases and sales
35 executed by agencies, including educational institutions, under

1 delegated authority granted in accordance with provisions of RCW
2 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is
3 not necessary for:

4 (1) Emergency purchases made pursuant to RCW 43.19.200 if the
5 sealed bidding procedure would prevent or hinder the emergency from
6 being met appropriately;

7 (2) Purchases not exceeding thirty-five thousand dollars, or
8 subsequent limits as calculated by the office of financial management:
9 PROVIDED, That the state director of general administration shall
10 establish procedures to assure that purchases made by or on behalf of
11 the various state agencies shall not be made so as to avoid the thirty-
12 five thousand dollar bid limitation, or subsequent bid limitations as
13 calculated by the office of financial management: PROVIDED FURTHER,
14 That the state purchasing and material control director is authorized
15 to reduce the formal sealed bid limits of thirty-five thousand dollars,
16 or subsequent limits as calculated by the office of financial
17 management, to a lower dollar amount for purchases by individual state
18 agencies if considered necessary to maintain full disclosure of
19 competitive procurement or otherwise to achieve overall state
20 efficiency and economy in purchasing and material control. Quotations
21 from three thousand dollars to thirty-five thousand dollars, or
22 subsequent limits as calculated by the office of financial management,
23 shall be secured from at least three vendors to assure establishment of
24 a competitive price and may be obtained by telephone or written
25 quotations, or both. The agency shall invite at least one quotation
26 each from a certified minority and a certified women-owned vendor who
27 shall otherwise qualify to perform such work. Immediately after the
28 award is made, the bid quotations obtained shall be recorded and open
29 to public inspection and shall be available by telephone inquiry. A
30 record of competition for all such purchases from three thousand
31 dollars to thirty-five thousand dollars, or subsequent limits as
32 calculated by the office of financial management, shall be documented
33 for audit purposes. Purchases up to three thousand dollars may be made
34 without competitive bids based on buyer experience and knowledge of the
35 market in achieving maximum quality at minimum cost;

36 (3) Purchases which are clearly and legitimately limited to a
37 single source of supply and purchases involving special facilities,

1 services, or market conditions, in which instances the purchase price
2 may be best established by direct negotiation;

3 (4) Purchases of insurance and bonds by the risk management
4 division under RCW 43.41.310;

5 (5) Purchases and contracts for vocational rehabilitation clients
6 of the department of social and health services: PROVIDED, That this
7 exemption is effective only when the state purchasing and material
8 control director, after consultation with the director of the division
9 of vocational rehabilitation and appropriate department of social and
10 health services procurement personnel, declares that such purchases may
11 be best executed through direct negotiation with one or more suppliers
12 in order to expeditiously meet the special needs of the state's
13 vocational rehabilitation clients;

14 (6) Purchases by universities for hospital operation or biomedical
15 teaching or research purposes and by the state purchasing and material
16 control director, as the agent for state hospitals as defined in RCW
17 72.23.010, and for health care programs provided in state correctional
18 institutions as defined in RCW 72.65.010(3) and veterans' institutions
19 as defined in RCW 72.36.010 and 72.36.070, made by participating in
20 contracts for materials, supplies, and equipment entered into by
21 nonprofit cooperative hospital group purchasing organizations;

22 (7) Purchases for resale by institutions of higher education to
23 other than public agencies when such purchases are for the express
24 purpose of supporting instructional programs and may best be executed
25 through direct negotiation with one or more suppliers in order to meet
26 the special needs of the institution;

27 (8) Purchases by institutions of higher education not exceeding
28 thirty-five thousand dollars: PROVIDED, That for purchases between
29 three thousand dollars and thirty-five thousand dollars quotations
30 shall be secured from at least three vendors to assure establishment of
31 a competitive price and may be obtained by telephone or written
32 quotations, or both. For purchases between three thousand dollars and
33 thirty-five thousand dollars, each institution of higher education
34 shall invite at least one quotation each from a certified minority and
35 a certified women-owned vendor who shall otherwise qualify to perform
36 such work. A record of competition for all such purchases made from
37 three thousand to thirty-five thousand dollars shall be documented for
38 audit purposes; and

1 (9) Negotiation of a contract by the department of transportation,
2 valid until June 30, 2001, with registered tow truck operators to
3 provide roving service patrols in one or more Washington state patrol
4 tow zones whereby those registered tow truck operators wishing to
5 participate would cooperatively, with the department of transportation,
6 develop a demonstration project upon terms and conditions negotiated by
7 the parties.

8 Beginning on July 1, 1995, and on July 1 of each succeeding odd-
9 numbered year, the dollar limits specified in this section shall be
10 adjusted as follows: The office of financial management shall
11 calculate such limits by adjusting the previous biennium's limits by
12 the appropriate federal inflationary index reflecting the rate of
13 inflation for the previous biennium. Such amounts shall be rounded to
14 the nearest one hundred dollars. However, the three thousand dollar
15 figure in subsections (2) and (8) of this section may not be adjusted
16 to exceed five thousand dollars.

17 **Sec. 8.** RCW 79.10.140 and 2003 c 334 s 122 are each amended to
18 read as follows:

19 The department is authorized:

20 (1) To construct, operate, and maintain primitive outdoor
21 recreation and conservation facilities on lands under its jurisdiction
22 which are of primitive character when deemed necessary by the
23 department to achieve maximum effective development of such lands and
24 resources consistent with the purposes for which the lands are held.
25 This authority shall be exercised only after review by the interagency
26 committee for outdoor recreation and determination by the committee
27 that the department is the most appropriate agency to undertake such
28 construction, operation, and maintenance. Such review is not required
29 for campgrounds designated and prepared or approved by the department;

30 (2) To acquire right of way and develop public access to lands
31 under the jurisdiction of the department and suitable for public
32 outdoor recreation and conservation purposes;

33 (3) To receive and expend funds from federal and state outdoor
34 recreation funding measures for the purposes of this section and RCW
35 79A.50.110.

36 Contracts awarded under this section are subject to the modern and

1 complete system for achieving accountability developed by the office of
2 financial management under section 1 of this act.

3 **Sec. 9.** RCW 43.78.110 and 1993 c 379 s 107 are each amended to
4 read as follows:

5 Whenever in the judgment of the public printer certain printing,
6 ruling, binding, or supplies can be secured from private sources more
7 economically than by doing the work or preparing the supplies in the
8 state printing plant, the public printer may obtain such work or
9 supplies from such private sources. Contracts awarded under this
10 section are subject to the modern and complete system for achieving
11 accountability developed by the office of financial management under
12 section 1 of this act.

13 In event any work or supplies are secured on behalf of the state
14 under this section the state printing plant shall be entitled to add up
15 to five percent to the cost thereof to cover the handling of the orders
16 which shall be added to the bills and charged to the respective
17 authorities ordering the work or supplies. The five percent handling
18 charge shall not apply to contracts with institutions of higher
19 education.

20 **Sec. 10.** RCW 43.105.041 and 2003 c 18 s 3 are each amended to read
21 as follows:

22 (1) The board shall have the following powers and duties related to
23 information services:

24 (a) To develop standards and procedures governing the acquisition
25 and disposition of equipment, proprietary software and purchased
26 services, licensing of the radio spectrum by or on behalf of state
27 agencies, and confidentiality of computerized data;

28 (b) To purchase, lease, rent, or otherwise acquire, dispose of, and
29 maintain equipment, proprietary software, and purchased services, or to
30 delegate to other agencies and institutions of state government, under
31 appropriate standards, the authority to purchase, lease, rent, or
32 otherwise acquire, dispose of, and maintain equipment, proprietary
33 software, and purchased services: PROVIDED, That, agencies and
34 institutions of state government are expressly prohibited from
35 acquiring or disposing of equipment, proprietary software, and
36 purchased services without such delegation of authority. The

1 acquisition and disposition of equipment, proprietary software, and
2 purchased services is exempt from RCW 43.19.1919 and, as provided in
3 RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200.
4 Contracts awarded under this section are subject to the modern and
5 complete system for achieving accountability developed by the office of
6 financial management under section 1 of this act. This subsection
7 (1)(b) does not apply to the legislative branch;
8 (c) To develop statewide or interagency technical policies,
9 standards, and procedures;
10 (d) To review and approve standards and common specifications for
11 new or expanded telecommunications networks proposed by agencies,
12 public postsecondary education institutions, educational service
13 districts, or statewide or regional providers of K-12 information
14 technology services, and to assure the cost-effective development and
15 incremental implementation of a statewide video telecommunications
16 system to serve: Public schools; educational service districts;
17 vocational-technical institutes; community colleges; colleges and
18 universities; state and local government; and the general public
19 through public affairs programming;
20 (e) To provide direction concerning strategic planning goals and
21 objectives for the state. The board shall seek input from the
22 legislature and the judiciary;
23 (f) To develop and implement a process for the resolution of
24 appeals by:
25 (i) Vendors concerning the conduct of an acquisition process by an
26 agency or the department; or
27 (ii) A customer agency concerning the provision of services by the
28 department or by other state agency providers;
29 (g) To establish policies for the periodic review by the department
30 of agency performance which may include but are not limited to analysis
31 of:
32 (i) Planning, management, control, and use of information services;
33 (ii) Training and education; and
34 (iii) Project management;
35 (h) To set its meeting schedules and convene at scheduled times, or
36 meet at the request of a majority of its members, the chair, or the
37 director; and

1 (i) To review and approve that portion of the department's budget
2 requests that provides for support to the board.

3 (2) Statewide technical standards to promote and facilitate
4 electronic information sharing and access are an essential component of
5 acceptable and reliable public access service and complement content-
6 related standards designed to meet those goals. The board shall:

7 (a) Establish technical standards to facilitate electronic access
8 to government information and interoperability of information systems,
9 including wireless communications systems. Local governments are
10 strongly encouraged to follow the standards established by the board;
11 and

12 (b) Require agencies to consider electronic public access needs
13 when planning new information systems or major upgrades of systems.

14 In developing these standards, the board is encouraged to include
15 the state library, state archives, and appropriate representatives of
16 state and local government.

17 (3)(a) The board, in consultation with the K-20 board, has the duty
18 to govern, operate, and oversee the technical design, implementation,
19 and operation of the K-20 network including, but not limited to, the
20 following duties: Establishment and implementation of K-20 network
21 technical policy, including technical standards and conditions of use;
22 review and approval of network design; procurement of shared network
23 services and equipment; and resolving user/provider disputes concerning
24 technical matters. The board shall delegate general operational and
25 technical oversight to the K-20 network technical steering committee as
26 appropriate.

27 (b) The board has the authority to adopt rules under chapter 34.05
28 RCW to implement the provisions regarding the technical operations and
29 conditions of use of the K-20 network.

30 **Sec. 11.** RCW 47.28.090 and 1985 c 242 s 3 are each amended to read
31 as follows:

32 At the time and place named in the call for bids the department of
33 transportation shall publicly open and read the final figure in each of
34 the bid proposals that have been properly filed and read only the unit
35 prices of the three lowest bids, and shall award the contract to the
36 lowest responsible bidder unless the department has, for good cause,
37 continued the date of opening bids to a day certain, or rejected that

1 bid. Any bid may be rejected if the bidder has previously defaulted in
2 the performance of and failed to complete a written public contract, or
3 has been convicted of a crime arising from a previous public contract.
4 If the lowest responsible bidder fails to meet the provisions or
5 specifications requiring compliance with chapter 39.19 RCW and the
6 rules adopted to implement that chapter, the department may award the
7 contract to the next lowest responsible bidder which does meet the
8 provisions or specifications or may reject all bids and readvertise.
9 All bids shall be under sealed cover and accompanied by deposit in
10 cash, certified check, cashier's check, or surety bond in an amount
11 equal to five percent of the amount of the bid, and a bid shall not be
12 considered unless the deposit is enclosed with it.

13 Contracts awarded under this section are subject to the modern and
14 complete system for achieving accountability developed by the office of
15 financial management under section 1 of this act.

16 **Sec. 12.** RCW 47.56.030 and 2002 c 114 s 19 are each amended to
17 read as follows:

18 (1) Except as permitted under chapter 47.46 RCW:

19 (a) The department of transportation shall have full charge of the
20 construction of all toll bridges and other toll facilities including
21 the Washington state ferries, and the operation and maintenance
22 thereof.

23 (b) The transportation commission shall determine and establish the
24 tolls and charges thereon, and shall perform all duties and exercise
25 all powers relating to the financing, refinancing, and fiscal
26 management of all toll bridges and other toll facilities including the
27 Washington state ferries, and bonded indebtedness in the manner
28 provided by law.

29 (c) The department shall have full charge of design of all toll
30 facilities.

31 (d) Except as provided in this section, the department shall
32 proceed with the construction of such toll bridges and other facilities
33 and the approaches thereto by contract in the manner of state highway
34 construction immediately upon there being made available funds for such
35 work and shall prosecute such work to completion as rapidly as
36 practicable. The department is authorized to negotiate contracts for
37 any amount without bid under (d)(i) and (ii) of this subsection:

1 (i) Emergency contracts, in order to make repairs to ferries or
2 ferry terminal facilities or removal of such facilities whenever
3 continued use of ferries or ferry terminal facilities constitutes a
4 real or immediate danger to the traveling public or precludes prudent
5 use of such ferries or facilities; and

6 (ii) Single source contracts for vessel dry dockings, when there is
7 clearly and legitimately only one available bidder to conduct dry dock-
8 related work for a specific class or classes of vessels. The contracts
9 may be entered into for a single vessel dry docking or for multiple
10 vessel dry dockings for a period not to exceed two years.

11 (2) The department shall proceed with the procurement of materials,
12 supplies, services, and equipment needed for the support, maintenance,
13 and use of a ferry, ferry terminal, or other facility operated by
14 Washington state ferries, in accordance with chapter 43.19 RCW except
15 as follows:

16 (a) Except as provided in (d) of this subsection, when the
17 secretary of the department of transportation determines in writing
18 that the use of invitation for bid is either not practicable or not
19 advantageous to the state and it may be necessary to make competitive
20 evaluations, including technical or performance evaluations among
21 acceptable proposals to complete the contract award, a contract may be
22 entered into by use of a competitive sealed proposals method, and a
23 formal request for proposals solicitation. Such formal request for
24 proposals solicitation shall include a functional description of the
25 needs and requirements of the state and the significant factors.

26 (b) When purchases are made through a formal request for proposals
27 solicitation the contract shall be awarded to the responsible proposer
28 whose competitive sealed proposal is determined in writing to be the
29 most advantageous to the state taking into consideration price and
30 other evaluation factors set forth in the request for proposals. No
31 significant factors may be used in evaluating a proposal that are not
32 specified in the request for proposals. Factors that may be considered
33 in evaluating proposals include but are not limited to: Price;
34 maintainability; reliability; commonality; performance levels; life
35 cycle cost if applicable under this section; cost of transportation or
36 delivery; delivery schedule offered; installation cost; cost of spare
37 parts; availability of parts and service offered; and the following:

1 (i) The ability, capacity, and skill of the proposer to perform the
2 contract or provide the service required;

3 (ii) The character, integrity, reputation, judgment, experience,
4 and efficiency of the proposer;

5 (iii) Whether the proposer can perform the contract within the time
6 specified;

7 (iv) The quality of performance of previous contracts or services;

8 (v) The previous and existing compliance by the proposer with laws
9 relating to the contract or services;

10 (vi) Objective, measurable criteria defined in the request for
11 proposal. These criteria may include but are not limited to items such
12 as discounts, delivery costs, maintenance services costs, installation
13 costs, and transportation costs; and

14 (vii) Such other information as may be secured having a bearing on
15 the decision to award the contract.

16 (c) When purchases are made through a request for proposal process,
17 proposals received shall be evaluated based on the evaluation factors
18 set forth in the request for proposal. When issuing a request for
19 proposal for the procurement of propulsion equipment or systems that
20 include an engine, the request for proposal must specify the use of a
21 life cycle cost analysis that includes an evaluation of fuel
22 efficiency. When a life cycle cost analysis is used, the life cycle
23 cost of a proposal shall be given at least the same relative importance
24 as the initial price element specified in the request of proposal
25 documents. The department may reject any and all proposals received.
26 If the proposals are not rejected, the award shall be made to the
27 proposer whose proposal is most advantageous to the department,
28 considering price and the other evaluation factors set forth in the
29 request for proposal.

30 (d) If the department is procuring large equipment or systems
31 (e.g., electrical, propulsion) needed for the support, maintenance, and
32 use of a ferry operated by Washington state ferries, the department
33 shall proceed with a formal request for proposal solicitation under
34 this subsection (2) without a determination of necessity by the
35 secretary.

36 (3) Contracts awarded under this section are subject to the modern
37 and complete system for achieving accountability developed by the
38 office of financial management under section 1 of this act.

1 **Sec. 13.** RCW 77.12.210 and 2000 c 107 s 218 are each amended to
2 read as follows:

3 The director shall maintain and manage real or personal property
4 owned, leased, or held by the department and shall control the
5 construction of buildings, structures, and improvements in or on the
6 property, and the contracts awarded under this section are subject to
7 the modern and complete system for achieving accountability developed
8 by the office of financial management under section 1 of this act. The
9 director may adopt rules for the operation and maintenance of the
10 property.

11 The commission may authorize the director to sell, lease, convey,
12 or grant concessions upon real or personal property under the control
13 of the department. This includes the authority to sell timber, gravel,
14 sand, and other materials or products from real property held by the
15 department, and to sell or lease the department's real or personal
16 property or grant concessions or rights of way for roads or utilities
17 in the property. Oil and gas resources owned by the state which lie
18 below lands owned, leased, or held by the department shall be offered
19 for lease by the commissioner of public lands pursuant to chapter 79.14
20 RCW with the proceeds being deposited in the state wildlife fund:
21 PROVIDED, That the commissioner of public lands shall condition such
22 leases at the request of the department to protect wildlife and its
23 habitat.

24 If the commission determines that real or personal property held by
25 the department cannot be used advantageously by the department, the
26 director may dispose of that property if it is in the public interest.

27 If the state acquired real property with use limited to specific
28 purposes, the director may negotiate terms for the return of the
29 property to the donor or grantor. Other real property shall be sold to
30 the highest bidder at public auction. After appraisal, notice of the
31 auction shall be published at least once a week for two successive
32 weeks in a newspaper of general circulation within the county where the
33 property is located at least twenty days prior to sale.

34 Proceeds from the sales shall be deposited in the state wildlife
35 fund.

36 **Sec. 14.** RCW 79A.05.030 and 1999 c 249 s 302, 1999 c 155 s 1, and
37 1999 c 59 s 1 are each reenacted and amended to read as follows:

1 The commission shall:

2 (1) Have the care, charge, control, and supervision of all parks
3 and parkways acquired or set aside by the state for park or parkway
4 purposes.

5 (2) Adopt policies, and adopt, issue, and enforce rules pertaining
6 to the use, care, and administration of state parks and parkways. The
7 commission shall cause a copy of the rules to be kept posted in a
8 conspicuous place in every state park to which they are applicable, but
9 failure to post or keep any rule posted shall be no defense to any
10 prosecution for the violation thereof.

11 (3) Permit the use of state parks and parkways by the public under
12 such rules as shall be adopted.

13 (4) Clear, drain, grade, seed, and otherwise improve or beautify
14 parks and parkways, and erect structures, buildings, fireplaces, and
15 comfort stations and build and maintain paths, trails, and roadways
16 through or on parks and parkways. Any contracts awarded for this work
17 are subject to the modern and complete system for achieving
18 accountability developed by the office of financial management under
19 section 1 of this act.

20 (5) Grant concessions or leases in state parks and parkways, upon
21 such rentals, fees, or percentage of income or profits and for such
22 terms, in no event longer than fifty years, and upon such conditions as
23 shall be approved by the commission: PROVIDED, That leases exceeding
24 a twenty-year term shall require a unanimous vote of the commission:
25 PROVIDED FURTHER, That if, during the term of any concession or lease,
26 it is the opinion of the commission that it would be in the best
27 interest of the state, the commission may, with the consent of the
28 concessionaire or lessee, alter and amend the terms and conditions of
29 such concession or lease: PROVIDED FURTHER, That television station
30 leases shall be subject to the provisions of RCW 79A.05.085, only:
31 PROVIDED FURTHER, That the rates of such concessions or leases shall be
32 renegotiated at five-year intervals. No concession shall be granted
33 which will prevent the public from having free access to the scenic
34 attractions of any park or parkway.

35 (6) Employ such assistance as it deems necessary. Commission
36 expenses relating to its use of volunteer assistance shall be limited
37 to premiums or assessments for the insurance of volunteers by the
38 department of labor and industries, compensation of staff who assist

1 volunteers, materials and equipment used in authorized volunteer
2 projects, training, reimbursement of volunteer travel as provided in
3 RCW 43.03.050 and 43.03.060, and other reasonable expenses relating to
4 volunteer recognition. The commission, at its discretion, may waive
5 commission fees otherwise applicable to volunteers. The commission
6 shall not use volunteers to replace or supplant classified positions.
7 The use of volunteers may not lead to the elimination of any employees
8 or permanent positions in the bargaining unit.

9 (7) By majority vote of its authorized membership select and
10 purchase or obtain options upon, lease, or otherwise acquire for and in
11 the name of the state such tracts of land, including shore and tide
12 lands, for park and parkway purposes as it deems proper. If the
13 commission cannot acquire any tract at a price it deems reasonable, it
14 may, by majority vote of its authorized membership, obtain title
15 thereto, or any part thereof, by condemnation proceedings conducted by
16 the attorney general as provided for the condemnation of rights of way
17 for state highways. Option agreements executed under authority of this
18 subsection shall be valid only if:

19 (a) The cost of the option agreement does not exceed one dollar;
20 and

21 (b) Moneys used for the purchase of the option agreement are from
22 (i) funds appropriated therefor, or (ii) funds appropriated for
23 undesignated land acquisitions, or (iii) funds deemed by the commission
24 to be in excess of the amount necessary for the purposes for which they
25 were appropriated; and

26 (c) The maximum amount payable for the property upon exercise of
27 the option does not exceed the appraised value of the property.

28 (8) Cooperate with the United States, or any county or city of this
29 state, in any matter pertaining to the acquisition, development,
30 redevelopment, renovation, care, control, or supervision of any park or
31 parkway, and enter into contracts in writing to that end. All parks or
32 parkways, to which the state contributed or in whose care, control, or
33 supervision the state participated pursuant to the provisions of this
34 section, shall be governed by the provisions hereof.

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