

**HB 1770 - S AMD 297**

By Senators Zarelli, Kastama

ADOPTED 04/07/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that it is in the  
4 state's economic interest and serves a public purpose to promote and  
5 facilitate the fullest possible participation by Washington businesses  
6 of all sizes in the process by which goods and services are purchased  
7 by the state. The legislature further finds that large businesses have  
8 the resources to participate fully and effectively in the state's  
9 purchasing system, and because of many factors, including economies of  
10 scale, the purchasing system tends to create a preference in favor of  
11 large businesses and to disadvantage small businesses. The legislature  
12 intends, therefore, to assist, to the maximum extent possible, small  
13 businesses to participate in order to enhance and preserve competitive  
14 enterprise and to ensure that small businesses have a fair opportunity  
15 to be awarded contracts or subcontracts for goods and services  
16 purchased by the state. The legislature recognizes the need to  
17 increase accountability for the state's procurement and contracting  
18 practices. The legislature, therefore, intends to encourage all state  
19 agencies to maintain records of state purchasing contracts awarded to  
20 registered small businesses. The legislature further recognizes that  
21 access to a modernized system that categorizes a state business by such  
22 factors as its type and size, is an essential tool for receiving  
23 accurate and verifiable information regarding the effects any technical  
24 assistance is having on the number of small businesses annually  
25 receiving state contracts for goods and services purchased by the  
26 state.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.19 RCW  
28 to read as follows:

29 (1) The department of general administration must develop a model

1 plan for state agencies to increase: (a) The number of small  
2 businesses registering in the state's common vendor registration and  
3 bid notification system; (b) the number of such registered small  
4 businesses annually receiving state contracts for goods and services  
5 purchased by the state; and (c) the percentage of total state dollars  
6 spent for goods and services purchased from such registered small  
7 businesses. The goal of the plan is to increase the number of small  
8 businesses receiving state contracts as well as the percentage of total  
9 state dollars spent for goods and services from small businesses  
10 registered in the state's common vendor registration and bid  
11 notification system by at least fifty percent in fiscal year 2013, and  
12 at least one hundred percent in fiscal year 2015 over the baseline data  
13 reported for fiscal year 2011.

14 (2) All state purchasing agencies may adopt the model plan  
15 developed by the department of general administration under subsection  
16 (1) of this section. A state purchasing agency that does not adopt the  
17 model plan must establish and implement a plan consistent with the  
18 goals of subsection (1) of this section.

19 (3) To facilitate the participation of small businesses in the  
20 provision of goods and services to the state, including purchases under  
21 chapters 39.29 and 43.105 RCW, the state purchasing and material  
22 control director, under the powers granted by RCW 43.19.190 through  
23 43.19.1939, and all state purchasing agencies operating under delegated  
24 authority granted under RCW 43.19.190 or 28B.10.029, must give  
25 technical assistance to small businesses regarding the state bidding  
26 process. Such technical assistance shall include providing  
27 opportunities for the agency to answer vendor questions about the bid  
28 solicitation requirements in advance of the bid due date and, upon  
29 request, holding a debriefing after the contract award to assist the  
30 vendor in understanding how to improve his or her responses for future  
31 competitive procurements.

32 (4)(a) All state purchasing agencies must maintain records of state  
33 purchasing contracts awarded to registered small businesses in order to  
34 track outcomes and provide accurate, verifiable information regarding  
35 the effects the technical assistance under subsection (3) of this  
36 section is having on the number of small businesses annually receiving  
37 state contracts for goods and services purchased by the state.

1 (b) The department of general administration may provide assistance  
2 to other agencies attempting to maintain records of state purchasing  
3 contracts awarded to registered small businesses for the purposes  
4 described under (a) of this subsection.

5 (5) The definitions in this subsection apply throughout this  
6 section and section 3 of this act unless the context clearly requires  
7 otherwise.

8 (a) "Small business" has the same meaning as defined in RCW  
9 39.29.006.

10 (b) "State purchasing agencies" are limited to the department of  
11 general administration, the department of information services, the  
12 office of financial management, the department of transportation, and  
13 institutions of higher education.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.19 RCW  
15 to read as follows:

16 (1) By November 15, 2013, and November 15th every two years  
17 thereafter, all state purchasing agencies shall submit a report to the  
18 appropriate committees of the legislature providing verifiable  
19 information regarding the effects the technical assistance under  
20 section 2(3) of this act is having on the number of small businesses  
21 annually receiving state contracts for goods and services purchased by  
22 the state.

23 (2) By December 31, 2013, all state purchasing agencies must use  
24 the web-based information system created under subsection (3)(a) of  
25 this section to capture the data required under subsection (3)(a) of  
26 this section.

27 (3)(a) The department of general administration, in consultation  
28 with the department of information services, the department of  
29 transportation, and the department of commerce, must develop and  
30 implement a web-based information system. The web-based information  
31 system must be used to capture data, track outcomes, and provide  
32 accurate and verifiable information regarding the effects the technical  
33 assistance under section 2(3) of this act is having on the number of  
34 small businesses annually receiving state contracts for goods and  
35 services purchased by the state. Such measurable data shall include,  
36 but not be limited to: (i) The number of registered small businesses  
37 that have been awarded state procurement contracts, (ii) the percentage

1 of total state dollars spent for goods and services purchased from  
2 registered small businesses, and (iii) the number of registered small  
3 businesses that have bid on but were not awarded state purchasing  
4 contracts.

5 (b) By October 1, 2011, the department of general administration,  
6 in collaboration with the department of information services and the  
7 department of transportation, shall submit a report to the appropriate  
8 committees of the legislature detailing the projected cost associated  
9 with the implementation and maintenance of the web-based information  
10 system.

11 (c) By September 1, 2012, the department of general administration,  
12 in collaboration with the department of information services and the  
13 department of transportation, shall submit a report to the appropriate  
14 committees of the legislature providing any recommendations for needed  
15 legislation to improve the collection of data required under (a) of  
16 this subsection.

17 (d) By December 31, 2013, the department of general administration  
18 must make the web-based information system available to all state  
19 purchasing agencies.

20 (e) The department of general administration may also make the web-  
21 based information system available to other agencies that would like to  
22 use the system for the purposes of chapter . . . , Laws of 2011 (this  
23 act).

24 **Sec. 4.** RCW 39.29.011 and 2009 c 486 s 7 are each amended to read  
25 as follows:

26 All personal service contracts shall be entered into pursuant to  
27 competitive solicitation, except for:

- 28 (1) Emergency contracts;
- 29 (2) Sole source contracts;
- 30 (3) Contract amendments;
- 31 (4) Contracts between a consultant and an agency of less than  
32 twenty thousand dollars. However, contracts of five thousand dollars  
33 or greater but less than (~~twenty~~) ten thousand dollars shall have  
34 documented evidence of competition. Contracts of ten thousand dollars  
35 or greater, but less than twenty thousand dollars, shall have  
36 documented evidence of competition, which must include agency posting

1 of the contract opportunity on the state's common vendor registration  
2 and bid notification system. Agencies shall not structure contracts to  
3 evade these requirements; and

4 (5) Other specific contracts or classes or groups of contracts  
5 exempted from the competitive solicitation process by the director of  
6 the office of financial management when it has been determined that a  
7 competitive solicitation process is not appropriate or cost-effective.

8 **Sec. 5.** RCW 43.19.1908 and 2009 c 486 s 11 are each amended to  
9 read as follows:

10 (1) For contracts of twenty-five thousand dollars or greater, the  
11 competitive bidding required by RCW 43.19.190 through 43.19.1939 shall  
12 be solicited by public notice, by posting of the contract opportunity  
13 on the state's common vendor registration and bid notification system,  
14 and through the sending of notices by mail, electronic transmission, or  
15 other means to bidders on the appropriate list of bidders who shall  
16 have qualified by application to the division of purchasing.

17 (2) Contracts for less than twenty-five thousand dollars, and  
18 contracts up to the direct buy dollar amount limit pursuant to RCW  
19 43.19.1906(2), must be solicited by public notice and have documented  
20 evidence of competition.

21 (3) Bids may be solicited by the purchasing division from any  
22 source thought to be of advantage to the state. All bids shall be in  
23 written or electronic form and conform to rules of the division of  
24 purchasing.

25 **Sec. 6.** RCW 43.105.041 and 2010 1st sp.s. c 7 s 65 are each  
26 amended to read as follows:

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

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

33 (b) To purchase, lease, rent, or otherwise acquire, dispose of, and  
34 maintain equipment, proprietary software, and purchased services, or to  
35 delegate to other agencies and institutions of state government, under  
36 appropriate standards, the authority to purchase, lease, rent, or

1 otherwise acquire, dispose of, and maintain equipment, proprietary  
2 software, and purchased services: PROVIDED, That, agencies and  
3 institutions of state government are expressly prohibited from  
4 acquiring or disposing of equipment, proprietary software, and  
5 purchased services without such delegation of authority. The  
6 acquisition and disposition of equipment, proprietary software, and  
7 purchased services is exempt from RCW 43.19.1919 and, as provided in  
8 RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200,  
9 except that the board, the department, and state agencies, as  
10 delegated, must post notices of technology procurement bids on the  
11 state's common vendor registration and bid notification system for (i)  
12 goods and purchased services of fifty thousand dollars or greater, and  
13 (ii) personal services of ten thousand dollars or greater. This  
14 subsection (1)(b) does not apply to the legislative branch;

15 (c) To develop statewide or interagency technical policies,  
16 standards, and procedures;

17 (d) To review and approve standards and common specifications for  
18 new or expanded telecommunications networks proposed by agencies,  
19 public postsecondary education institutions, educational service  
20 districts, or statewide or regional providers of K-12 information  
21 technology services, and to assure the cost-effective development and  
22 incremental implementation of a statewide video telecommunications  
23 system to serve: Public schools; educational service districts;  
24 vocational-technical institutes; community colleges; colleges and  
25 universities; state and local government; and the general public  
26 through public affairs programming;

27 (e) To provide direction concerning strategic planning goals and  
28 objectives for the state. The board shall seek input from the  
29 legislature and the judiciary;

30 (f) To develop and implement a process for the resolution of  
31 appeals by:

32 (i) Vendors concerning the conduct of an acquisition process by an  
33 agency or the department; or

34 (ii) A customer agency concerning the provision of services by the  
35 department or by other state agency providers;

36 (g) To establish policies for the periodic review by the department  
37 of agency performance which may include but are not limited to analysis  
38 of:

- 1 (i) Planning, management, control, and use of information services;  
2 (ii) Training and education; and  
3 (iii) Project management;

4 (h) To set its meeting schedules and convene at scheduled times, or  
5 meet at the request of a majority of its members, the chair, or the  
6 director;

7 (i) To review and approve that portion of the department's budget  
8 requests that provides for support to the board; and

9 (j) To develop procurement policies and procedures, such as  
10 unbundled contracting and subcontracting, that encourage and facilitate  
11 the purchase of products and services by state agencies and  
12 institutions from Washington small businesses to the maximum extent  
13 practicable and consistent with international trade agreement  
14 commitments.

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

19 (a) Establish technical standards to facilitate electronic access  
20 to government information and interoperability of information systems,  
21 including wireless communications systems. Local governments are  
22 strongly encouraged to follow the standards established by the board;  
23 and

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

26 In developing these standards, the board is encouraged to include  
27 the state library, state archives, and appropriate representatives of  
28 state and local government.

29 (3)(a) The board has the duty to govern, operate, and oversee the  
30 technical design, implementation, and operation of the K-20 network  
31 including, but not limited to, the following duties: Establishment and  
32 implementation of K-20 network technical policy, including technical  
33 standards and conditions of use; review and approval of network design;  
34 procurement of shared network services and equipment; and resolving  
35 user/provider disputes concerning technical matters. The board shall  
36 delegate general operational and technical oversight to the department  
37 as appropriate.

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

4 **Sec. 7.** RCW 39.29.006 and 2009 c 486 s 6 are each amended to read  
5 as follows:

6 As used in this chapter:

7 (1) "Agency" means any state office or activity of the executive  
8 and judicial branches of state government, including state agencies,  
9 departments, offices, divisions, boards, commissions, and educational,  
10 correctional, and other types of institutions.

11 (2) "Client services" means services provided directly to agency  
12 clients including, but not limited to, medical and dental services,  
13 employment and training programs, residential care, and subsidized  
14 housing.

15 (3) "Common vendor registration and bid notification system" means  
16 the internet-based vendor registration and bid notification system  
17 maintained by and housed within the department of general  
18 administration. The requirements contained in chapter 486, Laws of  
19 2009 shall continue to apply to this system, regardless of future  
20 changes to its name or management structure.

21 (4) "Competitive solicitation" means a documented formal process  
22 providing an equal and open opportunity to qualified parties and  
23 culminating in a selection based on criteria which may include such  
24 factors as the consultant's fees or costs, ability, capacity,  
25 experience, reputation, responsiveness to time limitations,  
26 responsiveness to solicitation requirements, quality of previous  
27 performance, and compliance with statutes and rules relating to  
28 contracts or services. "Competitive solicitation" includes posting of  
29 the contract opportunity on the state's common vendor registration and  
30 bid notification system.

31 (5) "Consultant" means an independent individual or firm  
32 contracting with an agency to perform a service or render an opinion or  
33 recommendation according to the consultant's methods and without being  
34 subject to the control of the agency except as to the result of the  
35 work. The agency monitors progress under the contract and authorizes  
36 payment.



1 (6) "Emergency" means a set of unforeseen circumstances beyond the  
2 control of the agency that either:

3 (a) Present a real, immediate threat to the proper performance of  
4 essential functions; or

5 (b) May result in material loss or damage to property, bodily  
6 injury, or loss of life if immediate action is not taken.

7 (7) "Evidence of competition" means documentation demonstrating  
8 that the agency has solicited responses from multiple firms in  
9 selecting a consultant. "Evidence of competition" includes  
10 documentation that the agency has posted the contract opportunity on  
11 the state's common vendor registration and bid notification system.

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

14 (9) "Personal service" means professional or technical expertise  
15 provided by a consultant to accomplish a specific study, project, task,  
16 or other work statement. This term does not include purchased services  
17 as defined under subsection ~~((+10))~~ (11) of this section. This term  
18 does include client services.

19 ~~((+9))~~ (10) "Personal service contract" means an agreement, or any  
20 amendment thereto, with a consultant for the rendering of personal  
21 services to the state which is consistent with RCW 41.06.142.

22 ~~((+10))~~ (11) "Purchased services" means services provided by a  
23 vendor to accomplish routine, continuing and necessary functions. This  
24 term includes, but is not limited to, services acquired under RCW  
25 43.19.190 or 43.105.041 for equipment maintenance and repair; operation  
26 of a physical plant; security; computer hardware and software  
27 maintenance; data entry; key punch services; and computer time-sharing,  
28 contract programming, and analysis.

29 ~~((+11))~~ (12) "Small business" means an in-state business,  
30 including a sole proprietorship, corporation, partnership, or other  
31 legal entity, that: (a) Certifies, under penalty of perjury, that it  
32 is owned and operated independently from all other businesses and has  
33 either ~~((+a))~~ (i) fifty or fewer employees, or ~~((+b))~~ (ii) a gross  
34 revenue of less than seven million dollars annually as reported on its  
35 federal income tax return or its return filed with the department of  
36 revenue over the previous three consecutive years~~((.—As used in this~~  
37 ~~definition, "in-state business" means a business that has its principal~~

1 office located in Washington and its officers domiciled in  
2 Washington)); or (b) is certified under chapter 39.19 RCW.

3 ((+12+)) (13) "Sole source" means a consultant providing  
4 professional or technical expertise of such a unique nature that the  
5 consultant is clearly and justifiably the only practicable source to  
6 provide the service. The justification shall be based on either the  
7 uniqueness of the service or sole availability at the location  
8 required.

9 NEW SECTION. **Sec. 8.** If specific funding for the purposes of  
10 section 3 of this act, referencing section 3 of this act by bill or  
11 chapter number and section number, is not provided by June 30, 2012, in  
12 the omnibus appropriations act, section 3 of this act is null and  
13 void."

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By Senators Zarelli, Kastama

**ADOPTED 04/07/2011**

14 On page 1, line 2 of the title, after "purchasing;" strike the  
15 remainder of the title and insert "amending RCW 39.29.011, 43.19.1908,  
16 43.105.041, and 39.29.006; adding new sections to chapter 43.19 RCW;  
17 and creating new sections."

EFFECT: Requires the department of general administration to  
develop a model plan to increase: (1) The number of small businesses  
registering in the state's common vendor registration and bid  
notification system; (2) the number of such registered small businesses  
annually receiving state contracts for goods and services purchased by  
the state; and (3) the percentage of total state dollars spent for  
goods and services purchased from such registered small businesses.

Provides that any state purchasing agency that does not adopt the  
model plan must establish and implement a plan consistent with the  
goals required under the model plan.

Provides that state purchasing agencies must give technical assistance to small businesses which must include (1) providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date, and, if requested, (2) holding a debriefing to assist the vendor in understanding how to improve his or her responses for future procurements.

Requires state purchasing agencies to maintain records of awarded contracts to registered small businesses in order to track outcomes regarding the effects the technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state; encourages all other state agencies to maintain such records of awarded contracts to registered small businesses.

Subject to appropriated funds in 2012, requires state purchasing agencies by November 15, 2013, and November 15th every two years thereafter, to submit a report regarding the effects the technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

Subject to appropriated funds in 2012, requires the department of general administration in consultation with the department of information services, the department of transportation, and the department of commerce to develop and implement a web-based information system in order to track the effects the technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state. Once funded and developed, requires the department of general administration to make the web-based information system available to all state purchasing agencies by December 31, 2013.

Amends the minimum threshold dollar amounts for informal procurements which must be placed on the state's online bid notification system.

Defines "state purchasing agencies," "in-state business," and "small business."

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