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Title 236 WAC
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DEPARTMENT OF

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Chapter 236-48 WAC
OFFICE OF STATE PROCUREMENT

WAC

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WAC 236-48-002 Purpose. The purpose of this chapter is to set forth rules and regulations applicable to the purchase or sale of goods and services by, through, or under authority delegated by, the office of state procurement.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-002, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-002, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-002, filed 1/28/77.]

WAC 236-48-003 Definitions. As used in this chapter the following terms shall have the following meanings:

(1) **Agency.** Shall include state of Washington institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Agency does not include the legislature.

(2) **Alternate.** Goods and services which are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard.

(3) **Bid.** A written offer to perform a contract to purchase or supply goods or services in response to an invitation for bid.

(4) **Bidder.** A supplier who submits a bid or quotation.

(5) **Bidder's bond.** As used in RCW 43.19.1915 shall mean either a bid guarantee or performance guarantee as addressed herein.

(6) **Buyer.** An employee of the office of state procurement designated as a buyer, contract administrator, or similar designation by the director, including, where appropriate, the director and other management personnel. Also, authorized employee(s) of a purchasing activity.

(7) **Confidential information.** Any information meeting the criteria in RCW 42.17.310.

(8) **Contractor.** Individual, company, corporation, firm, or combination thereof with whom purchaser develops a contract for the procurement of goods and services.

(9) **Delegated authority.** Authority to purchase goods and services delegated to an agency by office of state procurement pursuant to RCW 43.19.190(4) and which is delegated in three forms:

(a) **General.** Those purchases delegated annually by the office of state procurement which are common to multiple state agencies.

(b) **Specific.** Those purchases delegated annually to specific agencies for continuing individual commodity requirements.

(c) **Limited.** Those purchases delegated to a specific agency for one-time commodity requirements.

(10) **Direct buy limit.** Dollar amount established by the supply management advisory board pursuant to RCW 43.19.1906(2) below which competitive acquisition is not required.

(11) **Director.** Except where otherwise specifically noted shall mean the state purchasing and material control director, who is the assistant director, office of state procurement.

(12) **Emergency purchase.** A purchase made pursuant to RCW 43.19.200.

(13) **Equal.** Goods and services which meet or exceed the quality, performance and use of the brand, model, or

specifications in the invitation for bid or request for quotation.

(14) **Fair market price.** The price determined pursuant to RCW 43.19.530.

(15) **Formal sealed bid procedure.** Procedure by which the buyer solicits written competitive bids from a sufficient number of prospective bidders drawn from established supplier lists and from any other source thought to be of advantage to the state to assure adequate price and product competition by means of a written invitation for bid (IFB) setting forth specifications and all material and objectively measurable criteria for the intended purchase. All bids are to be submitted in sealed envelopes to the location indicated in bid documents and must be received by the time indicated therein. No disclosure of bids or bid information is made prior to the public bid opening. After the public bid opening, all bid information shall be referred to the buyer and treated as confidential working papers until after award at which time all bids become public information. The award is to be made in accordance with RCW 43.19.1911.

(16) **Goods and/or services.** Material, supplies, services, and equipment offered for sale by a supplier(s) and required by an agency to accomplish continuing and necessary functions and not otherwise statutorily exempted from chapter 43.19 RCW as a personal service under RCW 39.29.006(8); an architectural and engineering service under RCW 39.80.020(5); or data information systems and telecommunications equipment, software, and services under chapter 43.105 RCW.

(17) **Informality.** An immaterial variation from the exact requirements of the invitation for bids, having no effect or merely a minor or negligible effect on quality, quantity, or delivery of the supplies or performance of the services being procured, and the correction or waiver of which would not affect the relative standing of, or be otherwise prejudicial to bidders.

(18) **Invitation for bid.** The form utilized to solicit bids in the formal, sealed bid procedure and any amendments thereto issued in writing by the buyer.

(19) **Office of state procurement.** The division of purchasing of the department of general administration in RCW 43.19.180 et seq. Whenever a purchase or sale is made by the office of state procurement on behalf of another agency, the office of state procurement is acting in the capacity of agent for such agency.

(20) **Purchase.** Shall include purchase, lease, renting or lease-purchase of goods and services.

(21) **Purchasing activity.** The office of state procurement or an agency authorized by state statute to conduct acquisition of goods and services or delegated that authority by the office of state procurement.

(22) **Quotation.** An offer to perform a contract to supply goods and services in response to a request for quotation.

(23) **Recovered material.** Goods containing recovered materials as defined in RCW 43.19.537 et seq. and federal, regional, or state guidelines approved by the director.

(24) **Request for quotation.** The form used when purchases are solicited in accordance with RCW

43.19.1906(2). The request and the quote in response may be either written or oral as specified by the buyer.

(25) **Requisition.** A standard state form which serves as a procurement request and which requests the office of state procurement to purchase stated requirements.

(26) **Sealed bid limit.** That dollar amount established by RCW 43.19.1906 or pursuant thereto above which the formal sealed bid procedure will be used. Said amount may be lowered by the director to maintain full disclosure or competitive procurement or otherwise achieve overall state efficiency and economy.

(27) **Single source purchase.** A purchase of goods or services which is clearly and legitimately limited to a single source of supply.

(28) **Specifications.** The explicit requirements furnished with an invitation for bid or request for quotation upon which a purchase order or contract is to be based. Specifications set forth the characteristics of the goods and services to be purchased or sold so as to enable the bidder or supplier to determine and understand that which is to be supplied or sold. This information may be in the form of a description of the physical or performance characteristics, a reference brand name or both. It may include a description of any requirement for inspecting, testing, or preparing a material, equipment, supplies, or service for delivery.

(29) **State contract.** Contracts for goods and/or services administered by office of state procurement on behalf of agencies. The contract document will identify the conditions under which usage by agencies is required.

(30) **Supplier.** A vendor of purchased goods and services.

(31) **Supplier list.** List of potential bidders maintained by the office of state procurement from which names may be drawn for solicitation of bids/quotes.

(32) **Used equipment.** Goods offered for sale to the state which do not have a full factory warranty and which are not being rented, leased, or otherwise in the actual possession of the state agency considering the purchase at the time of the purchase transaction.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-003, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-003, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-003, filed 1/28/77.]

WAC 236-48-004 Procedure followed in the solicitation of bids. Whenever practicable the governing standard for purchases of goods and services exceeding the sealed bid limit by purchasing activities is the formal sealed bid procedure. Invitations to bid may call for bid prices with and without trade-in.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-004, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-004, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-004, filed 8/26/83; Order 77-2, § 236-48-004, filed 1/28/77.]

WAC 236-48-005 Exceptions to formal sealed bid procedure. Purchases meeting the following criteria and within an agency's statutory purchase authority or the

purchase authority delegated to that agency by office of state procurement need not be purchased by formal sealed bid:

(1) **Emergency purchase.** Unless revoked by the office of state procurement, all agencies have the delegated authority to conduct emergency purchases pursuant to RCW 43.19.200.

(2) Purchases not exceeding the sealed bid limit unless the director specifically requires a formal sealed bid.

(3) **Single source or special facilities, services or market conditions.** Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions may be acquired through direct negotiation with documented source selection.

(4) **Used equipment.** The purchase of used equipment from private suppliers is generally considered by the office of state procurement to be a purchase falling within the exception set forth in subsection (3) of this section. A state agency desiring to purchase used equipment shall be responsible to determine what used equipment is available on the market and properly record this search. All agencies have delegated authority to purchase used equipment for less than the sealed bid limit provided that the purchase file located at the state agency shall be fully documented with agency determination as to market competitiveness of price and source selection. For purchases of used equipment exceeding the sealed bid limit, a purchase requisition is to be submitted to office of state procurement with two written appraisals and justification for the acquisition of used equipment including documentation to sufficiently establish market competitiveness of pricing and proposed source selection. All appraisals must be from competent firms or persons not associated with the supplier or agency and certify whether a physical inspection of the used equipment was conducted and that the price is competitive with the market for comparable equipment. The appraisals will normally be made by individuals or firms knowledgeable of a particular market, not just knowledgeable of the equipment. For purchases exceeding the sealed bid limit, the appraisals must include a statement as to the price of like goods if purchased new (e.g., with full factory warranty). All equipment with full factory warranty shall be purchased as new equipment.

(5) Purchases from correctional industries and other suppliers who, under law, receive a preference.

(6) Purchases from sheltered workshops and programs of the department of social and health services based upon fair market price as determined pursuant to RCW 43.19.520 et seq.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-005, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-005, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-005, filed 8/26/83; Order 77-2, § 236-48-005, filed 1/28/77.]

WAC 236-48-009 Bids in general. All bids or quotes are subject to the invitation for bid or request for quotations, the specifications and plans, the applicable

contract terms and conditions and the rules and regulations set forth in this chapter. In the event of conflict among any of the above the following order shall govern:

- (1) Rules and regulations;
- (2) Specifications and plans; and
- (3) Applicable contract terms and conditions.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-009, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-009, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-009, filed 1/28/77.]

WAC 236-48-012 Bidding or quoting time. The bidding or quoting time shall be as determined by the buyer involved. All invitations for bid shall provide sufficient time to allow bidders an opportunity to prepare and submit their bid. The buyer shall have the discretion to lengthen or shorten bid or quote times, should special circumstances or needs dictate a shorter or longer time frame. When extending or shortening the time allowed to submit a bid or quote, the buyer is to issue an addendum notifying bidders of the revised opening/due date. If it is determined that regular mail will not reach bidders in time to respond, the buyer shall attempt to notify each prospective bidder by telephone or other available means of communication. All bids must be received by the time specified for bid opening. No deviations will be allowed. Late bids will be returned unopened unless retention is deemed by the director to be in the best interests of the state. Quotations must be received by close of the normal business day on the date indicated. Late quotations will not be considered or returned to bidders. Time of receipt will be determined by the official time stamp located at the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-012, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-012, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-012, filed 8/26/83; Order 77-2, § 236-48-012, filed 1/28/77.]

WAC 236-48-013 Amendment of invitation to bid. An invitation for bid may be changed or amended by the buyer involved, provided the change is issued in writing prior to the bid opening date. Any material information provided a prospective bidder with regard to an invitation for bid, shall be furnished in writing by the buyer to all bidders receiving a copy of the original invitation. Oral interpretations of contract terms and conditions shall not be binding on the state unless confirmed in writing by the buyer.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-013, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-013, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-013, filed 1/28/77.]

WAC 236-48-021 Supplier lists. Supplier lists are categorized according to specific categories of purchased goods and services and are maintained and updated by the office of state procurement. Such lists are used by buyers to determine suppliers from which to solicit bids. Due to cost considerations not all suppliers are solicited

for each bid invitation. In order to be considered for inclusion on a supplier list, suppliers must apply to the office of state procurement. A purchasing activity may deny issuance of a bid to a prospective supplier until such supplier registers on a supplier list when requested. The office of state procurement may deny or limit placement on supplier list(s) for reason(s) outlined under WAC 236-48-024.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-021, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-021, filed 8/22/89, effective 9/22/89; Order 77-2 § 236-48-021, filed 1/28/77.]

WAC 236-48-023 Nonacceptance. If an application to be placed on a supplier list is refused, the applicant shall be advised in writing as to the reason for nonacceptance and how the applicant might qualify in the future.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-023, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-023, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-023, filed 1/28/77.]

WAC 236-48-035 Bid guarantee. When required in the invitation for bid, all bidders shall provide with their bid a bid guarantee unilaterally payable to the purchasing activity. The amount of the bid guarantee shall be identified in the invitation for bid in dollars and shall be sufficient to redress damages to the state in the event of bidder withdrawal as determined by the buyer. Bid guarantees may be in the form of a certified check, cashier's check, escrow agreement, or irrevocable letter of credit drawn on a separate account in a banking or savings and loan institution regulated by the state of Washington or federal government, cash or a surety bond with a surety company. Surety bonds or escrow agreements must be on a form approved by the purchasing activity. Personal or company checks are not acceptable. Failure to submit a bid guarantee in the specified form will be a cause for rejection. Bid guarantees shall be returned to bidders after award of contract. Interest will not be paid on funds deposited directly with the state. Bidders who regularly conduct business with the purchasing activity shall be permitted to file an annual bid guarantee in lieu of bid guarantees for individual contracts in an amount determined by the purchasing activity. When a bid guarantee is submitted, the bidder covenants that he/she will accept a contract award. Violation of this covenant will result in forfeiture of the bid guarantee and payment of the same into the Washington state treasury as and for liquidated damages.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-035, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-035, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-035, filed 1/28/77.]

WAC 236-48-036 Performance guarantees. When required in the invitation for bid the successful bidder shall post a performance guarantee unilaterally payable to the purchasing activity after notice of award. The

amount of the performance guarantee shall be identified in the invitation for bid in dollars and/or a percentage of contract worth sufficient to redress damages to the state in the event of breach by the contractor(s). The required performance guarantee shall be in the form of a certified check, cashier's check, escrow agreement, or irrevocable letter of credit drawn on a separate account in a banking or savings and loan institution regulated by the state or federal government, cash, surety bond with a surety company. Surety bonds or escrow agreements must be on a form approved by the purchasing activity. Personal or company checks are not acceptable. The performance guarantee shall be held by the state or deposited to the state account until contract terms have been fully executed to the satisfaction of the state. Interest will not be paid on funds deposited directly with the state. Failure to submit a performance bond as required in the invitation for bid shall be grounds for contract termination.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-036, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-036, filed 8/22/89, effective 9/22/89.]

WAC 236-48-052 Facsimile bids. Facsimile bids will not be accepted under any circumstances. A facsimile withdrawal of a bid or quotation may be accepted, provided that it is received prior to opening of bids or quotations, it meets the approval of the buyer and is immediately confirmed in writing.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-052, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-052, filed 8/22/89, effective 9/22/89.]

WAC 236-48-061 Hand carried bids. Hand carried bids must be delivered to the bid supervisor at the purchasing activity or placed in a secure bid depository in the purchasing activity on or before the bid opening time stipulated on the invitation for bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-061, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-061, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-061, filed 1/28/77.]

WAC 236-48-071 Form of bid. To receive consideration, bids and quotes shall be made on the form provided by the purchasing activity, or on a letter containing the information. If a letter is used it must meet the satisfaction of the buyer, be properly headed and signed, properly marked on the outside of the envelope, received by the time specified, and be accompanied by a signed and completed bid form provided by the purchasing activity.

Bids must be filled out in ink or with typewriter and properly signed by an authorized representative of the bidder. All changes and/or erasures shall be initialed in ink. The buyer may declare that a quotation (not a bid) prepared in pencil is an informality and may accept and consider a clear pencil quotation. Unsigned bids will be rejected on opening. However, the buyer may accept such bids if it is determined that satisfactory evidence

was submitted prior to bid opening which clearly indicates the bidder's desire to be bound by his/her bid such as a signed cover letter or bid bond.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-071, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-071, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-071, filed 8/26/83; Order 77-2, § 236-48-071, filed 1/28/77.]

WAC 236-48-079 Standard specifications. Specifications contained in the invitation for bid will, where practical, be nonrestrictive so as to provide an equal basis for competition and participation by an optimum number of qualified bidders. Unless otherwise specifically provided in the invitation for bid, reference to any equipment, material or supplies by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. All bids which offer a different trade name, make, or catalog number must state whether the item offered is an equal or an alternate, and literature which describes the item offered must be provided when available. The final decision as to whether an item is an equal or an alternate shall rest with the purchasing activity. In the absence of a bidder's statement of a bid being an "alternate" it shall be evaluated as an "equal."

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-079, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-079, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-079, filed 8/26/83; Order 77-2, § 236-48-079, filed 1/28/77.]

WAC 236-48-081 Interpretation of specifications. In the event of discrepancies or omissions in the bid specifications, or doubt as to their meaning, the supplier shall immediately notify the purchasing activity in writing. In response, written instructions and/or addenda as required shall be sent to suppliers receiving the initial bid document. The purchasing activity will not be responsible for oral interpretations not confirmed in writing by the purchasing activity prior to the time stipulated in the bid opening.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-081, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-081, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-081, filed 1/28/77.]

WAC 236-48-082 Request for samples, descriptive literature. When required in the invitation for bid the buyer may require samples, competitive demonstrations, and/or descriptive literature at the bidder's expense. Unless approved in advance by the buyer, samples must be identified with the invitation for bid number. If not received within a reasonable period of time, as determined by the buyer, a bid may be rejected. If not destroyed in testing or required for quality control, bidders may request return of samples at their expense. Samples not claimed within ten days after written or verbal notification will be disposed of by the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-082, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-082, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-082, filed 8/26/83; Order 77-2, § 236-48-082, filed 1/28/77.]

WAC 236-48-083 Acceptance of alternate bid/quote. The buyer shall be under no obligation whatever to accept alternate bids or quotes but shall have the discretion to accept a bid or quote if it substantially conforms to the bid specifications. Unless their bid is clearly identified as an alternate, bidders warrant the goods and services bid to be at least equal to specifications on the invitation for bid or request for quotation and shall submit with their bid or quotation complete documentation sufficient to so establish. Bids without sufficient documentation may be rejected. If a bidder misrepresents their bid as being an equal when it is an alternate, their bid may be rejected and bidder will be liable for damages caused by the misrepresentation.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-083, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-083, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-083, filed 1/28/77.]

WAC 236-48-084 Prebid conferences. Prebid conferences may be scheduled to address any questions regarding the invitation for bid. Changes to the invitation for bid shall not be binding upon the state unless confirmed in writing by the purchasing activity prior to bid opening.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-084, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-084, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-084, filed 1/28/77.]

WAC 236-48-093 Award. A contract shall be awarded to the lowest responsible and responsive bidder based upon, but not limited to, the following criteria where applicable and only that which can be reasonably determined:

(1) The price and the effect of term discounts (not less than thirty calendar days after receipt of goods or correct invoice, whichever is later). Consideration may be given to business and occupation tax returns from in-state suppliers and local sales and use tax cost differences between in-state suppliers. Price may be determined by life cycle costing if so indicated in the invitation for bid.

(2) The conformity of the goods and/or services bid with invitation for bid or request for quotation specifications depicting the quality and the purposes for which they are required.

(3) The ability, capacity and skill of the bidder to perform the contract or provide the services required.

(4) The character, integrity, reputation, judgment, experience and efficiency of the bidder.

(5) Whether the bidder can perform the contract within the time specified.

(6) The quality of performance on previous contracts for purchased goods or services.

(7) The previous and existing compliance by the bidder with the laws relating to the contract for goods and/or services.

(8) Servicing resources, capability and capacity.

(9) Lack of uniformity or interchangeability, if such factors are important.

(10) The energy efficiency of the product as projected throughout the anticipated useful life of the product.

(11) The effect of reciprocity assessments, MWBE, correctional industries or other preferences defined by statute or rule.

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

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-093, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-093, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-093, filed 8/26/83; Order 77-2, § 236-48-093, filed 1/28/77.]

WAC 236-48-094 Partial award. A buyer shall have the discretion to award on an "all or nothing" basis or to accept any portion of the items bid, excluding others unless the bidder stipulates all or nothing on their bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-094, filed 4/12/91, effective 5/13/91; Order 77-2, § 236-48-094, filed 1/28/77.]

WAC 236-48-095 Exception to award to lowest responsible bidder. Whenever, in the judgment of the purchasing activity, there is a reason to believe that the lowest responsible and responsive bid is not the best bid obtainable, all bids may be rejected and the purchasing activity may call for new bids or enter into direct negotiations to achieve the best possible bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-095, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-095, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-095, filed 1/28/77.]

WAC 236-48-096 Bid award preference. In conducting purchases of goods and/or services preference shall be given to the extent allowed by statute:

(1) To those goods and services provided by industries authorized and approved by the department of corrections in accordance with RCW 43.19.534 and 43.19.535.

(2) To bids responsive to invitations for bid with minority and women's business enterprises (MWBE) goals pursuant to chapter 39.19 RCW and chapter 236-40 WAC.

(3) To goods containing recovered material provided that the buyer sets forth in the invitation for bid a minimum percent content of recovered material that must be certified by the bidder and the producer of the goods to qualify for the preference. Bids for goods so certified shall be given a preference of ten percent of the amount of the bid in determining the lowest responsive bid for any item or grouping of items to be awarded to a single bidder. This preference shall be separate from and applied after any other preferences allowed by statute. The minimum content of recovered material shall be not less

than fifteen percent provided that for those goods for which the Environmental Protection Agency has adopted procurement guidelines under the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 U.S.C. §6901 et seq.), as amended, the minimum content of recovered material shall not be less than specified in the most current adopted issue of those guidelines. Bidders shall certify the post consumer and recovered or waste material content at the time of submitting bid. To qualify for the preference, the goods shall otherwise be at least functionally equal to all other invitation for bid specifications and use requirements. The preference shall be used for bid evaluation purposes only and the actual dollars bid shall be the contracted amount. In the event of a tie for lowest responsive bid between products otherwise meeting all bid specifications, the buyer shall consider the larger post consumer material content as a factor in determining the award. Should the buyer determine that the use of this preference does not encourage the use of more recovered material for reasons including inadequate competition, economics, environmental constraints, quality or availability, the buyer shall issue, consider and award bids without the preference. For the purpose of meeting Resource Conservation and Recovery Act requirements for state agency purchase of goods complying with Environmental Protection Agency recovered or waste guidelines, the office of state procurement may adopt specifications requiring that only goods meeting these guidelines are responsive and may consider bids for such goods though the cost exceeds ten percent of goods not meeting such guidelines.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-096, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-096, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-096, filed 8/26/83; Order 77-2, § 236-48-096, filed 1/28/77.]

WAC 236-48-098 Rejection. No rejection notice will be sent to unsuccessful bidders submitting higher bid/quote pricing than awarded. Bidders whose bids are lower than the lowest responsive bidder will be rejected as nonresponsive and will be notified of the reasons for such rejection.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-098, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-098, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-098, filed 8/26/83; Order 77-2, § 236-48-098, filed 1/28/77.]

WAC 236-48-099 Acceptance of terms. Acceptance of bids or quotes shall be expressly limited to the terms and conditions of the invitation for bid or request for quotation issued by the purchasing activity. All material alterations, additional or different terms proposed by the bidder shall be and are rejected unless otherwise provided for in writing by the director or their designee.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-099, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-099, filed 8/22/89, effective 9/22/89. Statutory

Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-099, filed 8/26/83; Order 77-2, § 236-48-099, filed 1/28/77.]

WAC 236-48-101 Time of bids. All bids and withdrawals must be received on or before the time specified for bid opening at the place designated in the invitation for bid. No deviations will be allowed and late bids or withdrawals will be returned unopened. All bids shall be date and time stamped, prior to opening. Precautions will be taken to ensure security of bids. Bids which are received but which do not identify the invitation for bid or the time for bid opening may be opened but solely for identification purposes, and only by officially designated personnel.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-101, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-101, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-101, filed 1/28/77.]

WAC 236-48-121 Mistakes in bid detected prior to bid opening. Mistakes in bids detected prior to bid opening may be corrected by the bidder by withdrawing the original bid and submitting a corrected bid to the purchasing activity before the bid opening. If there is not sufficient time prior to bid opening to withdraw the original bid and submit a corrected bid, the bidder, or an authorized representative, may correct the mistake on the face of the original bid: *Provided*, That the corrected bid is time stamped by the purchasing activity upon re-submission prior to the time designated in the invitation for bid.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-121, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-121, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-121, filed 1/28/77.]

WAC 236-48-123 Disclosure of bid information. After award and distribution, the bids and quotes of all bidders shall be open to public inspection at the offices of the purchasing activity during normal office hours. Copies of documents subject to public disclosure will be made available upon request in accordance with purchasing activity policy. Bidders must provide a self addressed stamped envelope to obtain invitation for bid or request for quotation results. A copy of awarded purchase order or contract will be provided. Unless noted to the contrary in this invitation for bid or request for quotation, the purchasing activity assumes no responsibility for the confidentiality of bids after award.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-123, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-123, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-123, filed 8/26/83; Order 77-2, § 236-48-123, filed 1/28/77.]

WAC 236-48-124 Minor informalities or irregularities in bids or quotes. The purchasing activity reserves the right to waive minor informalities or irregularities as defined in WAC 236-48-003.

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[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-124, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-124, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-124, filed 8/26/83.]

WAC 236-48-131 Cancellation of invitation to bid or rejection of all bids. The purchasing activity reserves the right to reject all bids or quotations or to cancel an invitation or request for quotation. Examples of reasons for cancellation of an invitation, or request, or rejection of all bids are:

- (1) Inadequate or ambiguous specifications.
- (2) Specifications have been revised.
- (3) Supplies or services being purchased are no longer required.
- (4) Change in agency requirements.
- (5) All bids are deemed unreasonable or sufficient funds are not available.
- (6) Bids were not independently arrived at, or were submitted in bad faith.
- (7) A determination is made that all the necessary requirements of the bid process have not been met.
- (8) Insufficient competition.
- (9) For reasons which indicate that cancellation or rejection of all bids is clearly in the best interest of the state.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-131, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-131, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-131, filed 8/26/83; Order 77-2, § 236-48-131, filed 1/28/77.]

WAC 236-48-132 Notice of cancellation or rejection of bids. In the event of a cancellation of an invitation for bid or a request for quotation, or in the event all bids are rejected, all bidders will be notified by mail.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-132, filed 4/12/91, effective 5/13/91; Order 77-2, § 236-48-132, filed 1/28/77.]

WAC 236-48-141 Protests and appeals—Form and substance. All protests and appeals must be in writing and signed by the protestant or appellant or an authorized agent. Such writing must state all facts and arguments on which the protestant or appellant is relying as the basis for its action. Such protestant or appellant shall also attach, or supply on demand by the director, any relevant exhibits referred to in the writing. Copies of all protests, appeals, and exhibits shall be mailed or delivered by the protestant or appellant to the bidder or bidders against whom the protest is made at the same time such protest, appeal, and exhibits are submitted to the purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-141, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-141, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-141, filed 1/28/77.]

WAC 236-48-151 Violation of contract terms. If a contractor fails to deliver, or deliver on time, or there is

discrepancy in the quality and/or quantity of services or merchandise received, or there is a default in any other contract provision on a state contract, the agency shall notify the contractor. In the event of an unsatisfactory response from the contractor, the agency shall file a fully documented complaint with the office of state procurement.

The office of state procurement shall verify the complaint, note the same in the contractor's record and take appropriate action. Where a complaint is justified, the contractor shall be notified that an unsatisfactory condition exists and that the unsatisfactory condition must be cured within a stated time. If the condition is not so cured, the office of state procurement shall have the discretion to do any or all of the following: To remove the contractor from the relevant supplier list; demand performance of the contract; modify or cancel the contract and purchase elsewhere; and pursue any other legal remedies available.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-151, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-151, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-151, filed 1/28/77.]

WAC 236-48-152 Offset against contractor payments. In addition to other methods of collection available, the purchasing activity may offset any damages for which the contractor is responsible against payments owing to the contractor from any agency which may be indebted to the contractor.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-152, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-152, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-152, filed 1/28/77.]

WAC 236-48-153 Delivery date. Whenever a specific delivery date has been stated, that date shall be an essential condition of the contract. If a contractor is unable to meet the delivery date, he/she shall notify the buyer at the earliest possible time. The contractor shall include in such notification the projected revised delivery date. The purchaser shall then have the option to accept such revised dates, or cancel and purchase elsewhere.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-153, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-153, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-153, filed 1/28/77.]

WAC 236-48-165 Change in product offered. A bidder or contractor shall not be allowed to substitute goods and services from that offered: *Provided, however,* If the goods or services offered are no longer available to the bidder or contractor for reasons beyond its control, the purchasing activity may consider a request by the bidder or contractor for substitution. All such requests must be in writing, must set forth the reasons the product or service is no longer available, and must be accompanied by samples, record of performance, certified copies of tests by impartial and recognized laboratories, and such additional data as the purchaser may

request. Samples and data shall be furnished sufficiently in advance to allow for investigation before a decision is made. The bidder or contractor shall warrant that the contracted article is equal or better than the specified article. If the change results in any cost savings to the bidder or contractor, the cost savings shall be reflected in full in a reduction in price to the using agency. State contracts may only be so amended by the office of state procurement.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-165, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-165, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-165, filed 1/28/77.]

WAC 236-48-166 Extension. If contract provisions allow, a contractor and the purchasing activity may covenant and agree that the contract in question may be extended for predetermined periods by the purchasing activity under the same terms and conditions as comprise the original contract.

The buyer shall have discretion to extend a contract with the justification for extension being documented. The contractor shall be notified in writing of the intent to extend prior to the termination date of the existing or extended contract. If the contractor does not wish to have the contract extended, he/she shall so notify the purchasing activity in writing. Extensions, to be effective, must be in writing and signed by authorized representatives of both the contractor and purchasing activity.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-166, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-166, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-166, filed 8/26/83; Order 77-2, § 236-48-166, filed 1/28/77.]

WAC 236-48-167 Additions or deletions to the contract. Within reason, the office of state procurement may increase or decrease the items, quantities, or locations specified in a state contract.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-167, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-167, filed 8/22/89, effective 9/22/89. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-167, filed 8/26/83; Order 77-2, § 236-48-167, filed 1/28/77.]

WAC 236-48-198 Sale of surplus property to state elected officials or employees. Surplus property available for disposal under the provisions of RCW 43.19.1919 shall not be sold to state elected officials, officers or employees, except at public sale: *Provided, however,* An item valued at less than direct buy limit and declared surplus of a personal nature such as a chair, desk or bookcase, which in some way depicts or represents the office in which they have served, may be sold to an elected official after leaving office at private sale as used equipment: *Provided further,* That a retiring commissioned officer of the Washington state patrol or other state-wide law enforcement activity may purchase his or her career service handgun at private sale as used equipment.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-198, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.190(11) and 43.17.060. 90-16-075, § 236-48-198, filed 7/30/90, effective 8/30/90. Statutory Authority: Chapter 43.19 RCW. 83-18-004 (Order 83-03), § 236-48-198, filed 8/26/83; Order 77-2, § 236-48-198, filed 1/28/77.]

WAC 236-48-230 Leases. If a purchasing activity leases without option to purchase goods or services, the state standard form lease developed by office of state procurement shall be used. Any deviations therefrom must be approved as to form by the office of state procurement and the attorney general's office. For goods to be leased with an option to purchase or lease-purchased, agencies are responsible for coordinating the finance agreement with state treasurer prior to the purchasing activity conducting the purchase.

[Statutory Authority: Chapter 43.19 RCW. 91-09-035, § 236-48-230, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-48-230, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-48-230, filed 1/28/77.]

Chapter 236-49 WAC

RELATIONSHIP AND PROCEDURES BETWEEN DIVISION OF PURCHASING AND STATE AGENCIES

WAC

236-49-010	Definitions.
236-49-020	Washington state purchasing structure.
236-49-030	Delegated authority.
236-49-040	Types of purchasing.

WAC 236-49-010 Definitions. As used in this chapter the following terms shall have the following meanings:

(1) **Agency.** Shall include state of Washington institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Agency does not include the legislature.

(2) **Alternate.** Goods and services which are not at least a functional equal in features, performance or use of the brand, model, or specification designated as the standard.

(3) **Delegated authority.** Authority to purchase goods and services delegated to an agency by office of state procurement pursuant to RCW 43.19.190(4) and which is delegated in three forms:

(a) **General.** Those purchases delegated annually by the office of state procurement which are common to multiple state agencies.

(b) **Specific.** Those purchases delegated annually to specific agencies for continuing individual commodity requirements.

(c) **Limited.** Those purchases delegated to a specific agency for one-time commodity requirements.

(4) **Director.** Except where otherwise specifically noted shall mean the state purchasing and material control director, who is the assistant director of the office of state procurement.

(5) **Equal.** Goods and services which meet or exceed the quality, performance and use of the brand, model, or specifications in the invitation for bid or request for quotation.

(6) **Field order.** A standard state form used to make withdrawals from existing state contracts established by the office of state procurement or where an agency has received delegated authority for direct purchase.

(7) **Goods and/or services.** Material, supplies, services, and equipment offered for sale by a supplier(s) and required by a state agency to accomplish continuing and necessary functions and not otherwise statutorily exempted from chapter 43.19 RCW as a personal service under RCW 39.29.006(8); an architectural and engineering service under RCW 39.80.020(5); or data information systems and telecommunications equipment, software, and services under chapter 43.105 RCW.

(8) **Materials management center.** That activity managed by the department of general administration office of state procurement whose function is to provide for the:

(a) Centralized storage and distribution of commonly used supplies and equipment to ensure administrative efficiency and economy in such purchases by state agencies;

(b) Centralized salvage, maintenance, repair, and servicing of equipment, furniture, or furnishings used by state agencies.

(9) **Office of state procurement.** The division of purchasing of the department of general administration in RCW 43.19.180 et seq. Whenever a purchase or sale is made by the office of state procurement on behalf of another agency the office of state procurement is acting in the capacity of agent for such agency.

(10) **Political subdivision.** Any agency, political subdivision, or unit of local government of Washington state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of Washington state government; any agency of the United States; any Indian tribe recognized as such by the federal government; and any political subdivision of another state of the United States.

(11) **Purchase.** Shall include purchase, lease, renting or lease-purchase of goods and services.

(12) **Purchase order.** A standard state form signed by an authorized buyer of the office of state procurement which notifies the contractor to provide the stated material, equipment, supplies, or services under the terms and conditions set forth thereon.

(13) **Purchasing activity.** The office of state procurement or an agency authorized by state statute to conduct acquisition of goods and services or delegated that authority by the office of state procurement.

(14) **Requisition.** A standard state form which serves as a procurement request and which requests the office of state procurement to purchase stated requirements.

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-010, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-010, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-010, filed 1/28/77.]

WAC 236-49-020 Washington state purchasing structure. The office of state procurement has been charged by the legislature with the responsibility to purchase all goods and/or services needed for the support, maintenance and use of all state institutions, colleges, community colleges and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. Primary authority for the purchase of specialized equipment, instructional and research material for their own use rests with the colleges, community colleges and universities. Primary authority for the purchase of goods and/or services for resale to other than public agencies rests with the state agency concerned. The legislature has the responsibility of making purchases necessary for the operation of the legislature.

The office of state procurement has authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify types of goods and/or services: *Provided*, That acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with RCW 43.19.190 through 43.19.1939, as now or hereafter amended, from chapter 236-48 WAC, or from policies established by the director after consultation with the state supply management advisory board. The delegation of such authorization to a state agency, including an educational institution, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies, chapter 236-48 WAC or RCW 43.19.190 through 43.19.1939.

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-020, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-020, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-020, filed 1/28/77.]

WAC 236-49-030 Delegated authority. The office of state procurement shall administer the purchase and sale of all goods and services for state agencies except those for which the agencies have statutory or delegated authority. Delegated purchases are set forth in: (1) General authorities; (2) specific authorities; and (3) limited purchase authorities. All delegations must be given in writing prior to the purchase or sale.

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-030, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-030, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-030, filed 1/28/77.]

WAC 236-49-040 Types of purchasing. Acquisition of goods and services by the office of state procurement is divided into three major types:

(1) State contracts: Contracts for goods and/or services administered by office of state procurement on behalf of agencies. The contract document will identify the condition(s) under which usage by agencies is required.

(2) Materials management center: The office of state procurement maintains a materials management center for the storage and distribution of a wide variety of supplies in high common use. Any agency which is in need of such supply items must purchase from the materials management center regardless of whether authority to purchase such supply items has been delegated to it. In addition, the materials management center also handles the maintenance, repair and servicing of office equipment used by state agencies in their servicing areas.

(3) Single acquisitions: Purchase of goods and services for which an agency does not have statutory authority nor delegated authority and for which there is no existing state contract or which the materials management center is unable to supply, must be made by submitting a requisition to the office of state procurement. Such requisition must refer to any applicable Washington state specifications, standards and qualified products lists unless otherwise provided by the director or designee. Requests to use specifications, standards or qualified products which differ from the established Washington state specifications, standards and qualified products must be in writing to the director or designee. If a proprietary item is required, the agency must attach adequate justification. After consultation with the using agency, the office of state procurement shall award the contract pursuant to RCW 43.19.1911 and chapter 236-48 WAC. The contract may be awarded to a bidder offering a bid or quote for brands or models other than specified on the requisition and/or invitation for bid or request for quotation if equal to the specifications therein.

[Statutory Authority: Chapter 43.19 RCW. 91-09-034, § 236-49-040, filed 4/12/91, effective 5/13/91. Statutory Authority: RCW 43.19.180 - 43.19.1932 and 43.19.520 - 43.19.538. 89-17-094 (Order 89-02), § 236-49-040, filed 8/22/89, effective 9/22/89; Order 77-2, § 236-49-040, filed 1/28/77.]

Chapter 236-54 WAC

PUBLIC RECORDS--ARCHIVES

WAC

236-54-010 through 236-54-99001 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

236-54-010	Purpose. [Order 11, § 236-54-010, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
236-54-020	Definitions. [Order 11, § 236-54-020, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
236-54-030	Description of central and field organization of the division of archives and records management. [Order 11, § 236-54-030, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
236-54-040	Operations and procedures. [Order 11, § 236-54-040, filed 12/3/73.] Repealed by 91-20-115, filed

- 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-050 Public records available. [Order 11, § 236-54-050, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-060 Public records officer. [Order 11, § 236-54-060, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-070 Office hours. [Order 11, § 236-54-070, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-080 Requests for public records—Archives—Scheduled. [Order 11, § 236-54-080, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-090 Copying. [Order 11, § 236-54-090, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-100 Exemptions. [Order 11, § 236-54-100, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-110 Review of denials of public records requests. [Order 11, § 236-54-110, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-120 Protection of public records. [Order 11, § 236-54-120, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-130 Records index. [Order 11, § 236-54-130, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-140 Communication with division—Address. [Order 11, § 236-54-140, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-150 Adoption of form. [Order 11, § 236-54-150, filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-990 Appendix A—Management organization chart of state archivist. [Order 11, Appendix A (codified as WAC 236-54-990), filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.
- 236-54-99001 Appendix B—Form—Request for public records. [Order 11, Appendix B (codified as WAC 236-54-99001), filed 12/3/73.] Repealed by 91-20-115, filed 9/30/91, effective 10/31/91. Statutory Authority: RCW 42.17.250.

WAC 236-54-010 through 236-54-99001 Repealed.
See Disposition Table at beginning of this chapter.

Chapter 236-100 WAC

FLOOD MITIGATION STANDARDS FOR STATE AGENCIES

WAC	
236-100-001	Authority.
236-100-010	Purpose.
236-100-011	Objectives.
236-100-012	Application.
236-100-013	Definitions.
236-100-014	Responsibilities of each state agency.
236-100-015	Flood mitigation standards.
236-100-016	Exemptions.

WAC 236-100-001 Authority. Pursuant to the authority granted by RCW 43.19.19361, 43.19.19368, and 43.17.060, the director of the department of general administration establishes the following risk management standards to be followed by all state agencies on flood mitigation.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-001, filed 4/2/91, effective 5/3/91.]

WAC 236-100-010 Purpose. The purpose of these standards is to discourage state development on flood plains whenever there is a practical alternative. This will result in reduced liability and costs associated with flood damage to state-owned real and personal property.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-010, filed 4/2/91, effective 5/3/91.]

WAC 236-100-011 Objectives. The objectives of these flood mitigation standards are:

(1) To protect the people and the property of the state from unnecessary loss due to flood;

(2) To restore and preserve the natural and beneficial values served by flood plains;

(3) To minimize the impact of state development on wet lands and known flood plains;

(4) To comply with chapter 86.16 RCW, Flood plain management, in which the state of Washington has adopted the National Flood Insurance Program regulations of the Federal Emergency Management Agency for flood plain management. The participation of the state in this program allows flood insurance to be sold to both the private and public sector, and satisfies some of the conditions necessary for the state to be self-insured for flood coverage, under the National Flood Insurance Program;

(5) To comply with the requirements of the National Flood Insurance Program, thereby permitting state agencies to be eligible for federal financial assistance, including disaster relief funds for the replacement, permanent repair, or reconstruction of insurable state-owned properties damaged by the flood; and

(6) To ensure that the state of Washington and its agencies are eligible to obtain flood insurance, or to be approved for self-insurance by the Federal Insurance Administrator under the National Flood Insurance Program.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-011, filed 4/2/91, effective 5/3/91.]

WAC 236-100-012 Application. These standards apply uniformly to:

(1) All state agencies;

(2) Projects and proposals for state-owned developments, new construction, and property undergoing substantial improvement; and

(3) New leases except for existing leases or renewed leases.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-012, filed 4/2/91, effective 5/3/91.]

WAC 236-100-013 Definitions. (1) "Agency" or "agencies" as used in this section means all Washington state agencies, boards, commissions, and all state institutions of higher education.

(2) "Development" means any man-made change to improved or unimproved real estate, including but not limited to: Buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(3) "Facility" means something built to serve a particular function other than a structure.

(4) "New construction," for flood plain management purposes, means structures for which the start of construction commenced on or after the effective date of this regulation, WAC 236-100-001 through 236-100-016.

(5) "Property" or "properties" refer to state-owned developments, structures, facilities, and/or the contents of the structure in which the state has an interest.

(6) "Risk manager" means the assistant director of the division of risk management, department of general administration, or his/her designee.

(7) "Special flood hazard areas" refers to areas subject to inundation by a flood having a one percent or greater probability of being equaled or exceeded during any given year. This flood, which is referred to as the one hundred-year flood or the base flood, is the national standard on which the flood plain management and insurance requirements of the National Flood Insurance Program are based. Special flood hazard areas and one hundred-year flood plains are identified on flood insurance rate maps developed and issued by the Federal Emergency Management Agency.

(8) "Structure" means a walled and roofed building, including any gas or liquid storage tank, that is principally above ground and affixed to a permanent site.

(9) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the fair market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-013, filed 4/2/91, effective 5/3/91.]

WAC 236-100-014 Responsibilities of each state agency. (1) Each state agency is responsible for reducing the liability and costs associated with flood damage to its state-owned property, both real and personal;

(2) When a proposal or project is initiated for the acquisition, development, and/or the construction of state-owned structures or facilities, the agency initiating the proposal shall determine the flood plain exposure and the fiscal impact of locating state-owned properties within special flood hazard areas;

(3) If the project or proposal for development, new construction, or substantial improvement is within a one hundred-year flood plain and/or special flood hazard area, then the initiating agency must include such information in its funding request to the office of financial

management and shall include a statement that the project or proposal meets the requirements of WAC 236-100-015 or shall include a copy of the written exemption granted by the state risk manager; and

(4) It is the responsibility of each agency to establish and issue the necessary policies or procedures to assure that these flood plain management standards for state-owned and leased properties are carried out within their respective agency.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-014, filed 4/2/91, effective 5/3/91.]

WAC 236-100-015 Flood mitigation standards. (1) When planning the location, acquisition, and/or construction of state-owned developments, structures, or property, one hundred-year flood plains and special flood hazard areas, as identified on flood insurance rate maps or by other available sources, shall be avoided whenever feasible.

(2) If it is necessary to locate, acquire, and/or construct state-owned developments, structures, new construction, or substantial improvements within one hundred-year flood plains and/or special flood hazard areas, agencies must then adhere to the regulations of the National Flood Insurance Program (44 CFR Ch. 1).

(3) In addition to subsection (2) of this section, for all new construction and substantial improvements, both within and outside of any one hundred-year flood plain and/or special flood hazard area, the elevation of the lowest floor, including the basement, shall be at least the greater of either:

(a) One foot above the one hundred-year flood elevation; or

(b) At the five hundred-year flood elevation.

To achieve this flood protection, state agencies shall, whenever feasible, locate structures outside of one hundred-year flood plains and special flood hazard areas rather than filling in land within one hundred-year flood plains and/or special flood hazard areas.

(4) Developments, new construction, or substantial improvements which do not meet the requirements of subsections (2) and/or (3) of this section must receive an exemption as specified in WAC 236-100-016(2).

(5) For leased structures with state-owned contents, agencies shall avoid one hundred-year flood plains and/or special flood hazard areas, whenever feasible. If it is necessary for agencies to lease property within one hundred-year flood plains and/or special flood hazard areas, then such leased structure or structures and related development shall meet the minimum requirements of the National Flood Insurance Program. Exemptions from these requirements for leased property must be obtained from the division of risk management pursuant to WAC 236-100-016(2).

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-015, filed 4/2/91, effective 5/3/91.]

WAC 236-100-016 Exemptions. (1) Exemptions from the elevation requirements of WAC 236-100-015(3) are granted automatically for:

(a) Facilities where their use and purpose require construction below one hundred-year flood plains and/or special flood hazard areas (e.g., fish pens, fish ladders, holding ponds, dams, etc.);

(b) Roads, bridges, and highway facilities.

(2) All other exemptions from the elevation requirements of WAC 236-100-015 must be granted by the department of general administration, division of risk management. Agencies seeking an exemption must submit a purpose and use statement, including an explanation of why and how the structure, development, or substantial improvement will not comply with these flood mitigation standards. This information must be submitted in writing to the Risk Manager, Department of General Administration, Division of Risk Management, Second Floor, 2420 Bristol Court SW, MS: FS-24, Olympia, Washington 98504. These requests will be reviewed on a case-by-case basis, and the risk manager will issue a letter of exemption no later than fourteen days after receipt of such request, if in his/her sole discretion it is appropriate to do so.

Denials of any exemptions may be appealed in writing to the Director of the Department of General Administration, 218 General Administration Building, MS: AX-22, Olympia, Washington 98504 within thirty days of the date of the denial letter.

[Statutory Authority: Chapters 43.17 and 43.19 RCW. 91-08-057 § 236-100-016, filed 4/2/91, effective 5/3/91.]

Title 240 WAC GOVERNOR, OFFICE OF THE

Chapter

240-15 Log export restrictions.

Chapter 240-15 WAC LOG EXPORT RESTRICTIONS

Reviser's note: The following chapter was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed for publication in the Washington Administrative Code by Governor Booth Gardner. It is shown below exactly as filed with history notes added by the Code Reviser's Office.

WAC	
240-15-005	Purposes and implementation.
240-15-010	Authority and definitions.
240-15-015	Prohibitions.
240-15-020	Agency requirements.
240-15-025	Reporting requirements.
240-15-030	Enforcement.
240-15-035	Requirements applicable to the department of revenue.

WAC 240-15-005 Purposes and implementation. The Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101-382). The Act directs the governor to promulgate rules for its implementation consistent with Section 553, of title 5, United States Code. These rules have been promulgated in accordance

with the directives of the Act rather than Chapter 34.05 RCW.

[91-14-040, § 240-15-005, filed 6/27/91, effective 8/16/91. Statutory Authority: Public Law 101-382. 91-02-111, § 240-15-005, filed 1/2/91, effective 1/2/91; 90-22-105, § 240-15-005, filed 11/7/90, effective 1/1/91.]

WAC 240-15-010 Authority and definitions. (1) Applicability. This chapter shall apply to the sale of timber originating from public lands in the State of Washington, when such timber is subject to an order issued by the Secretary of Commerce of the United States under section 491(a) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101-382). Western Red Cedar is exempt from these rules. The prohibition on the export of Western Red Cedar is covered by section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406 (i)).

(2) Presidential action. This chapter shall not apply to the extent that an order referred to under WAC 240-15-010(1) is suspended, removed, or modified by the President of the United States under the authority of section 491(e) or 491(f) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101-382).

(3) Surplus timber. Timber which has been determined to be surplus to the needs of timber manufacturing facilities in the United States by the Secretary of Agriculture or the Secretary of the Interior of the United States is not subject to regulation under this chapter.

(4) Definitions. As used in this chapter:

(a) "Agency" means any state or local public entity which owns or manages land from which timber is harvested in the State of Washington.

(b) "Export" means either to load on a conveyance or vessel or put in a log raft with the intent to ship to a foreign destination, or to place at a facility such as a port, yard, pond, or dock with the intent to load on a conveyance or vessel or put in a log raft for shipment to a foreign destination.

(c) "Export restricted timber" means unprocessed timber originating from a sale of timber from public lands which has been designated as export restricted under WAC 240-15-015 (1)(a), and includes both logs and stumpage originating from such a sale.

(d) "Person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, parent company and business affiliates where one affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(e) "Processing facility" means a facility for converting unprocessed timber into any of the items of processed timber listed in WAC 240-015-010(i). Chip plants, pulp mills and facilities that process only Western Red Cedar Products are not considered processing facilities.

(f) "Public lands" means lands in the State of Washington that are held or owned by the State of Washington, or a political subdivision thereof, or any