

SENATE BILL REPORT

EHB 1404

AS OF MARCH 30, 1993

Brief Description: Regulating personal service contracts.

SPONSORS: Representatives Ogden, Silver, Chandler, Sommers, Fuhrman, Locke, Valle, Ballasiotes, Jones, Roland, Brough, Long, Foreman, Ballard, Wood, Miller, Forner, Tate, Schoesler, Reams, Morton and J. Kohl; by request of Legislative Budget Committee

HOUSE COMMITTEE ON STATE GOVERNMENT

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Staff: Barbara Howard (786-7410)

Hearing Dates: April 1, 1993

BACKGROUND:

Personal services contracts for state agencies must be awarded on a competitive basis. Contracts for more than \$2,500, or which involve a sole source contractor, an emergency, or expert witnesses, must be filed with the Office of Financial Management (OFM) and the Legislative Budget Committee (LBC). Filing is not required for competitively bid contracts. Advance approval by OFM is required for sole source contracts for more than \$10,000, or when a single contract exceeds \$10,000.

The current process does not require disclosure and competition for subcontractors or major contract amendments.

All sole source contracts for more than \$10,000 must receive prior approval from the Office of Financial Management (OFM). OFM approval is also required if the addition of a new sole source contract puts the total amount received by that contractor from that agency over \$10,000. Agencies are required to submit documented justification when sole source contracts are filed.

There is no central filing requirement for most types of personal service contracts. However, contracts for over \$2,500 which are sole source, emergency, or expert witness contracts must be filed with OFM and the Legislative Budget Committee (LBC). Contracts filed with OFM and the LBC are available for public inspection.

SUMMARY:

Legislative intent is expanded to include open competition for subcontracts to personal service contracts. "Subcontract" is defined to mean a contract assigning some of the work of a contract to a third party.

Substantial changes in the scope of work in the contract or formal solicitation document must be awarded as new contracts, must be submitted to OFM and LBC, and are subject to approval by OFM.

If the value of an amendment or amendments to a contract exceeds 50 percent of the original value, such amendments must be submitted to OFM and LBC. OFM must approve amendments submitted to it before services may be performed. Amendments submitted must be made available for public inspection at least 10 working days before the start date of service. Criteria for approval of amendments are established by OFM.

If a contractor's response to a competitive solicitation specifies subcontracts and subcontractors, the process becomes a competitive solicitation. If subcontracts are authorized but the subcontractors are not identified in the contractor's response, the subcontracts must comply with the competitive solicitation process and selection of subcontractors is subject to prior agency approval.

A state agency may procure personal services only if it documents that: (1) the service is critical to agency operations, or is mandated or authorized by the Legislature; (2) insufficient staffing or expertise is available within the agency to perform the service; and (3) other qualified public resources are not available.

Agency justification for the use of sole source contracts of \$10,000 or more that are state funded must include evidence that the agency attempted to identify potential consultants by advertising or by notifying consultants on established bidders' lists approved by OFM. OFM may approve sole source contracts of \$10,000 or more only if they are state funded. OFM must ensure that the costs negotiated in sole source contracts of \$10,000 or more are reasonable.

State-funded personal service contracts subject to competitive solicitation are filed with OFM and LBC at least 10 working days prior to the proposed starting date. OFM reviews and approves state-funded competitively solicited personal service contracts for management consulting, organizational development, marketing, communications, or employee training and recruiting.

OFM must maintain a list of all personal service contracts of state agencies each fiscal year.

For each contract, the list is to include the contracting agency, the contractor, the purpose of the contract, the cost, and whether the contract was competitively procured or awarded on a sole source basis. OFM reports annually to the fiscal committees of the Legislature on the number and aggregate value of the various types of contracts, the justification provided by agencies for use of sole source contracts, and trends in the use of sole source contracts.

Contracts and contract modifications entered into by any state agency for architectural and engineering services are reported to OFM on a quarterly basis.

Appropriation: none

Revenue: none

Fiscal Note: available