

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5375**

Chapter 433, Laws of 1993

53rd Legislature  
1993 Regular Session

STATE PERSONAL SERVICES CONTRACTS--REVIEW AND ACCOUNTING

EFFECTIVE DATE: 7/25/93

Passed by the Senate April 25, 1993  
YEAS 47 NAYS 0

JOEL PRITCHARD

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**President of the Senate**

Passed by the House April 25, 1993  
YEAS 98 NAYS 0

BRIAN EBERSOLE

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**Speaker of the  
House of Representatives**

Approved May 15, 1993

MIKE LOWRY

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**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5375** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

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**Secretary**

FILED

May 15, 1993 - 1:48 p.m.

**Secretary of State  
State of Washington**

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**SENATE BILL 5375**

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AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1993 Regular Session

**State of Washington                      53rd Legislature                      1993 Regular Session**

**By** Senators Bauer, Wojahn, Barr, Oke, Rinehart, von Reichbauer and Winsley; by request of Legislative Budget Committee

Read first time 01/26/93.      Referred to Committee on Government Operations.

1            AN ACT Relating to personal service contracts; amending RCW  
2 39.29.003, 39.29.006, and 39.29.018; adding new sections to chapter  
3 39.29 RCW; and adding a new section to chapter 39.80 RCW.

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

5            **Sec. 1.** RCW 39.29.003 and 1987 c 414 s 1 are each amended to read  
6 as follows:

7            It is the intent of this chapter to establish a policy of open  
8 competition for all personal service contracts and subcontracts to  
9 personal service contracts entered into by state agencies, unless  
10 specifically exempted under this chapter. It is further the intent to  
11 provide for legislative and executive review of all personal service  
12 contracts ~~((negotiated without an open competitive process)),~~ to  
13 centralize the location of information about personal service contracts  
14 for ease of public review, and ensure proper accounting of personal  
15 services expenditures.

16            **Sec. 2.** RCW 39.29.006 and 1987 c 414 s 2 are each amended to read  
17 as follows:

18            As used in this chapter:

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

5 (2) "Client services" means services provided directly to agency  
6 clients including, but not limited to, medical and dental services,  
7 employment and training programs, residential care, and subsidized  
8 housing.

9 (3) "Competitive solicitation" means a documented formal process  
10 providing an equal and open opportunity to qualified parties and  
11 culminating in a selection based on criteria which may include such  
12 factors as the consultant's fees or costs, ability, capacity,  
13 experience, reputation, responsiveness to time limitations,  
14 responsiveness to solicitation requirements, quality of previous  
15 performance, and compliance with statutes and rules relating to  
16 contracts or services.

17 (4) "Consultant" means an independent individual or firm  
18 contracting with an agency to perform a service or render an opinion or  
19 recommendation according to the consultant's methods and without being  
20 subject to the control of the agency except as to the result of the  
21 work. The agency monitors progress under the contract and authorizes  
22 payment.

23 (5) "Emergency" means a set of unforeseen circumstances beyond the  
24 control of the agency that either:

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

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

29 (6) "Evidence of competition" means documentation demonstrating  
30 that the agency has solicited responses from multiple firms in  
31 selecting a consultant.

32 (7) "Personal service" means professional or technical expertise  
33 provided by a consultant to accomplish a specific study, project, task,  
34 or other work statement. This term does not include purchased services  
35 as defined under subsection (9) of this section. This term does  
36 include client services.

37 (8) "Personal service contract" means an agreement, or any  
38 amendment thereto, with a consultant for the rendering of personal  
39 services to the state which is consistent with RCW 41.06.380.

1 (9) "Purchased services" means services provided by a vendor to  
2 accomplish routine, continuing and necessary functions. This term  
3 includes, but is not limited to, services acquired under RCW 43.19.190  
4 or 43.105.041 for equipment maintenance and repair; operation of a  
5 physical plant; security; computer hardware and software maintenance;  
6 data entry; key punch services; and computer time-sharing, contract  
7 programming, and analysis.

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

13 (11) "Subcontract" means a contract assigning some of the work of  
14 a contract to a third party.

15 NEW SECTION. Sec. 3. A new section is added to chapter 39.29 RCW  
16 to read as follows:

17 (1) Substantial changes in either the scope of work specified in  
18 the contract or in the scope of work specified in the formal  
19 solicitation document must generally be awarded as new contracts.  
20 Substantial changes executed by contract amendments must be submitted  
21 to the office of financial management and the legislative budget  
22 committee, and are subject to approval by the office of financial  
23 management.

24 (2) An amendment or amendments to personal service contracts, if  
25 the value of the amendment or amendments, whether singly or  
26 cumulatively, exceeds fifty percent of the value of the original  
27 contract must be provided to the office of financial management and the  
28 legislative budget committee.

29 (3) The office of financial management shall approve amendments  
30 provided to it under this section before the amendments become binding  
31 and before services may be performed under the amendments.

32 (4) The amendments must be filed with the office of financial  
33 management and made available for public inspection at least ten  
34 working days prior to the proposed starting date of services under the  
35 amendments.

36 (5) The office of financial management shall approve amendments  
37 provided to it under this section only if they meet the criteria for

1 approval of the amendments established by the director of the office of  
2 financial management.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 39.29 RCW  
4 to read as follows:

5 If subcontracts and subcontractors are specified in the  
6 contractor's response to a competitive solicitation, this constitutes  
7 a competitive solicitation of subcontract services. If subcontracts  
8 are authorized, but subcontractors are not specifically identified in  
9 a contractor's response to a competitive solicitation and the  
10 contractor later desires to issue subcontracts, the subcontracts must  
11 comply with the competitive solicitation requirements of this chapter,  
12 and selection of subcontractors is subject to prior agency approval.

13 **Sec. 5.** RCW 39.29.018 and 1987 c 414 s 5 are each amended to read  
14 as follows:

15 (1) Sole source contracts shall be filed with the office of  
16 financial management and the legislative budget committee and made  
17 available for public inspection at least ten working days prior to the  
18 proposed starting date of the contract. Documented justification for  
19 sole source contracts shall be provided to the office of financial  
20 management and the legislative budget committee when the contract is  
21 filed. For sole source contracts of ten thousand dollars or more that  
22 are state funded, documented justification shall include evidence that  
23 the agency attempted to identify potential consultants by advertising  
24 through state-wide or regional newspapers.

25 (2) The office of financial management shall approve sole source  
26 contracts of ten thousand dollars or more that are state funded, before  
27 any such contract becomes binding and before any services may be  
28 performed under the contract. These requirements shall also apply to  
29 sole source contracts of less than ten thousand dollars if the total  
30 amount of such contracts between an agency and the same consultant is  
31 ten thousand dollars or more within a fiscal year. Agencies shall  
32 ensure that the costs, fees, or rates negotiated in filed sole source  
33 contracts of ten thousand dollars or more are reasonable.

34 NEW SECTION. **Sec. 6.** A new section is added to chapter 39.29 RCW  
35 to read as follows:

1 Personal services may be procured only to resolve a particular  
2 agency problem or issue or to expedite a specific project that is  
3 temporary in nature. An agency may procure personal services only if  
4 it documents that:

5 (1) The service is critical to agency responsibilities or  
6 operations, or is mandated or authorized by the legislature;

7 (2) Sufficient staffing or expertise is not available within the  
8 agency to perform the service; and

9 (3) Other qualified public resources are not available to perform  
10 the service.

11 NEW SECTION. **Sec. 7.** A new section is added to chapter 39.29 RCW  
12 to read as follows:

13 (1) State-funded personal service contracts subject to competitive  
14 solicitation shall be filed with the office of financial management and  
15 the legislative budget committee and made available for public  
16 inspection at least ten working days before the proposed starting date  
17 of the contract.

18 (2) The office of financial management shall review and approve  
19 state-funded personal service contracts subject to competitive  
20 solicitation that provide services relating to management consulting,  
21 organizational development, marketing, communications, employee  
22 training, or employee recruiting.

23 NEW SECTION. **Sec. 8.** A new section is added to chapter 39.29 RCW  
24 to read as follows:

25 The office of financial management shall maintain a publicly  
26 available list of all personal service contracts entered into by state  
27 agencies during each fiscal year. The list shall identify the  
28 contracting agency, the contractor, the purpose of the contract,  
29 effective dates and periods of performance, the cost of the contract  
30 and funding source, any modifications to the contract, and whether the  
31 contract was competitively procured or awarded on a sole source basis.  
32 The office of financial management shall also ensure that state  
33 accounting definitions and procedures are consistent with RCW 39.29.006  
34 and permit the reporting of personal services expenditures by agency  
35 and by type of service. Designations of type of services shall  
36 include, but not be limited to, management and organizational services,  
37 legal and expert witness services, financial services, computer and

1 information services, social or technical research, marketing,  
2 communications, and employee training or recruiting services. The  
3 office of financial management shall report annually to the fiscal  
4 committees of the senate and house of representatives on sole source  
5 contracts filed under this chapter. The report shall describe: (1)  
6 The number and aggregate value of contracts for each category  
7 established in this section; (2) the number and aggregate value of  
8 contracts of two thousand five hundred dollars or greater but less than  
9 ten thousand dollars; (3) the number and aggregate value of contracts  
10 of ten thousand dollars or greater; (4) the justification provided by  
11 agencies for the use of sole source contracts; and (5) any trends in  
12 the use of sole source contracts.

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 39.80 RCW  
14 to read as follows:

15 Contracts entered into by any state agency for architectural and  
16 engineering services, and modifications thereto, shall be reported to  
17 the office of financial management on a quarterly basis, in such form  
18 as the office of financial management prescribes.

Passed the Senate April 25, 1993.

Passed the House April 25, 1993.

Approved by the Governor May 15, 1993.

Filed in Office of Secretary of State May 15, 1993.