

***State Government Committee***

***HB 1808***

***Brief Description:*** *Increasing state agency contract accountability.*

***Sponsors:*** *Representatives Miloscia, Anderson, Hunt, Clements, D. Schmidt, Haigh, Boldt, Romero, Delvin, McDermott, Kessler, Schindler and Ruderman.*

***Brief Summary of Bill***

- *Requires the Office of Financial Management to establish a modern and complete system of contract accountability for contracts let by any state agency of any branch of state government, including contracts for a public works project, maintenance, or other work or for the purchase of materials, supplies, equipment, or any type of service, including personal services and client services.*
- *Requires the system of contract accountability to include contractor selection, contract provisions, including performance measures, contract management, contract monitoring, auditing and post evaluations, timely resolution of monitoring and audit findings and recommendations, and financial accountability expectations, including cost allocation principles, cost allowances, terms of reimbursement, compliance requirements, and timely recovery of overpayments and unallowable program costs.*
- *Requires the Office of Financial Management Resource to develop materials, provide training, and develop a consolidated data base containing historical performance data on contractors and subcontractors who have done business with the state.*
- *Provides for a process to debar firms from contracting with the state for two years, with hearings under the adjudicative proceedings provisions of the Administrative Procedures Act.*

***Hearing Date:*** *2/21/01*

***Staff:*** *Steve Lundin (786-7127).*

***Background:***

*A number of different laws establish procedures for state agencies to award contracts for public works projects and to purchase materials, supplies, equipment, and services.*

*Most commonly, contracts for public works and for purchasing materials, supplies, and equipment are awarded using a formal competitive bidding process with the contract awarded, if at all, to the lowest responsible bidder. Exceptions are provided, including:*

- A modified competitive bidding procedure under the small works roster process for public works projects of \$200,000 or less in estimated cost where bids are sought from five or more contractors included on a small works roster and the contract is awarded, if at all, to the lowest responsible bidder.*
- The alternative public works procedures, including the design-build process and general contractor/construction manager process, where requests for proposals are sought, a firm is selected using various factors, and negotiations occur with the selected firm.*
- Emergency contracts.*

*The Department of General Administration performs public works projects for most state agencies, but the Department of Transportation awards its own contracts for transportation public works projects, while the Department of Natural Resources, Department of Parks, Department of Fish and Wildlife, and institutions of higher education award contracts for their own public works projects. The Department of Transportation may use a pre-qualification process to limit contractors who are allowed to submit bids, using various factors such as experience, financial resources, ability to comply with a performance schedule, and a record of performance, and then awarding public works contracts to the lowest responsible bidder who is allowed to bid.*

*The Department of General Administration makes most purchases of materials, supplies, and equipment for state agencies, but may delegate this authority to state agencies. The department may use a system of post-qualification, where the lowest responsible bidder is determined based upon both bid price and a variety of factors, such as the ability to perform, experience, ability to perform within timelines, quality of past performance, and previous and past compliance with laws relating to the contract.*

*Less formal requirements exist for awarding most service contracts. Personal service contracts use a "competitive solicitation" process for awarding contracts of \$20,000 and more to qualified parties with selection based upon factors such as fees and costs, ability, capacity, experience, reputation, responsiveness, and quality of previous performance. A less formal "documented evidence of competition" procedure is used to award personal service contracts of between \$5,000 and \$20,000 in value. Personal service contracts (not including contracts for architectural or engineering, client services, and other exceptions) of over \$20,000 in value must be approved by the Office of Financial Management (OFM). OFM establishes procedures for competitive solicitation of personal service contracts, record keeping, and procedures for reporting and filing personal service contracts. Contracts for architectural and engineering services are awarded to the most qualified firm and negotiations occur with the selected firm.*

**Summary of Bill:**

*The director of the Office of Financial Management (OFM) must devise a modern and complete system of contract accountability. Stakeholders shall be consulted when this system is established. The system must address:*

- *Contractor selection;*
- *Contract provisions, including performance measures;*
- *Contract management;*
- *Contract monitoring;*
- *Auditing and post evaluations;*
- *Timely resolution of monitoring and audit findings and recommendations; and*
- *Financial accountability expectations, including cost allocation principles, cost allowances, terms of reimbursement, compliance requirements, and timely recovery of overpayments and unallowable program costs.*

*The system applies to all contracts of any sort awarded by a state agency, including contacts for any public work, maintenance, or other work or for the purchase of materials, supplies, equipment, or any type of service, including personal services and client services. The system applies to contracts awarded by all branches of state government, or any division of a branch of state government.*

*Resource materials and training must be provided. A consolidated data base must be established containing historical performance data on contractors and subcontractors who have done business with the state. The data base must include a list of businesses that have been debarred from contracting with the state, based upon standards and procedures established by the OFM that include a hearing on any debarring under the adjudicative proceedings provisions of the Administrative Procedures Act. A firm may be debarred for a two-year period under these procedures.*

*The State Auditor shall perform performance verifications and performance audits of state government to evaluating the implementation of this system for achieving contract accountability.*

*Each law providing for state agencies to contract for public works, or for the purchase of materials, supplies, equipment, or services, is amended referencing the system for achieving contract accountability.*

**Rulemaking Authority:** *No express authority.*

**Appropriation:** *None.*

**Fiscal Note:** *Not Requested.*

**Effective Date:** *Ninety days after adjournment of session in which bill is passed.*