

SENATE BILL REPORT

HB 1439

As Reported By Senate Committee On:
Government Operations & Elections, February 23, 2006

Title: An act relating to electronic and web-based bidding.

Brief Description: Allowing the state purchasing and material control director to receive electronic and web-based bids.

Sponsors: Representatives Green, Nixon, Haigh, Upthegrove, Chase and Dunn; by request of Department of General Administration.

Brief History: Passed House: 3/08/05, 98-0; 1/16/06, 96-0.

Committee Activity: Government Operations & Elections: 2/23/06 [DPA].

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

Majority Report: Do pass as amended.

Signed by Senators Kastama, Chair; Berkey, Vice Chair; Roach, Ranking Minority Member; Benton, Fairley, Haugen, Kline, McCaslin, Mulliken and Pridemore.

Staff: Cindy Fazio (786-7405)

Background: All purchases and sales handled by the Department of General Administration are based on competitive bids, and a formal sealed bid procedure must be used as standard procedure for all purchases and contracts for purchases and sales. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids must be in writing and conform to the rules of the division of purchasing. After a contract is awarded, each bid, with the name of the bidder, must be open to public inspection.

Summary of Amended Bill: Bidders may provide their bids in written, electronic, or web-based form. Bid prices will not be disclosed during electronic or web-based bidding prior to the letting of the contract.

The expiration date for the program enacted in 2003 to enhance employment opportunities for disadvantaged persons and persons with disabilities is changed from December 31, 2007 to December 31, 2009.

Agencies procuring personal services, purchasing, leasing, or otherwise acquiring information technology equipment, or executing a public works project, using a competitive solicitation process, cannot reject all solicitations after opening unless there is a compelling reason. Similarly, cities with a population over 100,000, and counties with a population over 500,000 that execute public works projects using a competitive bidding process cannot reject all bids after opening without a compelling reason.

A compelling reason must be determined in writing and can be based on factors such as: unavailable, inadequate or ambiguous specifications or conditions that were cited in the

solicitation; specifications that have been revised; the services being contracted for are no longer required; the solicitation did not provide for consideration of all factors of cost to the agency, city, or county; bids received indicate there is a satisfactory, less expensive article different from that solicited; all otherwise acceptable bids are at unreasonable prices, or only one bid is received; no bid is received; or the bid process was not fair or equitable.

After bid opening, a solicitation may not be canceled and re-solicited solely because of an increase in requirements. Award may be made on the original solicitation and the increase in requirements may be treated as a new acquisition.

Amended Bill Compared to Original Bill: Bid prices will not be disclosed during the bidding process prior to the award of the contract; the expiration date for the program enacted in 2003 to enhance employment opportunities for disadvantaged persons and person with disabilities is changed from December 31, 2007, to December 31, 2009; and sections are added describing the process by which State agencies and certain cities and counties can reject bids after opening without a compelling reason, or cancel solicitations solely because of an increase in requirements.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Testimony For: Vendors can register online and they can be notified of proposals online but cannot submit their bids online. We understand the concern of small business with section three and we are not opposed to changing that language. The sponsor is okay with that too.

Testimony Against: We have concerns with the language in section three and concerns with the procurement process generally. The language in section three about reverse bidding is very detrimental. Please ask JLARC to look at that language to see if reverse bidding is something the state should be doing. When bidding online you have to stay at the computer and watch the process, you cannot be attending to other business. Large companies can change bids by pennies but that can put small businesses out of the running. Small businesses are being disenfranchised from the bidding. We would also want to see section one change to preclude reverse bidding.

Who Testified: PRO: Martin Casey, Government Relations Director, General Administration.

CON: Gary Smith, Independent Business Association.