

**HB 1770** - S COMM AMD

By Committee on Economic Development, Trade & Innovation

**NOT ADOPTED 04/07/2011**

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION.   **Sec. 1.** The legislature finds that it is in the  
4 state's economic interest and serves a public purpose to promote and  
5 facilitate the fullest possible participation by Washington businesses  
6 of all sizes in the process by which goods and services are purchased  
7 by the state. The legislature further finds that large businesses have  
8 the resources to participate fully and effectively in the state's  
9 purchasing system, and because of many factors, including economies of  
10 scale, the purchasing system tends to create a preference in favor of  
11 large businesses and to disadvantage small businesses. The legislature  
12 intends, therefore, to assist, to the maximum extent possible, small  
13 businesses to participate in order to enhance and preserve competitive  
14 enterprise and to ensure that small businesses have a fair opportunity  
15 to be awarded contracts or subcontracts for goods and services  
16 purchased by the state.

17       NEW SECTION.   **Sec. 2.** A new section is added to chapter 43.19 RCW  
18 to read as follows:

19       (1) Purchasing agencies, including institutions of higher  
20 education, must establish and implement a plan to increase the number  
21 of small businesses annually receiving state contracts for goods and  
22 services purchased by the state. The goal of the plan must be to have  
23 the number of small businesses receiving state contracts in 2013 be at  
24 least fifty percent higher, and in 2015 be at least one hundred percent  
25 higher, than the number of contracts awarded to small businesses in  
26 2010.

27       (2) To facilitate the participation of small business in the  
28 provision of goods and services to the state, including purchases under  
29 chapters 39.29 and 43.105 RCW, the state purchasing and material

1 control director, under the powers granted by RCW 43.19.190 through  
2 43.19.1939, and all state purchasing agencies, including institutions  
3 of higher education, operating under delegated authority granted under  
4 RCW 43.19.190 or 28B.10.029, must give assistance to small businesses  
5 by providing opportunities for the agency to answer vendor questions  
6 about the bid solicitation requirements in advance of the bid due date  
7 and, upon request after the contract award, for the agency to hold a  
8 debriefing to assist the vendor in understanding how to improve his or  
9 her responses for future competitive procurements.

10 (3) Purchasing agencies, including institutions of higher  
11 education, must adopt rules deemed necessary by the executive head of  
12 the agency or its board, as applicable, to implement this section.  
13 Such rules must include a set of measurable data to identify the  
14 effects the technical assistance under this section is having on the  
15 number of small businesses annually receiving state contracts for goods  
16 and services purchased by the state.

17 (4) As used in this section:

18 (a) "Purchasing agencies" are limited to the department of general  
19 administration, the department of information services, and the  
20 department of transportation.

21 (b) "In-state business" has the same meaning as defined in RCW  
22 39.29.006.

23 (c) "Small business" has the same meaning as defined in RCW  
24 39.29.006.

25 **Sec. 3.** RCW 39.29.006 and 2009 c 486 s 6 are each amended to read  
26 as follows:

27 As used in this chapter:

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

32 (2) "Client services" means services provided directly to agency  
33 clients including, but not limited to, medical and dental services,  
34 employment and training programs, residential care, and subsidized  
35 housing.

36 (3) "Common vendor registration and bid notification system" means  
37 the internet-based vendor registration and bid notification system

1 maintained by and housed within the department of general  
2 administration. The requirements contained in chapter 486, Laws of  
3 2009 shall continue to apply to this system, regardless of future  
4 changes to its name or management structure.

5 (4) "Competitive solicitation" means a documented formal process  
6 providing an equal and open opportunity to qualified parties and  
7 culminating in a selection based on criteria which may include such  
8 factors as the consultant's fees or costs, ability, capacity,  
9 experience, reputation, responsiveness to time limitations,  
10 responsiveness to solicitation requirements, quality of previous  
11 performance, and compliance with statutes and rules relating to  
12 contracts or services. "Competitive solicitation" includes posting of  
13 the contract opportunity on the state's common vendor registration and  
14 bid notification system.

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

21 (6) "Emergency" means a set of unforeseen circumstances beyond the  
22 control of the agency that either:

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

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

27 (7) "Evidence of competition" means documentation demonstrating  
28 that the agency has solicited responses from multiple firms in  
29 selecting a consultant. "Evidence of competition" includes  
30 documentation that the agency has posted the contract opportunity on  
31 the state's common vendor registration and bid notification system.

32 (8) "In-state business" means a business that has its principal  
33 office located in Washington.

34 (9) "Personal service" means professional or technical expertise  
35 provided by a consultant to accomplish a specific study, project, task,  
36 or other work statement. This term does not include purchased services  
37 as defined under subsection ((+10)) (11) of this section. This term  
38 does include client services.

1 ((+9)) (10) "Personal service contract" means an agreement, or any  
2 amendment thereto, with a consultant for the rendering of personal  
3 services to the state which is consistent with RCW 41.06.142.

4 ((+10)) (11) "Purchased services" means services provided by a  
5 vendor to accomplish routine, continuing and necessary functions. This  
6 term includes, but is not limited to, services acquired under RCW  
7 43.19.190 or 43.105.041 for equipment maintenance and repair; operation  
8 of a physical plant; security; computer hardware and software  
9 maintenance; data entry; key punch services; and computer time-sharing,  
10 contract programming, and analysis.

11 ((+11)) (12) "Small business" means an in-state business,  
12 including a sole proprietorship, corporation, partnership, or other  
13 legal entity, that: (a) Certifies, under penalty of perjury, that it  
14 is owned and operated independently from all other businesses and has  
15 either ((+a)) (i) fifty or fewer employees, or ((+b)) (ii) a gross  
16 revenue of less than seven million dollars annually as reported on its  
17 federal income tax return or its return filed with the department of  
18 revenue over the previous three consecutive years~~((As used in this~~  
19 ~~definition, "in-state business" means a business that has its principal~~  
20 ~~office located in Washington and its officers domiciled in~~  
21 ~~Washington)); or (b) is certified under chapter 39.19 RCW.~~

22 ((+12)) (13) "Sole source" means a consultant providing  
23 professional or technical expertise of such a unique nature that the  
24 consultant is clearly and justifiably the only practicable source to  
25 provide the service. The justification shall be based on either the  
26 uniqueness of the service or sole availability at the location  
27 required."

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28 On page 1, line 2 of the title, after "purchasing;" strike the  
29 remainder of the title and insert "amending RCW 39.29.006; adding a new  
30 section to chapter 43.19 RCW; and creating a new section."

EFFECT: Requires state purchasing agencies to establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services. Provides that state purchasing agencies and institutions of higher education must give assistance to small businesses by 1) providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date and, if requested, after the contract award; and 2) holding a debriefing to assist the vendor in understanding how to improve his or her responses for future procurements. Requires state purchasing agencies and institutions of higher education to adopt rules that identify the effects the technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state.

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