
SUBSTITUTE SENATE BILL 5519

State of Washington

62nd Legislature

2011 Regular Session

By Senate Higher Education & Workforce Development (originally sponsored by Senators Tom, Hill, Kilmer, and Shin)

READ FIRST TIME 02/18/11.

1 AN ACT Relating to public contracting authority; amending RCW
2 28B.10.029, 39.29.011, 39.29.018, and 43.19.1906; and reenacting and
3 amending RCW 39.29.040.

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

5 **Sec. 1.** RCW 28B.10.029 and 2010 c 61 s 1 are each amended to read
6 as follows:

7 (1)(a) An institution of higher education may exercise
8 independently those powers otherwise granted to the director of general
9 administration in chapter 43.19 RCW in connection with the purchase and
10 disposition of all material, supplies, services, and equipment needed
11 for the support, maintenance, and use of the respective institution of
12 higher education.

13 (b) Property disposition policies followed by institutions of
14 higher education shall be consistent with policies followed by the
15 department of general administration.

16 (c) Purchasing policies and procedures followed by institutions of
17 higher education shall be in compliance with chapters 39.19, 39.29, and
18 43.03 RCW, and RCW 43.19.1901, 43.19.1906, 43.19.1911, 43.19.1917,

1 43.19.1937, (~~(43.19.534,)~~) 43.19.685, 43.19.700 through 43.19.704, and
2 43.19.560 through 43.19.637.

3 (d) Purchases under chapter 39.29, 43.19, or 43.105 RCW by
4 institutions of higher education may be made by using contracts for
5 materials, supplies, services, or equipment negotiated or entered into
6 by, for, or through group purchasing organizations.

7 (e) The community and technical colleges shall comply with RCW
8 43.19.450.

9 (f) Except for the University of Washington, institutions of higher
10 education shall comply with RCW 43.41.310, 43.41.290, and 43.41.350.

11 (g) If an institution of higher education can satisfactorily
12 demonstrate to the director of the office of financial management that
13 the cost of compliance is greater than the value of benefits from any
14 of the following statutes, then it shall be exempt from them: RCW
15 43.19.685(~~(, 43.19.534,)~~) and 43.19.637.

16 (h) Any institution of higher education that chooses to exercise
17 independent purchasing authority for a commodity or group of
18 commodities shall notify the director of general administration.
19 Thereafter the director of general administration shall not be required
20 to provide those services for that institution for the duration of the
21 general administration contract term for that commodity or group of
22 commodities.

23 (2) The council of presidents and the state board for community and
24 technical colleges shall convene its correctional industries business
25 development advisory committee, and work collaboratively with
26 correctional industries, to:

27 (a) Reaffirm purchasing criteria and ensure that quality, service,
28 and timely delivery result in the best value for expenditure of state
29 dollars;

30 (b) Update the approved list of correctional industries products
31 from which higher education shall purchase; and

32 (c) Develop recommendations on ways to continue to build
33 correctional industries' business with institutions of higher
34 education.

35 (3) Higher education and correctional industries shall develop a
36 plan to build higher education business with correctional industries to
37 increase higher education purchases of correctional industries
38 products, based upon the criteria established in subsection (2) of this

1 section. The plan shall include the correctional industries'
2 production and sales goals for higher education and an approved list of
3 products from which higher education institutions shall purchase, based
4 on the criteria established in subsection (2) of this section. Higher
5 education and correctional industries shall report to the legislature
6 regarding the plan and its implementation no later than January 30,
7 2005.

8 (4) Institutions of higher education shall set as a target to
9 contract, beginning not later than June 30, 2006, to purchase one
10 percent of the total goods and services required by the institutions
11 each year produced or provided in whole or in part from class II inmate
12 work programs operated by the department of corrections. Institutions
13 of higher education shall set as a target to contract, beginning not
14 later than June 30, 2008, to purchase two percent of the total goods
15 and services required by the institutions each year produced or
16 provided in whole or in part from class II inmate work programs
17 operated by the department of corrections.

18 (5) An institution of higher education may exercise independently
19 those powers otherwise granted to the public printer in chapter 43.78
20 RCW in connection with the production or purchase of any printing and
21 binding needed by the respective institution of higher education.
22 Purchasing policies and procedures followed by institutions of higher
23 education shall be in compliance with chapter 39.19 RCW. Any
24 institution of higher education that chooses to exercise independent
25 printing production or purchasing authority shall notify the public
26 printer. Thereafter the public printer shall not be required to
27 provide those services for that institution.

28 **Sec. 2.** RCW 39.29.011 and 2009 c 486 s 7 are each amended to read
29 as follows:

30 All personal service contracts shall be entered into pursuant to
31 competitive solicitation, except for:

- 32 (1) Emergency contracts;
- 33 (2) Sole source contracts;
- 34 (3) Contract amendments;
- 35 (4) Contracts between a consultant and an agency of less than
36 twenty thousand dollars. (~~However, contracts of five thousand dollars
37 or greater but less than twenty thousand dollars shall have documented~~

1 ~~evidence of competition, which must include agency posting of the~~
2 ~~contract opportunity on the state's common vendor registration and bid~~
3 ~~notification system.))~~ For institutions of higher education, this
4 limit shall be one hundred thousand dollars, however, for contracts of
5 ten thousand dollars or greater but less than one hundred thousand
6 dollars, the institutions of higher education shall have documented
7 evidence of competition. Agencies shall not structure contracts to
8 evade these requirements; and

9 (5) Other specific contracts or classes or groups of contracts
10 exempted from the competitive solicitation process by the director of
11 the office of financial management when it has been determined that a
12 competitive solicitation process is not appropriate or cost-effective.

13 **Sec. 3.** RCW 39.29.018 and 2009 c 486 s 8 are each amended to read
14 as follows:

15 (1) Sole source contracts shall be filed with the office of
16 financial management and made available for public inspection at least
17 ten working days prior to the proposed starting date of the contract.
18 Documented justification for sole source contracts shall be provided to
19 the office of financial management when the contract is filed, and for
20 contracts over twenty thousand dollars must include evidence that the
21 agency posted the contract opportunity on the state's common vendor
22 registration and bid notification system. For sole source contracts of
23 twenty thousand dollars or more, documented justification shall also
24 include evidence that the agency attempted to identify potential
25 consultants by advertising through statewide or regional newspapers.

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

35 **Sec. 4.** RCW 39.29.040 and 2002 c 260 s 11 and 2002 c 200 s 2 are
36 each reenacted and amended to read as follows:

1 This chapter does not apply to:

2 (1) Contracts specifying a fee of less than (~~five~~) twenty
3 thousand dollars if the total of the contracts from that agency with
4 the contractor within a fiscal year does not exceed (~~five~~) twenty
5 thousand dollars, however, for institutions of higher education, the
6 limit shall be a fee less than one hundred thousand dollars;

7 (2) Contracts awarded to companies that furnish a service where the
8 tariff is established by the utilities and transportation commission or
9 other public entity;

10 (3) Intergovernmental agreements awarded to any governmental
11 entity, whether federal, state, or local and any department, division,
12 or subdivision thereof;

13 (4) Contracts awarded for services to be performed for a standard
14 fee, when the standard fee is established by the contracting agency or
15 any other governmental entity and a like contract is available to all
16 qualified applicants;

17 (5) Contracts for services that are necessary to the conduct of
18 collaborative research if prior approval is granted by the funding
19 source;

20 (6) Contracts for client services except as otherwise indicated in
21 this chapter;

22 (7) Contracts for architectural and engineering services as defined
23 in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

24 (8) Contracts for the employment of expert witnesses for the
25 purposes of litigation;

26 (9) Contracts for bank supervision authorized under RCW 30.38.040;
27 and

28 (10) Contracts for interpreter services and interpreter brokerage
29 services on behalf of limited-English speaking or sensory-impaired
30 applicants and recipients of public assistance.

31 **Sec. 5.** RCW 43.19.1906 and 2008 c 215 s 5 are each amended to read
32 as follows:

33 Insofar as practicable, all purchases and sales shall be based on
34 competitive bids, and a formal sealed, electronic, or web-based bid
35 procedure, subject to RCW 43.19.1911, shall be used as standard
36 procedure for all purchases and contracts for purchases and sales
37 executed by the state purchasing and material control director and

1 under the powers granted by RCW 43.19.190 through 43.19.1939. This
2 requirement also applies to purchases and contracts for purchases and
3 sales executed by agencies, including educational institutions, under
4 delegated authority granted in accordance with provisions of RCW
5 43.19.190 or under RCW 28B.10.029. However, formal sealed, electronic,
6 or web-based competitive bidding is not necessary for:

7 (1) Emergency purchases made pursuant to RCW 43.19.200 if the
8 sealed bidding procedure would prevent or hinder the emergency from
9 being met appropriately;

10 (2) Purchases not exceeding thirty-five thousand dollars, or
11 subsequent limits as calculated by the office of financial management:
12 PROVIDED, That the state director of general administration shall
13 establish procedures to assure that purchases made by or on behalf of
14 the various state agencies shall not be made so as to avoid the thirty-
15 five thousand dollar bid limitation, or subsequent bid limitations as
16 calculated by the office of financial management: PROVIDED FURTHER,
17 That the state purchasing and material control director is authorized
18 to reduce the formal sealed bid limits of thirty-five thousand dollars,
19 or subsequent limits as calculated by the office of financial
20 management, to a lower dollar amount for purchases by individual state
21 agencies if considered necessary to maintain full disclosure of
22 competitive procurement or otherwise to achieve overall state
23 efficiency and economy in purchasing and material control. Quotations
24 from three thousand dollars to thirty-five thousand dollars, or
25 subsequent limits as calculated by the office of financial management,
26 shall be secured from at least three vendors to assure establishment of
27 a competitive price and may be obtained by telephone or written
28 quotations, or both. The agency shall invite at least one quotation
29 each from a certified minority and a certified women-owned vendor who
30 shall otherwise qualify to perform such work. Immediately after the
31 award is made, the bid quotations obtained shall be recorded and open
32 to public inspection and shall be available by telephone inquiry. A
33 record of competition for all such purchases from three thousand
34 dollars to thirty-five thousand dollars, or subsequent limits as
35 calculated by the office of financial management, shall be documented
36 for audit purposes. Purchases up to three thousand dollars may be made
37 without competitive bids based on buyer experience and knowledge of the
38 market in achieving maximum quality at minimum cost;

1 (3) Purchases which are clearly and legitimately limited to a
2 single source of supply and purchases involving special facilities,
3 services, or market conditions, in which instances the purchase price
4 may be best established by direct negotiation;

5 (4) Purchases of insurance and bonds by the risk management
6 division under RCW 43.41.310;

7 (5) Purchases and contracts for vocational rehabilitation clients
8 of the department of social and health services: PROVIDED, That this
9 exemption is effective only when the state purchasing and material
10 control director, after consultation with the director of the division
11 of vocational rehabilitation and appropriate department of social and
12 health services procurement personnel, declares that such purchases may
13 be best executed through direct negotiation with one or more suppliers
14 in order to expeditiously meet the special needs of the state's
15 vocational rehabilitation clients;

16 (6) Purchases by universities for hospital operation or biomedical
17 teaching or research purposes and by the state purchasing and material
18 control director, as the agent for state hospitals as defined in RCW
19 72.23.010, and for health care programs provided in state correctional
20 institutions as defined in RCW 72.65.010(3) and veterans' institutions
21 as defined in RCW 72.36.010 and 72.36.070, made by participating in
22 contracts for materials, supplies, and equipment entered into by
23 nonprofit cooperative hospital group purchasing organizations;

24 (7) Purchases for resale by institutions of higher education to
25 other than public agencies when such purchases are for the express
26 purpose of supporting instructional programs and may best be executed
27 through direct negotiation with one or more suppliers in order to meet
28 the special needs of the institution;

29 (8) Purchases by institutions of higher education not exceeding
30 (~~thirty-five~~) one hundred thousand dollars: PROVIDED, That for
31 purchases between (~~three~~) ten thousand dollars and (~~thirty-five~~)
32 one hundred thousand dollars quotations shall be secured from at least
33 three vendors to assure establishment of a competitive price and may be
34 obtained by telephone or written quotations, or both. For purchases
35 between (~~three~~) ten thousand dollars and (~~thirty-five~~) one hundred
36 thousand dollars, each institution of higher education shall invite at
37 least one quotation each from a certified minority and a certified
38 women-owned vendor who shall otherwise qualify to perform such work.

1 A record of competition for all such purchases made from (~~three~~) ten
2 thousand to (~~thirty-five~~) one hundred thousand dollars shall be
3 documented for audit purposes;

4 (9) Off-contract purchases of Washington grown food when such food
5 is not available from Washington sources through an existing contract.
6 However, Washington grown food purchased under this subsection must be
7 of an equivalent or better quality than similar food available through
8 the contract and be able to be paid from the agency's existing budget.
9 This requirement also applies to purchases and contracts for purchases
10 executed by state agencies, including institutions of higher education,
11 under delegated authority granted in accordance with RCW 43.19.190 or
12 under RCW 28B.10.029; and

13 (10) Negotiation of a contract by the department of transportation,
14 valid until June 30, 2001, with registered tow truck operators to
15 provide roving service patrols in one or more Washington state patrol
16 tow zones whereby those registered tow truck operators wishing to
17 participate would cooperatively, with the department of transportation,
18 develop a demonstration project upon terms and conditions negotiated by
19 the parties.

20 (~~Beginning on July 1, 1995, and on July 1st of each succeeding~~
21 ~~odd-numbered year, the dollar limits specified in this section shall be~~
22 ~~adjusted as follows: The office of financial management shall~~
23 ~~calculate such limits by adjusting the previous biennium's limits by~~
24 ~~the appropriate federal inflationary index reflecting the rate of~~
25 ~~inflation for the previous biennium. Such amounts shall be rounded to~~
26 ~~the nearest one hundred dollars. However,)~~ The three thousand dollar
27 figure in subsections (2) and (8) of this section may not be adjusted
28 to exceed five thousand dollars.

29 As used in this section, "Washington grown" has the definition in
30 RCW 15.64.060.

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