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## Government Operations & Elections Committee

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### HB 1143

**Brief Description:** Providing accountability to procurement policy.

**Sponsors:** Representatives Dahlquist, Hurst and Buys.

#### Brief Summary of Bill

- Adds requirements related to early termination of existing procurement contracts;
- States the governor has authority to terminate any master contract for goods and services;
- Limits contracts for services and goods to terms of no more than three years, not to exceed ten years with extensions;
- Requires the governor to approve certain contractual increases; and
- Provides a definition for "public agency."

**Hearing Date:** 2/5/13

**Staff:** Marsha Reilly (786-7135).

#### **Background:**

The Department of Enterprise Services (DES) manages procurement of goods and services for state agencies.

#### Ethics in Procurement

State officers and employees involved in procurement are subject to the ethics laws regarding limitations on gifts. The gift restriction is extended to contractors who contract with an agency to perform services related to procurement for or on behalf of the state. Any person or entity seeking a contract with a state agency is prohibited from giving anything of value to a state officer or employee that would cause that state officer or employee to be in violation of ethics

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laws pertaining to assisting in transactions, compensation for official duties or nonperformance, compensation for outside duties, gifts, or limitation on gifts.

#### Provision of Goods and Services Through Agreements

In addition to providing goods and services to support state agencies, the DES may enter into agreements with any local or federal government agency, a public benefit nonprofit organization, and any tribes located in the state. Under such agreements, the DES must fully recover its costs for providing the goods and services. All governmental entities of the state may enter into agreements with the DES, unless prohibited by law.

#### Director's Responsibility for Procurement Policy

The director is responsible for the development and oversight of procurement policy by all state agencies. In this role, the director must establish policies, standards, and procedures that promote greater efficiency in procurement. The director, or his or her designee, has the sole authority to enter into master contracts on behalf of the state.

#### Director's Authority.

The director must establish standards for the use of credit cards; purchase of goods and services from Washington small businesses; microbusinesses and minibusinesses; food procurement and food contracts; criteria for vehicle purchases; and implementation of an enterprise system for electronic procurement. The director has the sole authority to enter into master contracts on behalf of the state. The director also has the authority to delegate to agencies authorization to purchase goods and services. Such authorization must specify restrictions as to dollar amount or specific types of goods and services, based on a risk assessment process and does not exempt the agency from conformance to the policies established by the director.

#### Sole Source Contracts

Sole source contracts must be approved by the DES. Agencies are required to submit such contracts to the DES at least ten business days before the proposed starting date of the contract, along with documented justification for the sole source contract.

#### **Summary of Bill:**

Several changes are made relating to the procurement of goods and services.

#### Ethics in Procurement

A provision is added to the ethics in procurement declaring that it is state policy that existing procurement contracts may not be terminated early in order for a public agency to use a state master contract or a state sole source contract unless sufficient savings and efficiencies are expected to outweigh the costs and risks associated with early termination.

#### Provision of Goods and Services Through Agreements

Any public agency that makes a purchase through an agreement may not terminate an existing contract unless savings or efficiencies clearly demonstrate that the taxpayers will receive a benefit under the new contract.

### Director's Responsibility for Procurement Policy

Policies, standards, and procedures developed by the director should discourage public agencies from terminating existing contracts in order to use a state sole source contract, a state goods and services contract, or a state master contract unless the public agency can clearly demonstrate expected savings and efficiencies that outweigh the cost and risk of early termination. The governor has the authority to terminate any state master contract in accordance with state law, federal law, or contractual provisions.

### Director's Authority.

The director must limit contracts for services and goods to terms of no more than three years, not to exceed ten years with extensions. The director must also develop a process whereby the department uses price quotes from local businesses to determine current prices and labor rates prior to granting contractual increases. The price quotes must be posted publicly ten days prior to the DES authorizing any contractual increase. Only with the governor's approval may a contract be increased in amounts exceeding the estimated real gross domestic product growth rate for the year as forecast by the Washington State Economic and Revenue Forecast Council. The director must also adopt policies, contractual provisions, or guidelines to prevent early termination of existing contracts by public agencies choosing to use state contracts.

### Sole Source Contracts

Sole source contracts are limited to a contractual term of no more than three years, with potential extensions not to exceed ten years. A public agency is prohibited from terminating an existing sole source contract in order to use a new contract unless savings or efficiencies clearly demonstrate that the taxpayers will receive a benefit under the new contract.

### Definitions

A definition for "public agency" is added and means "any agency, political subdivision, or unit of local government of this state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any agency of the state government; any agency of the United States; and any Indian tribe recognized by the federal government."

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.