
SENATE BILL 5458

State of Washington

67th Legislature

2021 Regular Session

By Senator Wagoner

1 AN ACT Relating to public contracts with small businesses;
2 amending RCW 43.19.725, 43.19.727, and 39.80.040; amending 2011 c 358
3 s 1 (uncodified); adding a new section to chapter 39.24 RCW; adding a
4 new section to chapter 28B.10 RCW; adding a new section to chapter
5 39.04 RCW; and adding a new section to chapter 39.26 RCW.

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

7 **Sec. 1.** 2011 c 358 s 1 (uncodified) is amended to read as
8 follows:

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

1 and services purchased by the state. The legislature recognizes the
2 need to increase accountability for the state's procurement and
3 contracting practices. The legislature, therefore, intends to
4 (~~encourage~~) require all state agencies to maintain records of state
5 purchasing contracts awarded to registered small businesses. The
6 legislature further recognizes that access to a modernized system
7 that categorizes a state business by such factors as its type and
8 size, is an essential tool for receiving accurate and verifiable
9 information regarding the effects any technical assistance is having
10 on the number of small businesses annually receiving state contracts
11 for goods and services purchased by the state.

12 **Sec. 2.** RCW 43.19.725 and 2012 c 224 s 26 are each amended to
13 read as follows:

14 (1) The department must develop a model plan for state agencies
15 to increase: (a) The number of small businesses registering in the
16 state's enterprise vendor registration and bid notification system;
17 (b) the number of such registered small businesses annually receiving
18 state contracts (~~for goods and services purchased by the state~~);
19 and (c) the percentage of total state (~~dollars spent for goods and~~
20 ~~services purchased~~) contracts from such registered small businesses.
21 The goal of the plan is to increase the number of small businesses
22 receiving state contracts as well as the percentage of total state
23 (~~dollars spent for goods and services~~) contracts from small
24 businesses registered in the state's enterprise vendor registration
25 and bid notification system (~~by at least fifty percent in fiscal~~
26 ~~year 2013, and at least one hundred percent in fiscal year 2015 over~~
27 ~~the baseline data reported for fiscal year 2011~~).

28 (2) The department, the department of transportation, and
29 institutions of higher education as defined in RCW 28B.10.016 may
30 adopt the model plan developed by the department under subsection (1)
31 of this section. If the agency does not adopt the model plan, it must
32 establish and implement a plan consistent with the goals of
33 subsection (1) of this section.

34 (3) To facilitate the participation of small businesses in (~~the~~
35 ~~provision of goods and services to the state~~) public contracts,
36 including purchases under chapters 39.04, 39.26, and 43.105 RCW, the
37 director, under the powers granted under this chapter, and the
38 department, the department of transportation, and institutions of
39 higher education as defined in RCW 28B.10.016 operating under

1 delegated authority granted under this chapter or RCW 28B.10.029,
2 must give technical assistance to small businesses regarding the
3 state bidding process. Such technical assistance shall include
4 providing opportunities for the agency to answer vendor questions
5 about the bid solicitation requirements in advance of the bid due
6 date and, upon request, holding a debriefing after the contract award
7 to assist the vendor in understanding how to improve his or her
8 responses for future competitive procurements.

9 (4) (a) The department, the department of transportation, and
10 institutions of higher education as defined in RCW 28B.10.016 must
11 maintain records of state purchasing contracts awarded to registered
12 small businesses in order to track outcomes and provide accurate,
13 verifiable information regarding the effects the technical assistance
14 under subsection (3) of this section is having on the number of small
15 businesses annually receiving state contracts (~~for goods and~~
16 ~~services purchased by the state~~)).

17 (b) The department may provide assistance to other agencies
18 attempting to maintain records of state purchasing contracts awarded
19 to registered small businesses for the purposes described under (a)
20 of this subsection.

21 (c) The department may establish policies regarding agency
22 reporting of public contracts to gather the necessary data to
23 establish how many contracts are being awarded to small businesses
24 under section 4 of this act.

25 (d) The department shall collaborate with and may assist agencies
26 in implementing outreach to small businesses.

27 (5) For the purposes of this section:

28 (a) "Agency" means any state agencies, departments, offices,
29 divisions, boards, commissions, institutions of higher education as
30 defined in RCW 28B.10.016, and correctional and other types of
31 institutions.

32 (b) "Small business" has the same meaning as defined in RCW
33 39.26.010.

34 **Sec. 3.** RCW 43.19.727 and 2012 c 224 s 27 are each amended to
35 read as follows:

36 (1) By November 15, 2013, and November 15th every two years
37 thereafter, the department, in consultation with the department of
38 transportation, office of financial management, and institutions of
39 higher education as defined in RCW 28B.10.016, shall submit a report

1 to the appropriate committees of the legislature providing verifiable
2 information regarding the percentage of state contracts awarded to
3 small businesses and effects the technical assistance under RCW
4 43.19.725(3) is having on the number of small businesses annually
5 receiving state contracts (~~for goods and services purchased by the~~
6 ~~state~~)).

7 (2) By December 31, 2013, the department, the department of
8 transportation, and institutions of higher education as defined in
9 RCW 28B.10.016 must use the web-based information system created
10 under subsection (3)(a) of this section to capture the data required
11 under subsection (3)(a) of this section.

12 (3)(a) The department, in consultation with the department of
13 transportation and the department of commerce, must develop and
14 implement a web-based information system. The web-based information
15 system must be used to capture data, track outcomes, and provide
16 accurate and verifiable information regarding the effects the
17 technical assistance under RCW 43.19.725(3) is having on the number
18 of small businesses annually receiving state contracts for goods and
19 services purchased by the state. Such measurable data shall include,
20 but not be limited to: (i) The number of registered small businesses
21 that have been awarded state procurement contracts, (ii) the
22 percentage of total state dollars spent for goods and services
23 purchased from registered small businesses, and (iii) the number of
24 registered small businesses that have bid on but were not awarded
25 state purchasing contracts.

26 (b) By September 1, 2012, the department, in collaboration with
27 the department of transportation, shall submit a report to the
28 appropriate committees of the legislature providing any
29 recommendations for needed legislation to improve the collection of
30 data required under (a) of this subsection.

31 (c) By December 31, 2013, the department must make the web-based
32 information system available to all state purchasing agencies.

33 (d) The department may also make the web-based information system
34 available to other agencies that would like to use the system for the
35 purposes of chapter 358, Laws of 2011.

36 (4) By December 31, 2024, state agencies must use the enterprise
37 procurement system created under subsection (5)(a) of this section to
38 capture the data required under subsection (5)(a) of this section.

39 (5)(a) The department, in consultation with the office of
40 financial management, must develop and implement an enterprise

1 procurement system. The enterprise procurement system must be used to
2 capture data, track outcomes, and provide accurate and verifiable
3 information regarding the number of small businesses annually
4 receiving state contracts. Such measurable data shall include, but is
5 not limited to: (i) The number of registered small businesses that
6 have been awarded state contracts, (ii) the percentage of total state
7 dollars spent for contracts from registered small businesses, and
8 (iii) the number of registered small businesses that have bid on but
9 were not awarded state contracts.

10 (b) By September 1, 2022, the department, in collaboration with
11 the office of financial management, shall submit a report to the
12 appropriate committees of the legislature providing any
13 recommendations for needed legislation to improve the collection of
14 data required under (a) of this subsection.

15 (c) By July 1, 2024, the department must make the enterprise
16 procurement system available to all state purchasing agencies.

17 (6) For the purposes of this section:

18 (a) "Agency" means any state agencies, departments, offices,
19 divisions, boards, commissions, institutions of higher education as
20 defined in RCW 28B.10.016, and correctional and other types of
21 institutions.

22 (b) "Small business" has the same meaning as defined in RCW
23 39.26.010.

24 NEW SECTION. Sec. 4. A new section is added to chapter 39.24
25 RCW to read as follows:

26 (1) State agencies must award at least three percent of all
27 public contracts that are exempt from competitive bidding
28 requirements under RCW 39.26.125 and 39.04.280 to small businesses.

29 (2) State agencies shall:

30 (a) Perform outreach to small businesses in collaboration with
31 the department of enterprise services to increase opportunities for
32 small businesses to participate in state contracts; and

33 (b) Report public contract information in the state enterprise
34 procurement system or another format required by the department of
35 enterprise services to establish how many contracts are being awarded
36 to small businesses.

37 (3) For the purposes of this section:

38 (a) "Agency" means any state agencies, departments, offices,
39 divisions, boards, commissions, institutions of higher education as

1 defined in RCW 28B.10.016, and correctional and other types of
2 institutions.

3 (b) "Small business" has the same meaning as defined in RCW
4 39.26.010.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 28B.10
6 RCW to read as follows:

7 All public contracts entered into under this chapter on or after
8 the effective date of this section are subject to the requirements
9 established in section 4 of this act.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 39.04
11 RCW to read as follows:

12 All public contracts entered into under this chapter on or after
13 the effective date of this section are subject to the requirements
14 established in section 4 of this act.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 39.26
16 RCW to read as follows:

17 All public contracts entered into under this chapter on or after
18 the effective date of this section are subject to the requirements
19 established in section 4 of this act.

20 **Sec. 8.** RCW 39.80.040 and 2016 sp.s. c 35 s 6010 are each
21 amended to read as follows:

22 In the procurement of architectural and engineering services, the
23 agency shall encourage firms engaged in the lawful practice of their
24 profession to submit annually a statement of qualifications and
25 performance data. The agency shall evaluate current statements of
26 qualifications and performance data on file with the agency, together
27 with those that may be submitted by other firms regarding the
28 proposed project, and shall conduct discussions with one or more
29 firms regarding anticipated concepts and the relative utility of
30 alternative methods of approach for furnishing the required services
31 and then shall select therefrom, based upon criteria established by
32 the agency, the firm deemed to be the most highly qualified to
33 provide the services required for the proposed project. Such agency
34 procedures and guidelines shall include a plan to ensure that small
35 businesses, including minority and women-owned firms and veteran-
36 owned firms, are afforded the maximum practicable opportunity to

1 compete for and obtain public contracts for services. The level of
2 participation by small businesses, including minority and women-owned
3 firms and veteran-owned firms, shall be consistent with their general
4 availability within the professional communities involved. (~~For the~~
5 ~~2015-2017 biennium the procurement for services related to modular~~
6 ~~classrooms may be expedited.~~)

--- END ---