

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2050
97TH GENERAL ASSEMBLY

5999H.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 8.231, 34.010, 34.040, 34.042, 34.044, 34.047, 34.378, 37.450, 37.900, 105.721, 172.320, 313.270, and 313.560, RSMo, and to enact in lieu thereof fourteen new sections relating to acquiring state assets, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 8.231, 34.010, 34.040, 34.042, 34.044, 34.047, 34.378, 37.450, 2 37.900, 105.721, 172.320, 313.270, and 313.560, RSMo, are repealed and fourteen new sections 3 enacted in lieu thereof, to be known as sections 8.231, 34.010, 34.040, 34.042, 34.044, 34.047, 4 34.049, 34.378, 37.450, 37.900, 105.721, 172.320, 313.270, and 313.560, to read as follows:

8.231. 1. For purposes of this section, the following terms shall mean:

- 2 (1) "Energy cost savings measure", a training program or facility alteration designed to
3 reduce energy consumption or operating costs, and may include one or more of the following:
4 (a) Insulation of the building structure or systems within the building;
5 (b) Storm windows or doors, caulking or weather stripping, multiglazed windows or
6 doors, heat absorbing or heat reflective glazed and coated window or door systems, additional
7 glazing reductions in glass area, or other window and door system modifications that reduce
8 energy consumption;
9 (c) Automated or computerized energy control system;
10 (d) Heating, ventilating or air conditioning system modifications or replacements;
11 (e) Replacement or modification of lighting fixtures to increase the energy efficiency of
12 the lighting system without increasing the overall illumination of a facility, unless an increase
13 in illumination is necessary to conform to the applicable state or local building code for the
14 lighting system after the proposed modifications are made;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 15 (f) Indoor air quality improvements to increase air quality that conforms to the applicable
16 state or local building code requirements;
- 17 (g) Energy recovery systems;
- 18 (h) Cogeneration systems that produce steam or forms of energy such as heat, as well as
19 electricity, for use primarily within a building or complex of buildings;
- 20 (i) Any life safety measures that provide long-term operating cost reductions and are in
21 compliance with state and local codes;
- 22 (j) Building operation programs that reduce the operating costs; or
- 23 (k) Any life safety measures related to compliance with the Americans With Disabilities
24 Act, 42 U.S.C. Section 12101, et seq., that provide long-term operating cost reductions and are
25 in compliance with state and local codes;
- 26 (2) "Governmental unit", a state government agency, department, institution, college,
27 university, technical school, legislative body or other establishment or official of the executive,
28 judicial or legislative branches of this state authorized by law to enter into contracts, including
29 all local political subdivisions such as counties, municipalities, public school districts or public
30 service or special purpose districts;
- 31 (3) "Guaranteed energy cost savings contract", a contract for the implementation of one
32 or more such measures. The contract shall provide that all payments, except obligations on
33 termination of the contract before its expiration, are to be made over time and the energy cost
34 savings are guaranteed to the extent necessary to make payments for the systems. Guaranteed
35 energy cost savings contracts shall be considered public works contracts to the extent that they
36 provide for capital improvements to existing facilities;
- 37 (4) "Operational savings", expenses eliminated and future replacement expenditures
38 avoided as a result of new equipment installed or services performed;
- 39 (5) "Qualified provider", a person or business experienced in the design, implementation
40 and installation of energy cost savings measures;
- 41 (6) "Request for proposals" or "RFP", a negotiated procurement.
- 42 2. No governmental unit shall enter into a guaranteed energy cost savings contract until
43 competitive proposals therefor have been solicited by the means most likely to reach those
44 contractors interested in offering the required services, including but not limited to direct mail
45 solicitation, electronic mail and public announcement on bulletin boards, physical or electronic.
46 The request for proposal shall include the following:
- 47 (1) The name and address of the governmental unit;
- 48 (2) The name, address, title and phone number of a contact person;
- 49 (3) The date, time and place where proposals shall be received;
- 50 (4) The evaluation criteria for assessing the proposals; and

51 (5) Any other stipulations and clarifications the governmental unit may require.

52 3. The governmental unit shall award a contract to the qualified provider that provides
53 the lowest and best **or best value** proposal which meets the needs of the unit if it finds that the
54 amount it would spend on the energy cost savings measures recommended in the proposal would
55 not exceed the amount of energy or operational savings, or both, within a fifteen-year period
56 from the date installation is complete, if the recommendations in the proposal are followed. The
57 governmental unit shall have the right to reject any and all bids. **Such contracts shall be**
58 **awarded to the qualified provider at a specified time and place which shall be open to the**
59 **public.**

60 4. The guaranteed energy cost savings contract shall include a written guarantee of the
61 qualified provider that either the energy or operational cost savings, or both, will meet or exceed
62 the costs of the energy cost savings measures, adjusted for inflation, within fifteen years. The
63 qualified provider shall reimburse the governmental unit for any shortfall of guaranteed energy
64 cost savings on an annual basis. The guaranteed energy cost savings contract may provide for
65 payments over a period of time, not to exceed fifteen years, subject to appropriation of funds
66 therefor.

67 5. The governmental unit shall include in its annual budget and appropriations measures
68 for each fiscal year any amounts payable under guaranteed energy savings contracts during that
69 fiscal year.

70 6. A governmental unit may use designated funds for any guaranteed energy cost savings
71 contract including purchases using installment payment contracts or lease purchase agreements,
72 so long as that use is consistent with the purpose of the appropriation.

73 7. Notwithstanding any provision of this section to the contrary, a not-for-profit
74 corporation incorporated pursuant to chapter 355 and operating primarily for educational
75 purposes in cooperation with public or private schools shall be exempt from the provisions of
76 this section.

34.010. 1. **The term "best value" as used in this chapter means evaluation criteria**
2 **which may include, but is not limited to, the following:**

- 3 (1) **The acquisition's operational cost a state agency would incur;**
- 4 (2) **The quality of the acquisition or its technical competency;**
- 5 (3) **The reliability of the bidder's delivery and implementation schedules;**
- 6 (4) **The acquisition's facilitation of data transfer and systems integration;**
- 7 (5) **The acquisition's warranties and guarantees and the bidder's return policy;**
- 8 (6) **The bidder's financial stability;**
- 9 (7) **The acquisition's adherence to the state agency's planning documents and**
10 **announced strategic program direction;**

11 **(8) The bidder's industry and program experience and record of successful past**
12 **performance with acquisitions of similar scope and complexity;**

13 **(9) The anticipated acceptance by user groups; and**

14 **(10) The acquisition's use of proven development methodology and innovative use**
15 **of current technologies that lead to quality results.**

16 **2.** The term "department" as used in this chapter shall be deemed to mean department,
17 office, board, commission, bureau, institution, or any other agency of the state, except the
18 legislative and judicial departments.

19 **[2.] 3.** The term "lowest and best" in determining the lowest and best award, cost, and
20 other factors are to be considered in the evaluation process. Factors may include, but are not
21 limited to, value, performance, and quality of a product.

22 **[3.] 4.** The term "Missouri product" refers to goods or commodities which are
23 manufactured, mined, produced, or grown by companies in Missouri, or services provided by
24 such companies.

25 **[4.] 5.** The term "negotiation" as used in this chapter means the process of selecting a
26 contractor by the competitive methods described in this chapter, whereby the commissioner of
27 administration can establish any and all terms and conditions of a procurement contract by
28 discussion with one or more prospective contractors.

29 **[5.] 6.** The term "purchase" as used in this chapter shall include the rental or leasing of
30 any equipment, articles or things.

31 **[6.] 7.** The term "supplies" used in this chapter shall be deemed to mean supplies,
32 materials, equipment, contractual services and any and all articles or things, except for utility
33 services regulated under chapter 393 or as in this chapter otherwise provided.

34 **[7.] 8.** The term "value" includes but is not limited to price, performance, and quality.
35 In assessing value, the state purchaser may consider the economic impact to the state of Missouri
36 for Missouri products versus the economic impact of products generated from out of state. This
37 economic impact may include the revenues returned to the state through tax revenue obligations.

 34.040. 1. All purchases in excess of [three] **ten** thousand dollars, **adjusted for**
2 **inflation annually based on the dollar's value as of August 28, 2013**, shall be based on
3 competitive bids, except as otherwise provided in this chapter.

4 2. On any purchase where the estimated expenditure shall be [twenty-five] **one hundred**
5 thousand dollars or over, **adjusted for inflation annually based on the dollar's value as of**
6 **August 28, 2013**, except as provided in subsection 5 of this section, the commissioner of
7 administration shall:

8 (1) Advertise for bids in at least two daily newspapers of general circulation in such
9 places as are most likely to reach prospective bidders and may advertise in at least two weekly

10 minority newspapers and may provide such information through an electronic medium available
11 to the general public at least five days before bids for such purchases are to be opened. Other
12 methods of advertisement, which may include minority business purchase councils, however,
13 may be adopted by the commissioner of administration when such other methods are deemed
14 more advantageous for the supplies to be purchased;

15 (2) Post a notice of the proposed purchase in his or her office; and

16 (3) Solicit bids by mail or other reasonable method generally available to the public from
17 prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the
18 commissioner of administration so as to reach such office before the time set for opening bids.

19 3. The contract shall be let to the lowest and best **or best value bidder at a specified**
20 **time and place which shall be open to the public.** The commissioner of administration shall
21 have the right to reject any or all bids and advertise for new bids, or purchase the required
22 supplies on the open market if they can be so purchased at a better price. When bids received
23 pursuant to this section are unreasonable or unacceptable as to terms and conditions,
24 noncompetitive, or the low bid exceeds available funds and it is determined in writing by the
25 commissioner of administration that time or other circumstances will not permit the delay
26 required to resolicit competitive bids, a contract may be negotiated pursuant to this section,
27 provided that each responsible bidder who submitted such bid under the original solicitation is
28 notified of the determination and is given a reasonable opportunity to modify their bid and
29 submit a best and final bid to the state. In cases where the bids received are noncompetitive or
30 the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected
31 bid of any responsible bidder under the original solicitation.

32 4. All bids shall be based on standard specifications wherever such specifications have
33 been approved by the commissioner of administration. The commissioner of administration shall
34 make rules governing the delivery, inspection, storage and distribution of all supplies so
35 purchased and governing the manner in which all claims for supplies delivered shall be
36 submitted, examined, approved and paid. The commissioner shall determine the amount of bond
37 or deposit and the character thereof which shall accompany bids or contracts.

38 5. The department of natural resources may, without the approval of the commissioner
39 of administration required pursuant to this section, enter into contracts of up to five hundred
40 thousand dollars to abate illegal waste tire sites pursuant to section 260.276 when the director
41 of the department determines that urgent action is needed to protect public health, safety, natural
42 resources or the environment. The department shall follow bidding procedures pursuant to this
43 section and may promulgate rules necessary to establish such procedures. Any rule or portion
44 of a rule, as that term is defined in section 536.010, that is created under the authority delegated
45 in this section shall become effective only if it complies with and is subject to all of the

46 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
47 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536
48 to review, to delay the effective date or to disapprove and annul a rule are subsequently held
49 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
50 August 28, 1999, shall be invalid and void.

51 6. The commissioner of administration and other agencies to which the state purchasing
52 law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of
53 the vendor makes sales at retail of tangible personal property or for the purpose of storage, use,
54 or consumption in this state but fails to collect and properly pay the tax as provided in chapter
55 144. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity
56 that is controlled by or is under common control with the vendor, whether through stock
57 ownership or otherwise.

34.042. 1. When the commissioner of administration determines that the use of
2 competitive bidding is either not practicable or not advantageous to the state, supplies may be
3 procured by competitive proposals. The commissioner shall state the reasons for such
4 determination, and a report containing those reasons shall be maintained with the vouchers or
5 files pertaining to such purchases. All purchases in excess of [five] **ten** thousand dollars,
6 **adjusted for inflation annually based on the dollar's value as of August 28, 2013**, to be made
7 under this section shall be based on competitive proposals.

8 2. On any purchase where the estimated expenditure shall be [twenty-five] **one hundred**
9 thousand dollars or over, **adjusted for inflation annually based on the dollar's value as of**
10 **August 28, 2013**, the commissioner of administration shall:

11 (1) Advertise for proposals in at least two daily newspapers of general circulation in such
12 places as are most likely to reach prospective offerors and may advertise in at least two weekly
13 minority newspapers and may provide such information through an electronic medium available
14 to the general public at least five days before proposals for such purchases are to be opened.
15 Other methods of advertisement, however, may be adopted by the commissioner of
16 administration when such other methods are deemed more advantageous for the supplies to be
17 purchased;

18 (2) Post notice of the proposed purchase; and

19 (3) Solicit proposals by mail or other reasonable method generally available to the public
20 from prospective offerors. All proposals for such supplies shall be mailed or delivered to the
21 office of the commissioner of administration so as to reach such office before the time set for
22 opening proposals. Proposals shall be opened in a manner to avoid disclosure of contents to
23 competing offerors during the process of negotiation. **The provisions of this subdivision shall**
24 **not apply to the reverse auctions authorized under section 34.049.**

25 3. The contract shall be let to the lowest and best **or best value** offeror **at a specified**
26 **time and place which shall be open to the public**, as determined by the evaluation criteria
27 established in the request for proposal and any subsequent negotiations conducted pursuant to
28 this subsection. In determining the lowest and best **or best value, as defined in section 34.010**,
29 offeror, as provided in the request for proposals and under rules promulgated by the
30 commissioner of administration, negotiations may be conducted with responsible offerors who
31 submit proposals selected by the commissioner of administration on the basis of reasonable
32 criteria for the purpose of clarifying and assuring full understanding of and responsiveness to the
33 solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect
34 to any opportunity for negotiation and subsequent revision of proposals. Revisions may be
35 permitted after submission and before award for the purpose of obtaining best and final offers.
36 In conducting negotiations there shall be no disclosure of any information derived from proposals
37 submitted by competing offerors. The commissioner of administration shall have the right to
38 reject any or all proposals and advertise for new proposals or purchase the required supplies on
39 the open market if they can be so purchased at a better price.

40 4. The commissioner shall make available, upon request, to any members of the general
41 assembly, information pertaining to competitive proposals, including the names of bidders and
42 the amount of each bidder's offering for each contract.

34.044. 1. The commissioner of administration may waive the requirement of
2 competitive bids or proposals for supplies when the commissioner has determined in writing that
3 there is only a single feasible source for the supplies. Immediately upon discovering that other
4 feasible sources exist, the commissioner shall rescind the waiver and proceed to procure the
5 supplies through the competitive processes as described in this chapter. A single feasible source
6 exists when:

7 (1) Supplies are proprietary and only available from the manufacturer or a single
8 distributor; or

9 (2) Based on past procurement experience, it is determined that only one distributor
10 services the region in which the supplies are needed; or

11 (3) Supplies are available at a discount from a single distributor for a limited period of
12 time.

13 2. On any single feasible source purchase where the estimated expenditure shall be [five]
14 **ten** thousand dollars or over, **adjusted for inflation annually based on the dollar's value as**
15 **of August 28, 2013**, the commissioner of administration shall post notice of the proposed
16 purchase. Where the estimated expenditure is [twenty-five] **one hundred** thousand dollars or
17 over, **adjusted for inflation annually based on the dollar's value as of August 28, 2013**, the
18 commissioner of administration shall also advertise the commissioner's intent to make such

19 purchase in at least two daily newspapers of general circulation in such places as are most likely
20 to reach prospective bidders or offerors and may provide such information through an electronic
21 medium available to the general public at least five days before the contract is to be let. Other
22 methods of advertisement, however, may be adopted by the commissioner of administration
23 when such other methods are deemed more advantageous for the supplies to be purchased. The
24 requirement for advertising may be waived, if not feasible, due to the supplies being available
25 at a discount for only a limited period of time.

34.047. Notwithstanding any provision in section 34.040, section 34.100, or any other
2 law to the contrary, departments shall have the authority to purchase products and services
3 related to information technology when the estimated expenditure of such purchase shall not
4 exceed seventy-five thousand dollars, the length of any contract or agreement does not exceed
5 twelve months, the department complies with the informal methods of procurement established
6 in section 34.040, and 1 CSR 40-1.050(1) for expenditures of less than [twenty-five] **one**
7 **hundred** thousand dollars, **adjusted for inflation annually based on the dollar's value as of**
8 **August 28, 2013**, and the department posts notice of such proposed purchase on the online
9 bidding/vendor registration system maintained by the office of administration. For the purposes
10 of this section, "information technology" shall mean any computer or electronic information
11 equipment or interconnected system that is used in the acquisition, storage, manipulation,
12 management, movement, control, display, switching, interchange, transmission, or reception of
13 information, including audio, graphic, and text.

**34.049. 1. The commissioner of administration shall be authorized to hold reverse
2 auctions for the purchase of specific commodities.**

3 **2. Prior to the commencement of bidding, all criteria of a bid must be established,**
4 **and any vendor participating must meet all the requirements at the time of bidding.**

5 **3. Participating vendors shall be able to see the best price offered at all times during**
6 **the reverse auction.**

7 **4. The use of reverse auctions shall be limited to purchases of large quantities of**
8 **highly standardized, readily available commodities the selection of which depends solely**
9 **on price and obtainability from a reasonable number of qualified competitors.**

34.378. 1. The state shall not enter into a contingency fee contract with a private
2 attorney unless the attorney general makes a written determination prior to entering into such a
3 contract that contingency fee representation is both cost effective and in the public interest. Any
4 written determination shall include specific findings for each of the following factors:

5 (1) Whether there exists sufficient and appropriate legal and financial resources within
6 the attorney general's office to handle the matter;

7 (2) The time and labor required; the novelty, complexity, and difficulty of the questions
8 involved; and the skill requisite to perform the attorney services properly;

9 (3) The geographic area where the attorney services are to be provided; and

10 (4) The amount of experience desired for the particular kind of attorney services to be
11 provided and the nature of the private attorney's experience with similar issues or cases.

12 2. If the attorney general makes the determination described in subsection 1 of this
13 section, the attorney general shall request written proposals from private attorneys to represent
14 the state, unless the attorney general determines that requesting proposals is not feasible under
15 the circumstances and sets forth the basis for this determination in writing. If a request for
16 proposals is issued, the attorney general shall choose the lowest and best **or best value** bid or
17 request the office of administration establish an independent panel to evaluate the proposals and
18 choose the lowest and best **or best value** bid. **The lowest and best or best value bid shall be**
19 **awarded at a specified time and place which shall be open to the public.**

20 3. The state shall not enter into a contract for contingency fee attorney services unless
21 the following requirements are met throughout the contract period and any extensions to the
22 contract:

23 (1) The government attorneys shall retain complete control over the course and conduct
24 of the case;

25 (2) A government attorney with supervisory authority shall oversee the litigation;

26 (3) The government attorneys shall retain veto power over any decisions made by outside
27 counsel;

28 (4) A government attorney with supervisory authority for the case shall attend all
29 settlement conferences; and

30 (5) Decisions regarding settlement of the case shall be reserved exclusively to the
31 discretion of the attorney general.

32 4. The attorney general shall develop a standard addendum to every contract for
33 contingent fee attorney services that shall be used in all cases, describing in detail what is
34 expected of both the contracted private attorney and the state, including, without limitation, the
35 requirements listed in subsection 3 of this section.

36 5. Copies of any executed contingency fee contract and the attorney general's written
37 determination to enter into a contingency fee contract with the private attorney shall be posted
38 on the attorney general's website for public inspection within five business days after the date
39 the contract is executed and shall remain posted on the website for the duration of the
40 contingency fee contract, including any extensions or amendments to the contract. Any payment
41 of contingency fees shall be posted on the attorney general's website within fifteen days after the

42 payment of such contingency fees to the private attorney and shall remain posted on the website
43 for at least three hundred sixty-five days.

44 6. Any private attorney under contract to provide services to the state on a contingency
45 fee basis shall, from the inception of the contract until at least four years after the contract
46 expires or is terminated, maintain detailed current records, including documentation of all
47 expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial
48 transactions that concern the provision of such attorney services. The private attorney shall
49 maintain detailed contemporaneous time records for the attorneys and paralegals working on the
50 matter in increments of no greater than one-tenth of an hour and shall promptly provide these
51 records to the attorney general, upon request. Any request under chapter 610 for inspection and
52 copying of such records shall be served upon and responded to by the attorney general's office.

53 7. By February first of each year, the attorney general shall submit a report to the
54 president pro tem of the senate and the speaker of the house of representatives describing the use
55 of contingency fee contracts with private attorneys in the preceding calendar year. At a
56 minimum, the report shall:

57 (1) Identify all new contingency fee contracts entered into during the year and all
58 previously executed contingency fee contracts that remain current during any part of the year,
59 and for each contract describe:

60 (a) The name of the private attorney with whom the department has contracted, including
61 the name of the attorney's law firm;

62 (b) The nature and status of the legal matter;

63 (c) The name of the parties to the legal matter;

64 (d) The amount of any recovery; and

65 (e) The amount of any contingency fee paid;

66 (2) Include copies of any written determinations made under subsections 1 and 2 of this
67 section.

37.450. 1. As used in this section, the following terms shall mean:

2 (1) **"Agency", each department, commission, board, council, agency, institution,**
3 **office, corporation, fund, division, office, committee, authority, laboratory, library, unit,**
4 **bureau, panel, or other administrative unit of the state and institutions of higher**
5 **education;**

6 (2) "Commissioner", the commissioner of administration;

7 [(2)] (3) "Fleet manager", the state vehicle fleet manager created pursuant to subsection
8 2 of this section;

9 [(3)] (4) "State vehicle fleet", all vehicles used by the state or titled to the state for the
10 purpose of conducting state business; and

11 [(4)] (5) "Vehicle", as defined in section 301.010.

12 2. There is hereby created within the office of administration the position of state vehicle
13 fleet manager. The fleet manager shall be appointed by the commissioner of administration
14 pursuant to the provisions of chapter 36.

15 3. The fleet manager shall institute and supervise a state fleet vehicle tracking system in
16 which the cost of owning and operating each state vehicle is documented by the agency owning
17 the vehicle. All state agencies shall report the purchase and the sale of any vehicle to the fleet
18 manager and provide any additional information requested by the fleet manager in the format,
19 manner and frequency determined by the office of administration. The fleet manager shall have
20 the authority to suspend any agency's use of its credits established pursuant to section 37.452 if
21 the agency does not comply with the requirements of this section or section 307.402 until he or
22 she is satisfied that such compliance is achieved.

23 4. The fleet manager shall submit an annual report to the speaker of the house of
24 representatives, the president pro tempore of the senate and the governor before January
25 thirty-first of each year. The fleet manager's report shall consist of the status of the state vehicle
26 fleet and any recommendations for improvements and changes necessary for more efficient
27 management of the fleet.

28 5. **(1) In addition to the annual report required in subsection 4 of this section,**
29 **the fleet manager shall develop and coordinate the implementation of a statewide vehicle**
30 **fleet cost efficiency plan to ensure continuing progress toward statewide overall cost**
31 **reduction in government vehicle costs. The plan shall include:**

32 **(a) Goals for vehicle fleet cost efficiency;**

33 **(b) A summary of agency submitted plans, statistics, and progress;**

34 **(c) Annual standard measures of cost including:**

35 **a. Vehicle cost per mile;**

36 **b. Aggregate daily passenger vehicle utilization ratios for each state entity's fleet;**

37 **c. Total vehicles;**

38 **d. Total fuel used;**

39 **e. Alternative fuel used;**

40 **f. Total miles; and**

41 **g. Miles per gallon of fuel;**

42 **(d) Goals for purchasing the most economically appropriate size and type of vehicle**
43 **for the purposes and driving conditions for which the vehicle will be used;**

44 **(e) Cost reduction measures which may include:**

45 **a. Reducing vehicle engine idle time;**

46 **b. Driving fewer miles;**

- 47 **c. Using car pools, when possible;**
48 **d. Avoiding rush hour traffic;**
49 **e. Reducing aggressive driving;**
50 **f. Providing proper preventative maintenance including properly inflated tires;**
51 **g. Using the lowest octane fuel needed;**
52 **(f) Reducing inventories of underutilized vehicles; and**
53 **(g) Education to inform drivers of their accountability on implementing cost**
54 **reduction measures.**

55 **(2) The fleet manager shall assist agencies to develop and implement their own**
56 **plan.**

57 **(3) Each agency that owns or leases vehicles shall develop, implement, and submit**
58 **to the fleet manager a vehicle fleet cost efficiency plan for their agency in accordance with**
59 **the provisions of subdivision (1) of this subsection. The plan shall include agency goals and**
60 **statistics, and a report of agency progress.**

61 **6.** The office of administration shall establish guidelines for determining the most
62 cost-effective and reasonable mode of travel under the circumstances for single trips from the
63 following options: passenger rail, vehicle rental, fleet checkout and reimbursement for personal
64 car use.

65 **[6.] 7.** The commissioner shall issue policies governing the acquisition, assignment, use,
66 replacement and maintenance of state-owned vehicles.

67 **[7.] 8.** Each agency shall pay a state vehicle fleet fee, as determined by the office of
68 administration, for each vehicle it owns for the purpose of funding the state fleet vehicle tracking
69 system and for other administrative expenses incurred in management of the state vehicle fleet.
70 Any agency that owns at least one thousand vehicles shall receive a credit against the state
71 vehicle fleet fee for the internal fleet management services performed by such agency, provided
72 such agency furnishes all information required by the fleet manager.

73 **[8.] 9.** State agencies shall be responsible for ensuring that state vehicles are used only
74 for state business and not for private purposes.

37.900. 1. Any statewide elected official may request the office of administration to
2 determine the lowest and best **or best value, as defined in section 34.010**, bidder with respect
3 to any contract for purchasing, printing, or services for which the official has the authority to
4 contract **which shall be awarded at a specified time and place and open to the public.**

5 2. The official shall submit the original request for proposal and any pertinent
6 information explaining the evaluation criteria established in the request and any additional
7 information the official deems necessary.

8 3. The office of administration shall not be required to inquire of or negotiate with any
9 offeror submitting a bid and shall only be required to reply to the elected official within forty-five
10 days after the submission of the request by naming the offeror the office of administration
11 determines to be the lowest and best **or best value, as defined in section 34.010**, bidder based
12 on all submitted documents **which shall be awarded at a specified time and place and open**
13 **to the public.**

172.320. 1. The curators of the University of Missouri shall adopt policies and rules to
2 require selection of the lowest and best **or best value, as defined in section 34.010**, bid when
3 bidding bank depository agreements or when purchasing supplies or other personal property.
4 **The lowest and best or best value bid shall be awarded at a specified time and place which**
5 **shall be open to the public.**

6 2. The curators of the University of Missouri shall promulgate and approve a conflict of
7 interest policy and regulations thereto.

8 3. Employees of the university may be directly or indirectly interested in a contract with
9 the curators of the University of Missouri if the employee discloses such a direct or indirect
10 interest prior to execution of the contract and the contract would not constitute a conflict of
11 interest as determined by the policy required by subsection 2 of this section. Failure by the
12 employee to disclose such an interest may constitute grounds for discipline of the employee or
13 cancellation of the contract or both.

14 4. Curators of the university in their individual capacity shall disclose any possible
15 conflict of interest that may arise and shall not participate in any decision of the board as
16 otherwise provided by law.

105.721. 1. The commissioner of administration may, in his discretion, direct that any
2 or all
3 of the moneys appropriated to the state legal expense fund be expended to procure one or more
4 policies of insurance to insure against all or any portion of the potential liabilities of the state of
5 Missouri or its agencies, officers, and employees.

6 2. [Until July 1, 1996, the commissioner of administration may procure one or more
7 policies of insurance or reinsurance to insure against all potential losses from liabilities incurred
8 by the state legal expense fund under paragraphs (d) and (e) of subdivision (3) of subsection 2
9 of section 105.711. On or before January 1, 1996, the commissioner of administration shall
10 prepare and distribute a report regarding the cost effectiveness of insuring against potential losses
11 to the state under paragraphs (d) and (e) of subdivision (3) of subsection 2 of section 105.711,
12 by the direct purchase of an insurance policy or policies as compared to self-insuring against
13 such losses through appropriations to the state legal expense fund under section 105.711. The

14 report shall be submitted to the governor, the speaker of the house of representatives, the
15 president pro tempore of the senate, and upon request to any member of the general assembly.

16 3.] After consultation with the state courts administrator, the commissioner of
17 administration shall procure [such surety bonds as are required by statute and such surety bonds]
18 **a blanket bond or crime insurance policy** as [he] **the commissioner** deems necessary to
19 protect the state against loss from the acts or omissions of any person within the judiciary that
20 receives compensation from the state. No other bond for such person shall be required for the
21 protection of the state. A copy of any bond **or crime insurance policy** procured pursuant to this
22 section shall be filed with the secretary of state.

23 3. **The commissioner of administration may require a bond of any officer,**
24 **employee, or agent of the state who has responsibility for or has access to any money or**
25 **property belonging to the state or in which the state may have an interest and who is not**
26 **otherwise required by law to give a bond. The amounts of the bonds shall be fixed by the**
27 **commissioner of administration.**

28 4. **Notwithstanding any other provision of the law to the contrary, in lieu of**
29 **individual bonds, the commissioner of administration may elect to procure one or more**
30 **blanket bonds, suitable crime insurance policies endorsed to include faithful performance,**
31 **or elect to assume the risk for any or all officers and employees of the state. Any blanket**
32 **bond or crime insurance policy procured shall contain such coverages, terms, and**
33 **conditions, and shall contain such coverage limits and deductibles as the commissioner of**
34 **administration deems adequate to protect the interests of the state but not less than the**
35 **aggregate coverage limits otherwise prescribed by law. Procurement of a blanket bond,**
36 **crime insurance policy, or creation of a self-assumption program shall constitute**
37 **compliance with any statute requiring any officer or employee of the state to be bonded.**
38 **Notwithstanding any other provision of the law to the contrary, the costs of any blanket**
39 **bond, crime insurance policy, or self-assumption program authorized by this section shall**
40 **be paid from the state legal expense fund.**

313.270. 1. The director, pursuant to rules and regulations issued by the commission,
2 may directly purchase or lease such goods or services as are necessary for effectuating the
3 purposes of sections 313.200 to 313.350, including procurements which integrate functions such
4 as lottery game design, supply of goods and services, and advertising. The lottery commission
5 by approved rule may purchase goods made in the United States and sold by a Missouri business
6 to be given away as prizes within the provisions of section 313.321. Contracts shall be awarded
7 to lottery contractors or lottery vendors on the basis of lowest and best **or best value, as defined**
8 **in section 34.010**, bid on an evaluated basis in order to maximize revenues to the lottery fund.
9 **The lowest and best or best value bid shall be awarded at a specified time and place which**

10 **shall be open to the public.** The director may also utilize state purchasing procedures. The
11 director shall award at least ten percent of the aggregate dollar amount of all contracts to provide
12 goods and services to the lottery to minority business enterprises as defined by the office of
13 administration and shall award at least five percent of the aggregate dollar amount of all
14 contracts to provide goods and services to the lottery to women business enterprises as defined
15 by the office of administration. No contract awarded or entered into by the director may be
16 assigned by the holder thereof except by specific approval of the commission.

17 2. Any contract awarded to any lottery contractor or vendor shall provide that such
18 contractor or vendor shall award a minimum of ten percent of his subcontracted business to
19 minority business enterprises as defined by the office of administration and shall award a
20 minimum of five percent of his subcontracted business to women business enterprises as defined
21 by the office of administration. This section shall not apply to multistate lottery.

22 3. Any lottery vendor which enters into a contract to supply lottery materials, services
23 or equipment for use in the operation of the state lottery shall first disclose such information as
24 the commission may require, by rule and regulation, concerning the selection of lottery vendors.

25 4. The costs of any investigation into the background of the applicant seeking a contract
26 shall be assessed against the applicant and shall be paid by the applicant at the time of billing by
27 the state.

28 5. Performance bonds shall be posted by each contractor with the commission with a
29 surety acceptable to the commission in an amount as may be required by the commission, but
30 not to exceed the expected total value of the contract. The contract of any lottery contractor who
31 does not comply with such requirements may be terminated by the commission. The
32 commission may terminate the contract of any lottery vendor who:

- 33 (1) Is convicted of any felony;
34 (2) Is convicted of any gambling-related offense;
35 (3) Is convicted of any crime involving fraud or misrepresentation;
36 (4) Fails to comply with the rules and regulations of the commission existing at the time
37 the contract was entered into; or
38 (5) Fails to periodically update any disclosure requirements.

39 6. The provisions in this section requiring that certain percentages of lottery contracts
40 and subcontracts be awarded to businesses owned and controlled by women or ethnic and racial
41 minorities shall expire on January 1, 2005.

313.560. The commission shall have all powers necessary and proper to fully and
2 effectively execute the provisions of sections 313.500 to 313.710 including, but not limited to,
3 the following:

4 (1) The provisions of chapter 34 to the contrary notwithstanding, the executive director,
5 pursuant to rules and regulations issued by the commission, may directly purchase or lease such
6 goods or services as are necessary for effectuating the purposes of sections 313.500 to 313.710,
7 provided however, that the board of public buildings shall provide the principal office space for
8 the commission's staff. Contracts shall be awarded on the basis of lowest and best **or best value,**
9 **as defined in section 340.010, bid at a specified time and place which shall be open to the**
10 **public.** The executive director shall use state purchasing procedures except for professional
11 services or emergency purchases necessary for the race meet authorized pursuant to section
12 34.100. No contract awarded or entered into by the executive director may be assigned by the
13 holder thereof except with specific approval of the commission;

14 (2) The commission is vested with the power to enter without a search warrant the office,
15 horse race track, facilities, other places of business, residences, tack rooms, vehicles and any
16 other premises under the control of any licensee on the grounds of a licensed association at all
17 reasonable hours to determine whether there has been compliance with the provisions of sections
18 313.500 to 313.710 and rules and regulations promulgated thereunder, and to discover any
19 contraband as described in chapter 195 or in rules promulgated pursuant to sections 313.500 to
20 313.710;

21 (3) The commission is vested with the authority to investigate alleged violations of the
22 provisions of sections 313.500 to 313.710, its reasonable rules and regulations, orders and final
23 decisions; the commission shall take appropriate disciplinary action, including suspension or
24 revocation of the license, against any race track licensee or occupation licensee for violation
25 thereof or institute appropriate legal action for the enforcement thereof pursuant to subdivision
26 (10) of this section;

27 (4) The commission may eject or exclude from any race meeting or licensee grounds or
28 any part thereof, any occupation licensee or any other individual whose conduct or reputation is
29 such that his presence on licensee grounds may, in the opinion of the commission, call into
30 question the honesty and integrity of horse racing or interfere with the orderly conduct of horse
31 racing; provided, however, that no person shall be excluded or ejected from licensee grounds on
32 the grounds of race, color, creed, national origin, ancestry, or sex. The commission shall by rule
33 provide for an expedited hearing for any occupation licensee excluded pursuant to this
34 subsection;

35 (5) The commission is vested with the power to acquire, establish, maintain and operate,
36 or provide by contract testing laboratories and related facilities, for the purpose of conducting
37 saliva, blood, urine and other tests on the horses run or to be run in any race meeting and to lease
38 or purchase all equipment and supplies deemed necessary or desirable in connection with any
39 such testing laboratories and related facilities and all such tests. The commission shall explore

40 the feasibility of establishing such a testing facility at and in conjunction with the University of
41 Missouri, College of Veterinary Medicine. The race track licensee shall on a per sample basis
42 pay a fee as determined by the commission for such laboratory testing services;

43 (6) The commission may require that the records, including financial or other statements
44 of any race track licensee under sections 313.500 to 313.710, shall be kept in such manner as
45 prescribed by the commission and that any race track licensee submit to the commission on or
46 before March fifteenth of each year, for the preceding fiscal year of the licensee an annual
47 audited balance sheet and profit and loss statement and any other information the commission
48 deems necessary in order to effectively administer sections 313.500 to 313.710 and all rules,
49 regulations, orders and final decisions promulgated under sections 313.500 to 313.710. The
50 fiscal year for any licensee shall be the calendar year;

51 (7) The commission shall require that there shall be three stewards at each horse race
52 meeting, who shall be appointed by the commission. They shall be paid for by the state and shall
53 be considered state employees for all purposes. Stewards appointed by the commission, while
54 performing duties required by sections 313.500 to 313.710 or by the commission, shall be
55 entitled to the same rights and immunities as granted to commission members and employees
56 under section 313.570;

57 (8) The commission is vested with the power to impose civil penalties of up to five
58 thousand dollars against individuals and up to ten thousand dollars against organizations for each
59 violation of any provision of sections 313.500 to 313.710, any rules adopted by the commission,
60 any lawful order of the commission or any other action which, in the commission's discretion,
61 is found to be a detriment or impediment to horse racing. Such penalties, when recovered, shall
62 be paid into the Missouri horse racing fund. Any civil penalties so imposed shall be sued for by
63 the attorney general in the name of the state;

64 (9) The commission may request that the attorney general make investigations, on behalf
65 of and in the name of the commission, and bring suits or institute proceedings for any of the
66 purposes necessary and proper for carrying out the functions of the commission;

67 (10) The commission may request that the Missouri state highway patrol investigate or
68 participate in such matters as it deems necessary. The Missouri state highway patrol shall have
69 authority to investigate the commission relative to the operation and administration of sections
70 262.260 to 262.270 and 313.500 to 313.710, and to report suspected violations of state law or
71 federal law by the commission to the proper prosecuting authorities. In the event that a violation
72 of state law is reported to the proper prosecuting authority and no prosecution is commenced
73 within thirty days for alleged violations, the attorney general shall have authority to commence
74 prosecution for alleged violations of sections 262.260 to 262.270 and 313.500 to 313.710 or
75 other criminal statutes alleged to have been violated. The cost of personnel and related expenses

76 in the Missouri state highway patrol, including the division of drug and crime control, to
77 accomplish the purposes of this section shall be paid within the limits of appropriations from
78 general revenue, or from such other funding as may be authorized by the general assembly.

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