

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 918, Page 1, Section A, Line 3, by inserting after all of said section and line the
3 following:
4

5 "34.040. 1. All purchases in excess of [~~three~~] ten thousand dollars shall be based on
6 competitive bids, except as otherwise provided in this chapter.

7 2. On any purchase where the estimated expenditure shall be [~~twenty-five~~] one hundred
8 thousand dollars or over, except as provided in subsection 6 of this section, the commissioner of
9 administration shall:

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

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

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

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

33 4. The director of the department of revenue shall follow bidding procedures as contained in
34 this chapter and may promulgate rules necessary to establish such procedures. No points shall be
35 awarded on a request for proposal for a contract license office to a bidder for a return-to-the-state
36 provision offer.

Action Taken _____ Date _____

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

6. The department of natural resources may, without the approval of the commissioner of administration required pursuant to this section, enter into contracts of up to five hundred thousand dollars to abate illegal waste tire sites pursuant to section 260.276 when the director of the department determines that urgent action is needed to protect public health, safety, natural resources or the environment. The department shall follow bidding procedures pursuant to this section and may promulgate rules necessary to establish such procedures. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

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

8. The commissioner of administration shall be authorized to hold a reverse auction to procure merchandise, supplies, raw materials, or finished goods if price is the primary factor in evaluating bids. The office of administration shall promulgate rules regarding the handling of the reverse auction process. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.

34.042. 1. When the commissioner of administration determines that the use of competitive bidding is either not practicable or not advantageous to the state, supplies may be procured by competitive proposals. The commissioner shall state the reasons for such determination, and a report containing those reasons shall be maintained with the vouchers or files pertaining to such purchases. All purchases in excess of ~~[five]~~ ten thousand dollars to be made under this section shall be based on competitive proposals.

2. On any purchase where the estimated expenditure shall be ~~[twenty-five]~~ one hundred thousand dollars or over, the commissioner of administration shall:

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

1 such other methods are deemed more advantageous for the supplies to be purchased;

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

3 (3) Solicit proposals by mail or other reasonable method generally available to the public
4 from prospective offerors.

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6 All proposals for such supplies shall be mailed or delivered to the office of the commissioner of
7 administration so as to reach such office before the time set for opening proposals. Proposals shall
8 be opened in a manner to avoid disclosure of contents to competing offerors during the process of
9 negotiation.

10 3. The contract shall be let to the lowest and best offeror as determined by the evaluation
11 criteria established in the request for proposal and any subsequent negotiations conducted pursuant
12 to this subsection. In determining the lowest and best offeror, as provided in the request for
13 proposals and under rules promulgated by the commissioner of administration, negotiations may be
14 conducted with responsible offerors who submit proposals selected by the commissioner of
15 administration on the basis of reasonable criteria for the purpose of clarifying and assuring full
16 understanding of and responsiveness to the solicitation requirements. Those offerors shall be
17 accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent
18 revision of proposals; however, a request for a proposal may set forth the manner for determining
19 which offerors are eligible for negotiation including, but not limited to, the use of shortlisting.

20 Revisions may be permitted after submission and before award for the purpose of obtaining best and
21 final offers. In conducting negotiations there shall be no disclosure of any information derived from
22 proposals submitted by competing offerors. The commissioner of administration shall have the
23 right to reject any or all proposals and advertise for new proposals or purchase the required supplies
24 on the open market if they can be so purchased at a better price.

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

28 34.044. 1. The commissioner of administration may waive the requirement of competitive
29 bids or proposals for supplies when the commissioner has determined in writing that there is only a
30 single feasible source for the supplies. Immediately upon discovering that other feasible sources
31 exist, the commissioner shall rescind the waiver and proceed to procure the supplies through the
32 competitive processes as described in this chapter. A single feasible source exists when:

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

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

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

38 2. On any single feasible source purchase where the estimated expenditure shall be ~~[five]~~
39 ~~ten~~ thousand dollars or over, the commissioner of administration shall post notice of the proposed
40 purchase. Where the estimated expenditure is ~~[twenty-five]~~ one hundred thousand dollars or over,
41 the commissioner of administration shall also advertise the commissioner's intent to make such
42 purchase in at least two daily newspapers of general circulation in such places as are most likely to
43 reach prospective bidders or offerors and may provide such information through an electronic
44 medium available to the general public at least five days before the contract is to be let. Other
45 methods of advertisement, however, may be adopted by the commissioner of administration when
46 such other methods are deemed more advantageous for the supplies to be purchased. The
47 requirement for advertising may be waived, if not feasible, due to the supplies being available at a
48 discount for only a limited period of time.

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

34.353. 1. Each contract for the purchase or lease of manufactured goods or commodities by any public agency, and each contract made by a public agency for construction, alteration, repair, or maintenance of any public works shall contain a provision that any manufactured goods or commodities used or supplied in the performance of that contract or any subcontract thereto shall be manufactured or produced in the United States.

2. This section shall not apply where the purchase, lease, or contract involves an expenditure of less than ~~[twenty-five]~~ one hundred thousand dollars. This section shall not apply when only one line of a particular good or product is manufactured or produced in the United States.

3. This section shall not apply where the executive head of the public agency certifies in writing that:

(1) The specified products are not manufactured or produced in the United States in sufficient quantities to meet the agency's requirements or cannot be manufactured or produced in the United States within the necessary time in sufficient quantities to meet the agency's requirements;

(2) Obtaining the specified products manufactured or produced in the United States would increase the cost of the contract by more than ten percent;

(3) The specified products are to be purchased or leased by a state-supported four-year institute of higher education and such certification as required by subdivision (1) or (2) of this subsection has been made within the last three years;

(4) The specified products are to be purchased or leased by a publicly supported institution and such certification as required by subdivision (1) or (2) of this subsection has been made within the last three years; or

(5) The political subdivision has adopted a formal written policy to encourage the purchase of products manufactured or produced in the United States.

4. The certificate required by this section shall specify the nature of the contract, the product being purchased or leased, the names and addresses of the United States manufacturers and producers contacted by the public agency or the project architect or engineer, and an indication that such manufacturers or producers could not supply sufficient quantities or that the price of the products would increase the cost of the contract by more than ten percent.

5. Certificates required by this section shall be maintained by the public agency for a period of three years."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.