

MAR 3 1 2005
Place On Calendar

HOUSE FILE 829
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO HSB 168)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to bidding requirements for state executive
2 branch purchases.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 829

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1 Section 1. Section 8.6, Code 2005, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 15. MASTER CONTRACT REVIEW. To review
4 the documentation provided by state agencies to support the
5 use of master contracts with terms in excess of five years.

6 Sec. 2. Section 8A.311, subsection 1, Code 2005, is
7 amended to read as follows:

8 1. All equipment, supplies, or services procured by the
9 department shall be purchased by a competitive bidding
10 procedure as established by rule. ~~However,~~the The director
11 may exempt by rule purchases of noncompetitive items and
12 purchases in lots or quantities too small to be effectively
13 purchased by competitive bidding. The rules shall provide
14 that architectural and engineering services shall be procured
15 on the basis of bidder competence and reasonable price and
16 shall not be based on competitive bidding. The rules may
17 include the use of a master contract; however, a master
18 contract may be in effect for no longer than five years unless
19 a longer term is determined to provide a greater fiscal
20 savings; documentation which supports that determination shall
21 be provided to the department of management. A master
22 contract shall not be extended unless a competitive bidding
23 process is used. Any master contract in effect on July 1,
24 2005, may be extended as expressly provided by the terms of
25 the master contract; however, that extension may be for no
26 longer than three years. Preference shall be given to
27 purchasing Iowa products and purchases from Iowa-based
28 businesses if the Iowa-based business bids submitted are
29 comparable in price to bids submitted by out-of-state
30 businesses and otherwise meet the required specifications. If
31 the laws of another state mandate a percentage preference for
32 businesses or products from that state and the effect of the
33 preference is that bids of Iowa businesses or products that
34 are otherwise low and responsive are not selected in the other
35 state, the same percentage preference shall be applied to Iowa

1 businesses and products when businesses or products from that
2 other state are bid to supply Iowa requirements.

3 Sec. 3. Section 216B.3, subsection 12, unnumbered
4 paragraph 1, Code 2005, is amended to read as follows:

5 Manage and control the property, both real and personal,
6 belonging to the department. To the extent practicable,
7 equipment, supplies, or services procured by the department
8 shall be purchased through a competitive bidding procedure as
9 established by rule. However, the director may exempt by rule
10 purchases of noncompetitive items and purchases in lots or
11 quantities too small to be effectively purchased by
12 competitive bidding. The rules shall provide that
13 architectural and engineering services shall be procured on
14 the basis of bidder competence and reasonable price and shall
15 not be based on competitive bidding. The rules may include
16 the use of a master contract; however, a master contract may
17 be in effect for no longer than five years unless a longer
18 term is determined to provide a greater fiscal savings;
19 documentation which supports that determination shall be
20 provided to the department of management. A master contract
21 shall not be extended unless a competitive bidding process is
22 used; however, any master contract in effect on July 1, 2005,
23 may be extended once for a term no longer than three years.

24 PARAGRAPH DIVIDED. The commission shall, according to the
25 schedule established in this subsection, when the price is
26 reasonably competitive and the quality as intended, purchase
27 soybean-based inks and plastic products with recycled content,
28 including but not limited to plastic garbage can liners. For
29 purposes of this subsection, "recycled content" means that the
30 content of the product contains a minimum of thirty percent
31 postconsumer material.

32 Sec. 4. Section 262.9, Code 2005, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 31. Require, to the extent practicable,
35 that all equipment, supplies, or services procured by all

1 institutions under the jurisdiction of the board be purchased
2 through a competitive bidding procedure as established by
3 rule. However, the secretary may exempt by rule purchases of
4 noncompetitive items and purchases in lots or quantities too
5 small to be effectively purchased by competitive bidding. The
6 rules shall provide that architectural and engineering
7 services shall be procured on the basis of bidder competence
8 and reasonable price and shall not be based on competitive
9 bidding. The rules may include the use of a master contract;
10 however, a master contract may be in effect for no longer than
11 five years unless a longer term is determined to provide a
12 greater fiscal savings; documentation which supports that
13 determination shall be provided to the department of
14 management. A master contract shall not be extended unless a
15 competitive bidding process is used; however, any master
16 contract in effect on July 1, 2005, may be extended once for a
17 term no longer than three years.

18 Sec. 5. Section 307.21, subsection 4, paragraph a, Code
19 2005, is amended to read as follows:

20 a. Provide centralized purchasing services for the
21 department, in cooperation with the department of
22 administrative services. To the extent practicable,
23 equipment, supplies, or services procured by the department
24 shall be purchased through a competitive bidding procedure as
25 established by rule. However, the director may exempt by rule
26 purchases of noncompetitive items and purchases in lots or
27 quantities too small to be effectively purchased by
28 competitive bidding. The rules shall provide that
29 architectural and engineering services shall be procured on
30 the basis of bidder competence and reasonable price and shall
31 not be based on competitive bidding. The rules may include
32 the use of a master contract; however, a master contract may
33 be in effect for no longer than five years unless a longer
34 term is determined to provide a greater fiscal savings;
35 documentation which supports that determination shall be

1 provided to the department of management. A master contract
2 shall not be extended unless a competitive bidding process is
3 used; however, any master contract in effect on July 1, 2005,
4 may be extended once for a term no longer than three years.

5 PARAGRAPH DIVIDED. The administrator shall, when the price
6 is reasonably competitive and the quality as intended,
7 purchase soybean-based inks and plastic products with recycled
8 content, including but not limited to plastic garbage can
9 liners, and shall purchase these items in accordance with the
10 schedule established in section 8A.315. However, the
11 administrator need not purchase garbage can liners in
12 accordance with the schedule if the liners are utilized by a
13 facility approved by the environmental protection commission
14 created under section 455A.6, for purposes of recycling. For
15 purposes of this subsection, "recycled content" means that the
16 content of the product contains a minimum of thirty percent
17 postconsumer material.

18

EXPLANATION

19 This bill establishes a general policy for state executive
20 branch agencies that equipment, supplies, or services procured
21 by the state shall be purchased using a competitive bidding
22 procedure, when practicable. However, architectural and
23 engineering services shall be obtained on the basis of
24 competence and price instead of a competitive bid.

25 The bill also provides, as a general principle, that a
26 master contract may be in effect for only five years.
27 However, a longer term may be provided for if the agency
28 determines that it would provide greater savings.
29 Documentation that supports this determination must be
30 provided to the department of management, which is required to
31 review the documentation; the department does not have
32 approval authority. The bill contains a grandfather clause
33 for master contracts in effect on July 1, 2005; these
34 contracts may be extended as expressly provided in the
35 contract, but for no longer than three years.

1 A master contract is generally an agreement with a vendor
2 to sell a good or a service at a specified price, and allowing
3 any number of individual sales at that price usually to any
4 state agency.

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HOUSE FILE 829

H-1289

1 Amend House File 829 as follows:

2 1. Page 4, by inserting after line 17 the
3 following:

4 "Sec. ____ . STATE PROCUREMENT PROCESS STUDY. The
5 legislative council is requested to establish an
6 interim study to review purchasing processes and
7 procedures utilized by the state and other public
8 entities within this state. The study shall include a
9 review of the model procurement act developed and
10 recommended by the American bar association, as well
11 as the purchasing practices and procedures of other
12 states and other public entities outside this state
13 which currently utilize purchasing processes and
14 procedures based on the model procurement act.

15 The membership of the interim study committee shall
16 be comprised of the following:

17 1. Representatives of each of the following:

18 a. Political subdivisions authorized to purchase
19 goods and services through the use of public bidding
20 procedures.

21 b. State agencies with independent purchasing
22 authority.

23 c. State agencies that purchase goods and services
24 through the department of administrative services.

25 d. The department of administrative services.

26 e. The office of the attorney general.

27 f. Vendors who provide goods and services to
28 public entities in this state.

29 2. Four members of the general assembly, two each
30 from the senate and the house of representatives.

31 The interim study committee shall provide regular
32 updates on its progress to the committees on
33 government oversight. The interim study committee
34 shall provide a final report, including any
35 legislative proposals to the committees on government
36 oversight, by no later than February 1, 2007."

37 2. By renumbering as necessary.

By LENSING of Johnson

H-1289 FILED APRIL 4, 2005

HOUSE FILE 829

H-1369

1 Amend House File 829 as follows:

2 1. Page 3, line 4, by inserting after the word
3 "items" the following: ", service contracts executed
4 pursuant to section 8.47, subsection 3,".

By ALONS of Sioux

H-1369 FILED APRIL 14, 2005

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 829 - Bidding Requirements for State Purchases (LSB 2258 HV)
Analyst: Sam Leto (Phone: (515) 281-6764) (sam.let@legis.state.ia.us)
Fiscal Note Version - New

Description

House File 829 establishes guidelines for requiring the use of competitive bidding procedures for equipment, supplies, or services purchased by State agencies, including Regents institutions. The Bill establishes timeframes for the duration of new master contracts entered into by the State, with exceptions for current master contracts. Iowa-based companies and Iowa products are given preference over out-of-state businesses if bids are comparable in price. Architectural and engineering services are permitted to be obtained on the basis of competence and price instead of a competitive bid, which is the current practice.

Background

The Government Oversight Committee heard testimony from various Iowa vendors that they were not receiving notifications regarding opportunities to competitively bid for State of Iowa business needs. The Committee's interest was to allow fairness, help State businesses grow, and keep Iowa taxpayer dollars in the State. The Committee also wanted competitive bidding practices to be consistent throughout State Government as much as practical.

The Department of Administrative Services (DAS), formerly Department of General Services, maintains distributions lists of potential bidders for the various products that may be sought. The DAS prepares the Requests for Proposals (RFP) when seeking bids and may establish master contracts with the successful bidder for products that are needed by State agencies. Master contracts are intended to meet large volume or unique needs and to be cost effective. Terms of many master contracts allow annual extensions for several years beyond the initial duration of the contract.

Assumptions

1. Master contracts may be in effect for no longer than five years unless approved by the Department of Management.
2. Master contracts may not be extended beyond the stated duration without a competitive bidding process being used.
3. All State agencies with the exception of the Judicial and Legislative Branches are affected by the provisions in the Bill.
4. There may be additional costs related to development of RFPs and advertising for bids.
5. Any impacts to longstanding collaborations with current vendors have not been determined.
6. The ability for local governmental bodies to purchase from State master contracts is not affected.

Fiscal Impact

The estimated fiscal impact of HF 829 is unknown. Responses received from several State agencies range from little or no impact to several million dollars in additional costs from additional administrative costs, including additional FTE positions, and less revenues and savings due to lost discounts allowed under current long-term agreements. The Regents institutions also assumed a 15.0% cost increase relating to professional services that are not currently competitively bid. The amount of State economic benefits to Iowa vendors and State revenues cannot be quantified, but it would likely be an increase to both.

Sources

Board of Regents
Commission for the Blind
Department of Transportation
Judicial Branch

/s/ Holly M. Lyons

April 5, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

H-1392

1 Amend House File 829 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 1. NEW SECTION. 7E.5B DEPARTMENT AND
5 INDEPENDENT AGENCY SERVICE RELOCATIONS.

6 Prior to the relocation of an office that has the
7 primary responsibility of providing service or
8 assistance to the public or some segment of the
9 public, a department or independent agency shall
10 notify the city or county in which that office is
11 located of its intentions to relocate the office and
12 shall issue a request for proposals in order to select
13 the relocation site. The department or independent
14 agency shall consider only those sites proposed
15 through the request for proposals process. If the
16 proposals are rejected by the department or
17 independent agency, a new request for proposals shall
18 be issued. The term "service" or "assistance"
19 includes, but is not limited to, driver's licenses,
20 unemployment benefits, Medicaid, and other benefits."

21 2. Title page, line 1, by inserting after the
22 word "bidding" the following: "and other procurement
23 and relocation".

24 3. Title page, line 2, by striking the word
25 "purchases" and inserting the following: "agencies".

26 4. By renumbering as necessary.

By PETERSEN of Polk

H-1392 FILED APRIL 18, 2005

HOUSE FILE 829

H-1409

1 Amend House File 829 as follows:

2 1. Page 3, line 23, by inserting after the word
3 "department" the following: ", including the
4 relocation of any office of the department that has
5 the primary responsibility of providing service or
6 assistance to the public or some segment of the
7 public,".

8 2. Page 3, line 24, by striking the word
9 "purchased" and inserting the following:
10 "accomplished".

11 33. Page 4, by inserting after line 17 the
12 following:

13 "Sec. ____ . Section 307.21, subsection 4, Code
14 2005, is amended by adding the following new paragraph
15 after paragraph b:

16 NEW PARAGRAPH. bb. Prior to the relocation of any
17 office of the department that has the primary
18 responsibility of providing service or assistance to
19 the public or some segment of the public, the
20 department shall notify the city or county, in which
21 that office is located, of its intentions to relocate
22 the office and shall issue a request for proposals in
23 order to select the relocation site. The department
24 shall consider only those sites proposed through the
25 request for proposals process. If the proposals are
26 rejected by the department, a new request for
27 proposals shall be issued."

28 4. By renumbering as necessary.

By PETERSEN of Polk

H-1409 FILED APRIL 19, 2005

HOUSE FILE 829

H-1291

- 1 Amend House File 829 as follows:
2 1. Page 2, by striking lines 22 and 23, and
3 inserting the following: "used. Any master contract
4 in effect on July 1, 2005, may be extended as
5 expressly provided by the terms of the master
6 contract; however, that extension may be for no longer
7 than three years."
8 2. Page 3, by striking lines 15 through 17, and
9 inserting the following: "competitive bidding process
10 is used. Any master contract in effect on July 1,
11 2005, may be extended as expressly provided by the
12 terms of the master contract; however, that extension
13 may be for no longer than three years."
14 3. Page 4, by striking lines 3 and 4, and
15 inserting the following: "used. Any master contract
16 in effect on July 1, 2005, may be extended as
17 expressly provided by the terms of the master
18 contract; however, that extension may be for no longer
19 than three years."

By ALONS of Sioux

H-1291 FILED APRIL 4, 2005

HOUSE FILE 829

H-1312

- 1 Amend House File 829 as follows:
2 1. Page 1, line 14, by inserting after the word
3 "architectural" the following: ", landscape
4 architectural,".
5 2. Page 2, line 13, by inserting after the word
6 "architectural" the following: ", landscape
7 architectural,".
8 3. Page 3, line 6, by inserting after the word
9 "architectural" the following: ", landscape
10 architectural,".
11 4. Page 3, line 29, by inserting after the word
12 "architectural" the following: ", landscape
13 architectural,".

By ALONS of Sioux

H-1312 FILED APRIL 5, 2005

HOUSE FILE 829

H-1329

- 1 Amend House File 829 as follows:
2 1. By striking page 2, line 32, through page 3,
3 line 17.
4 2. By renumbering as necessary.

By WESSEL-KROESCHELL of Story

H-1329 FILED APRIL 5, 2005

HOUSE FILE 829

H-1431

1 Amend House File 829 as follows:

2 1. Page 3, by striking lines 10 through 17, and
3 inserting the following: "however, a master contract
4 shall be available for public inspection and the board
5 shall either file a copy of each such contract with
6 the department of management, or inform the department
7 of management where it may be found."

By JENKINS of Black Hawk
KURTENBACH of Story
ALONS of Sioux

H-1431 FILED APRIL 20, 2005

Alons
Baudler
Lensing

Succeeded
SF 829

HSB 168
OVERSIGHT

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
GOVERNMENT OVERSIGHT BILL
BY CHAIRPERSON ALONS)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to bidding requirements for state executive
2 branch purchases.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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TLSB 2258HC 81

jr/gg/14

1 Section 1. Section 8A.311, unnumbered paragraph 1, Code
2 2005, is amended to read as follows:

3 The director shall adopt rules establishing competitive
4 bidding procedures and shall provide notice in an electronic
5 format available to the public, of every competitive bidding
6 opportunity offered by every state agency. Each state agency
7 offering a competitive bidding opportunity must comply with
8 the notice requirements of this paragraph and any requirements
9 adopted by rule.

10 Sec. 2. Section 8A.311, subsection 1, Code 2005, is
11 amended to read as follows:

12 1. All equipment, supplies, or services procured by the
13 department shall be purchased by a competitive bidding
14 procedure as established by rule. ~~However,~~ The director
15 may exempt by rule purchases of noncompetitive items and
16 purchases in lots or quantities too small to be effectively
17 purchased by competitive bidding. The rules may include the
18 use of a master contract; however, a master contract may be in
19 effect for no longer than five years. Preference shall be
20 given to purchasing Iowa products and purchases from Iowa-
21 based businesses if the Iowa-based business bids submitted are
22 comparable in price to bids submitted by out-of-state
23 businesses and otherwise meet the required specifications. If
24 the laws of another state mandate a percentage preference for
25 businesses or products from that state and the effect of the
26 preference is that bids of Iowa businesses or products that
27 are otherwise low and responsive are not selected in the other
28 state, the same percentage preference shall be applied to Iowa
29 businesses and products when businesses or products from that
30 other state are bid to supply Iowa requirements.

31 Sec. 3. Section 216B.3, subsection 12, unnumbered
32 paragraph 1, Code 2005, is amended to read as follows:

33 Manage and control the property, both real and personal,
34 belonging to the department. To the extent practicable,
35 equipment, supplies, or services procured by the department

1 shall be purchased through a competitive bidding procedure as
2 established by rule. However, the director may exempt by rule
3 purchases of noncompetitive items and purchases in lots or
4 quantities too small to be effectively purchased by
5 competitive bidding. The rules may include the use of a
6 master contract; however, a master contract may be in effect
7 for no longer than five years.

8 PARAGRAPH DIVIDED. The commission shall, according to the
9 schedule established in this subsection, when the price is
10 reasonably competitive and the quality as intended, purchase
11 soybean-based inks and plastic products with recycled content,
12 including but not limited to plastic garbage can liners. For
13 purposes of this subsection, "recycled content" means that the
14 content of the product contains a minimum of thirty percent
15 postconsumer material.

16 Sec. 4. Section 262.9, Code 2005, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 31. Require, to the extent practicable,
19 that all equipment, supplies, or services procured by all
20 institutions under the jurisdiction of the board be purchased
21 through a competitive bidding procedure as established by
22 rule. However, the secretary may exempt by rule purchases of
23 noncompetitive items and purchases in lots or quantities too
24 small to be effectively purchased by competitive bidding. The
25 rules may include the use of a master contract; however, a
26 master contract may be in effect for no longer than five
27 years.

28 Sec. 5. Section 307.21, subsection 4, paragraph a, Code
29 2005, is amended to read as follows:

30 a. Provide centralized purchasing services for the
31 department, in cooperation with the department of
32 administrative services. To the extent practicable,
33 equipment, supplies, or services procured by the department
34 shall be purchased through a competitive bidding procedure as
35 established by rule. However, the director may exempt by rule

1 purchases of noncompetitive items and purchases in lots or
2 quantities too small to be effectively purchased by
3 competitive bidding. The rules may include the use of a
4 master contract; however, a master contract may be in effect
5 for no longer than five years.

6 PARAGRAPH DIVIDED. The administrator shall, when the price
7 is reasonably competitive and the quality as intended,
8 purchase soybean-based inks and plastic products with recycled
9 content, including but not limited to plastic garbage can
10 liners, and shall purchase these items in accordance with the
11 schedule established in section 8A.315. However, the
12 administrator need not purchase garbage can liners in
13 accordance with the schedule if the liners are utilized by a
14 facility approved by the environmental protection commission
15 created under section 455A.6, for purposes of recycling. For
16 purposes of this subsection, "recycled content" means that the
17 content of the product contains a minimum of thirty percent
18 postconsumer material.

19 EXPLANATION

20 This bill requires the department of administrative
21 services to make all competitive bidding opportunities, from
22 all state executive branch agencies, available to the public
23 in an electronic format. The bill establishes a general
24 policy that equipment, supplies, or services procured by the
25 state shall be purchased using a competitive bidding
26 procedure, when practicable.

27 The bill also provides that a master contract can be in
28 effect only for five years. A master contract is an agreement
29 with a vendor to sell a good or a service at a specified
30 price, and allowing any number of individual sales at that
31 price usually to any state agency.

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