

MAR 20 2006
Place On Calendar

HOUSE FILE 2752
BY COMMITTEE ON GOVERNMENT
OVERSIGHT

(SUCCESSOR TO HSB 508)

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

A BILL FOR

1 An Act relating to state bidding requirements for purchases.

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

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HF 2752

TLSB 5442HV 81

jr/gg/14

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

3 NEW SUBSECTION. 15. MASTER CONTRACT FILE. To maintain a
4 file, open to public inspection, containing the documentation
5 provided by state agencies to support the use of master
6 contracts with terms in excess of five years.

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

9 a. All equipment, supplies, or services procured by the
10 department and each state agency shall be purchased by a
11 competitive bidding procedure as established by rule.
12 However, the director may exempt by rule purchases of
13 noncompetitive items and purchases in lots or quantities too
14 small to be effectively purchased by competitive bidding. The
15 rules shall provide that architectural and engineering
16 services shall be procured on the basis of bidder competence
17 and reasonable price and shall not be based on competitive
18 bidding. The rules may include the use of a master contract;
19 however, the term of a master contract shall be no longer than
20 five years unless a longer term is determined, in the sole
21 discretion of the department, to provide a greater fiscal
22 savings. Documentation, as determined to be adequate by the
23 director, supporting that determination shall be provided to
24 the department of management, which shall maintain the
25 documentation in a master contract file. A master contract
26 shall not be extended beyond the specified term unless a
27 competitive bidding procedure is used. Any master contract in
28 effect on July 1, 2006, may be extended beyond the term of the
29 master contract as expressly provided by the terms of the
30 master contract; however, that extension may be for no longer
31 than three years unless the master contract generates revenue
32 for the state or a compelling reason justifies a longer
33 period. Preference shall be given to purchasing Iowa products
34 and purchases from Iowa-based businesses if the Iowa-based
35 business bids submitted are comparable in price to bids

1 submitted by out-of-state businesses and otherwise meet the
2 required specifications. If the laws of another state mandate
3 a percentage preference for businesses or products from that
4 state and the effect of the preference is that bids of Iowa
5 businesses or products that are otherwise low and responsive
6 are not selected in the other state, the same percentage
7 preference shall be applied to Iowa businesses and products
8 when businesses or products from that other state are bid to
9 supply Iowa requirements.

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

12 Manage and control the property, both real and personal,
13 belonging to the department. Equipment, supplies, or services
14 procured by the commission shall be purchased through a
15 competitive bidding procedure as established by rule.
16 However, the commission may exempt by rule purchases of
17 noncompetitive items and purchases in lots or quantities too
18 small to be effectively purchased by competitive bidding. The
19 rules shall provide that architectural and engineering
20 services shall be procured on the basis of bidder competence
21 and reasonable price and shall not be based on competitive
22 bidding. The rules may include the use of a master contract;
23 however, the term of a master contract shall be no longer than
24 five years unless a longer term is determined, in the sole
25 discretion of the commission, to provide a greater fiscal
26 savings. Documentation, as determined to be adequate by the
27 commission, supporting that determination shall be provided to
28 the department of management, which shall maintain that
29 documentation in a master contract file. A master contract
30 shall not be extended beyond the specified term unless a
31 competitive bidding process is used. Any master contract in
32 effect on July 1, 2006, may be extended beyond the term of the
33 master contract as expressly provided by the terms of the
34 master contract; however, that extension may be for no longer
35 than three years unless the master contract generates revenue

1 for the state or a compelling reason justifies a longer
2 period.

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

11 Sec. 4. Section 262.9, Code Supplement 2005, is amended by
12 adding the following new subsection:

13 NEW SUBSECTION. 31. Require, to the extent practicable,
14 that all equipment, supplies, or services procured by all
15 institutions under the jurisdiction of the board be purchased
16 through a competitive bidding procedure as established by
17 rule. However, the secretary may exempt by rule purchases of
18 noncompetitive items and purchases in lots or quantities too
19 small to be effectively purchased by competitive bidding. The
20 rules shall provide that architectural and engineering
21 services shall be procured on the basis of bidder competence
22 and reasonable price and shall not be based on competitive
23 bidding. The rules may include the use of a master contract;
24 however, the term of a master contract shall be no longer than
25 five years unless a longer term is determined, in the sole
26 discretion of the purchasing authority, to provide a greater
27 fiscal savings. Documentation, as determined to be adequate
28 by the purchasing authority, supporting that determination
29 shall be provided to the department of management, which shall
30 maintain that documentation in a master contract file. A
31 master contract shall not be extended beyond the specified
32 term unless a competitive bidding process is used. Any master
33 contract in effect on July 1, 2006, may be extended beyond the
34 term of the master contract as expressly provided by the terms
35 of the master contract; however, that extension may be for no

1 longer than three years unless the master contract generates
2 revenue for the state or a compelling reason justifies a
3 longer period.

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

6 a. Provide centralized purchasing services for the
7 department, in cooperation with the department of
8 administrative services. Equipment, supplies, or services
9 procured by the department shall be purchased through a
10 competitive bidding procedure as established by rule.
11 However, the administration may exempt by rule purchases of
12 noncompetitive items and purchases in lots or quantities too
13 small to be effectively purchased by competitive bidding. The
14 rules shall provide that architectural and engineering
15 services shall be procured on the basis of bidder competence
16 and reasonable price and shall not be based on competitive
17 bidding. The rules may include the use of a master contract;
18 however, the term of a master contract shall be no longer than
19 five years unless a longer term is determined, in the sole
20 discretion of the administrator, to provide a greater fiscal
21 savings. Documentation, as determined to be adequate by the
22 administrator, supporting that determination shall be provided
23 to the department of management, which shall maintain that
24 documentation in a master contract file. A master contract
25 shall not be extended beyond the specified term unless a
26 competitive bidding process is used. Any master contract in
27 effect on July 1, 2006, may be extended beyond the term of the
28 master contract as expressly provided by the terms of the
29 master contract; however, that extension may be for no longer
30 than three years unless the master contract generates revenue
31 for the state or a compelling reason justifies a longer
32 period.

33 PARAGRAPH DIVIDED. The administrator shall, when the price
34 is reasonably competitive and the quality as intended,
35 purchase soybean-based inks and plastic products with recycled

1 content, including but not limited to plastic garbage can
2 liners, and shall purchase these items in accordance with the
3 schedule established in section 8A.315. However, the
4 administrator need not purchase garbage can liners in
5 accordance with the schedule if the liners are utilized by a
6 facility approved by the environmental protection commission
7 created under section 455A.6, for purposes of recycling. For
8 purposes of this subsection, "recycled content" means that the
9 content of the product contains a minimum of thirty percent
10 postconsumer material.

11 Sec. 6. STATE MODEL PROCUREMENT CODE STUDY COMMITTEE. The
12 department of administrative services shall initiate and
13 coordinate the establishment of a model procurement code study
14 committee and provide staffing assistance to the committee.
15 It is the intent of the general assembly that the committee
16 shall include representatives of the department of
17 administrative services, state department of transportation,
18 institutions under the jurisdiction of the state board of
19 regents, and other stakeholders.

20 The procedures by which the state of Iowa purchases goods
21 and services is a significant issue for Iowa taxpayers and
22 Iowa business. The committee shall study and make legislative
23 and administrative recommendations relating to the feasibility
24 of implementing all or portions of the 2000 model procurement
25 code for state and local governments, as adopted by the
26 American bar association.

27 The committee shall submit a report to the general assembly
28 by December 31, 2007. The report shall contain the findings
29 and recommendations of the committee and may include a draft
30 of proposed legislation or proposed administrative rules
31 necessary to implement a model procurement code.

32 EXPLANATION

33 This bill provides, as a general principle, that a master
34 contract may be in effect for only five years. However, a
35 longer term may be provided for if the agency determines, in

1 its sole discretion, that it would provide greater savings.
2 Documentation that supports this determination must be
3 provided to the department of management, which shall maintain
4 that documentation in a central file available for public
5 inspection. The bill does not grant the department approval
6 authority over these contracts. Architectural and engineering
7 services shall be obtained on the basis of competence and
8 price instead of a competitive bid. The bill contains a
9 grandfather clause for master contracts in effect on July 1,
10 2006. These contracts may be extended as expressly provided
11 in the contract, but for no longer than three years beyond the
12 normal term of the master contract unless the master contract
13 generates revenue for the state or a compelling reason
14 justifies a longer period.

15 A master contract is generally an agreement with a vendor
16 to sell a good or a service at a specified price, and allows
17 any number of individual sales at that price, usually to any
18 state agency.

19 The bill requires the department of administrative services
20 to conduct a study concerning the possible adoption of all or
21 part of the 2000 model procurement code for state and local
22 governments.

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H-8453

1 Amend House File 2752 as follows:

2 1. Page 2, by inserting after line 9 the
3 following:

4 "Sec. ____ Section 8A.321, subsection 7, Code
5 Supplement 2005, is amended to read as follows:

6 7. a. Unless otherwise provided by law,
7 coordinate the location, design, plans and
8 specifications, construction, and ultimate use of the
9 real or personal property to be purchased by a state
10 agency for whose benefit and use the property is being
11 obtained. If the purchase of real or personal
12 property is to be financed pursuant to section 12.28,
13 the department shall cooperate with the treasurer of
14 state in providing the information necessary to
15 complete the financing of the property.

16 A contract for acquisition, construction, erection,
17 demolition, alteration, or repair by a private person
18 of real or personal property to be lease-purchased by
19 the treasurer of state pursuant to section 12.28 is
20 exempt from section 8A.311, subsections 1 and 10,
21 unless the lease-purchase contract is funded in
22 advance by a deposit of the lessor's moneys to be
23 administered by the treasurer of state under a lease-
24 purchase contract which requires rent payments to
25 commence upon delivery of the lessor's moneys to the
26 lessee.

27 b. Prior to entering into a contract for the
28 acquisition of real property intended to be used for
29 the construction or location of a facility at which
30 services shall be offered or provided by a state
31 agency primarily for public use and access, the
32 director shall conduct a public hearing on the
33 question of location selection. The director shall
34 coordinate with the director of the department for the
35 blind, the director of transportation, and the
36 executive secretary of the state board of regents if
37 and to the extent that a proposed acquisition of real
38 property involves public use relating to a function or
39 service falling within the scope of chapters 216B,
40 307, and 262, respectively. The state agency shall
41 cause a notice of the public hearing to be published
42 once in a newspaper of general circulation in the
43 county or city where the location has been proposed.
44 The notice shall be published at least four but no
45 more than twenty days before the public hearing is
46 held. The published notice shall, at a minimum,
47 include the following information:

48 (1) The general nature of the proposed project and
49 rationale for the selection of the proposed location
50 for the project.

H-8453

1 (2) The process proposed to be followed in making
2 the final selection of the site location and funding
3 the final site-specific design.

4 (3) The time and place of the public hearing at
5 which an opportunity is provided for public input into
6 the location decision.

7 (4) The name, address, telephone number, and
8 electronic mail address, if applicable, of the contact
9 person regarding the location decision.

10 c. If the director or directors determine that
11 input received during the public hearing demonstrates
12 that a significant degree of public opposition or
13 concern appears to exist regarding the location
14 decision, the director or directors shall delay the
15 execution of a contract by the state agency pending
16 departmental review and subsequent referral to the
17 executive council for a recommendation relating to the
18 decision.

19 d. The public hearing requirements of paragraph
20 "b" shall not apply during the existence of an
21 emergency requiring construction or location in
22 situations where failure to immediately construct or
23 locate would result in immediate danger to public
24 health, safety, or welfare."

25 2. Page 5, by inserting after line 31 the
26 following:

27 "Sec. ____ . APPLICABILITY. This section of this
28 Act providing for a public hearing procedure prior to
29 the selection of a location for services accessed by
30 the public is applicable to the acquisition of real
31 property intended to be used for the construction or
32 location of a facility at which services shall be
33 offered or provided primarily for public use by state
34 agencies entering into contracts under the purview of
35 the department of administrative services, and the
36 department for the blind, the state department of
37 transportation, the state board of regents, and any
38 other acquisition relating to public use facilities
39 made by or on behalf of the state."

40 3. Title page, line 1, by inserting after the
41 word "bidding" the following: "and service location".

42 4. Title page, line 1, by inserting after the
43 word "purchases" the following: "and public services
44 and including an applicability provision".

By PETERSEN of Polk

HOUSE FILE 2752

H-8401

1 Amend House File 2752 as follows:

2 1. Page 1, by striking lines 16 through 18 and
3 inserting the following: "services shall be procured
4 as provided in subsection 3, paragraph "b". The rules
5 may include the use of a master contract;"

6 2. Page 2, by striking lines 20 and 21 and
7 inserting the following: "services shall be procured
8 on the basis of competence and qualifications and for
9 a fair and reasonable price and shall not be based on
10 competitive".

11 3. Page 3, by striking lines 21 and 22 and
12 inserting the following: "services shall be procured
13 on the basis of competence and qualifications and for
14 a fair and reasonable price and shall not be based on
15 competitive".

16 4. Page 4, by striking lines 15 and 16 and
17 inserting the following: "services shall be procured
18 on the basis of competence and qualifications and for
19 a fair and reasonable price and shall not be based on
20 competitive".

By ALONS of Sioux

H-8401 FILED MARCH 28, 2006

HOUSE FILE 2752

H-8471

1 Amend House File 2752 as follows:

2 1. By striking page 3, line 11, through page 4,
3 line 3.

4 2. Page 5, by striking lines 18 and 19 and
5 inserting the following: "and other institutions."

6 3. By renumbering as necessary.

By LENSING of Johnson
JENKINS of Black Hawk
UPMEYER of Hancock

H-8471 FILED APRIL 4, 2006

HOUSE FILE 2752

H-8514

1 Amend the amendment, H-8471, to House File 2752 as
2 follows:

3 1. Page 1, by striking lines 2 through 6 and
4 inserting the following:

5 "_____. Page 3, by striking lines 29 and 30 and
6 inserting the following: "shall be maintained in the
7 central office of the board in a master contract file.
8 A".

By ALONS of Sioux

H-8514 FILED APRIL 6, 2006

HSB 508

Succeeded By
SF 02752

OVERSIGHT

*Alano
Hyster
Lensing*

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 state bidding requirements for purchases.

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

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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 FILE. To maintain a
4 file, open to public inspection, containing the documentation
5 provided by state agencies to support the use of master
6 contracts with terms in excess of five years.

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

9 a. All equipment, supplies, or services procured by the
10 department and each state agency shall be purchased by a
11 competitive bidding procedure as established by rule.
12 ~~However, the~~ To the extent practicable the rules shall be
13 substantially similar to the 2000 model procurement code for
14 state and local governments. The director may exempt by rule
15 purchases of noncompetitive items and purchases in lots or
16 quantities too small to be effectively purchased by
17 competitive bidding. The rules may include the use of a
18 master contract; however, the term of a master contract shall
19 be no longer than five years unless a longer term is
20 determined, in the sole discretion of the department, to
21 provide a greater fiscal savings. Documentation supporting
22 that determination shall be provided to the department of
23 management, which shall maintain the documentation in a master
24 contract file. A master contract shall not be extended beyond
25 the specified term unless a competitive bidding process is
26 used. Any master contract in effect on July 1, 2006, may be
27 extended beyond the term of the master contract as expressly
28 provided by the terms of the master contract; however, that
29 extension may be for no longer than three years. Preference
30 shall be given to purchasing Iowa products and purchases from
31 Iowa-based businesses if the Iowa-based business bids
32 submitted are comparable in price to bids submitted by out-
33 of-state businesses and otherwise meet the required
34 specifications. If the laws of another state mandate a
35 percentage preference for businesses or products from that

1 state and the effect of the preference is that bids of Iowa
2 businesses or products that are otherwise low and responsive
3 are not selected in the other state, the same percentage
4 preference shall be applied to Iowa businesses and products
5 when businesses or products from that other state are bid to
6 supply Iowa requirements.

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

9 Manage and control the property, both real and personal,
10 belonging to the department. Equipment, supplies, or services
11 procured by the commission shall be purchased through a
12 competitive bidding procedure as established by rule. To the
13 extent practicable, the rules shall be substantially similar
14 to the 2000 model procurement code for state and local
15 governments. However, the commission may exempt by rule
16 purchases of noncompetitive items and purchases in lots or
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18 competitive bidding. The rules shall provide that
19 architectural and engineering services shall be procured on
20 the basis of bidder competence and reasonable price and shall
21 not be based on competitive bidding. The rules may include
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23 contract shall be no longer than five years unless a longer
24 term is determined, in the sole discretion of the commission,
25 to provide a greater fiscal savings. Documentation supporting
26 that determination shall be provided to the department of
27 management, which shall maintain that documentation in a
28 master contract file. A master contract shall not be extended
29 beyond the specified term unless a competitive bidding process
30 is used. Any master contract in effect on July 1, 2006, may
31 be extended beyond the term of the master contract as
32 expressly provided by the terms of the master contract;
33 however, that extension may be for no longer than three years.

34 PARAGRAPH DIVIDED. The commission shall, according to the
35 schedule established in this subsection, when the price is

1 reasonably competitive and the quality as intended, purchase
2 soybean-based inks and plastic products with recycled content,
3 including but not limited to plastic garbage can liners. For
4 purposes of this subsection, "recycled content" means that the
5 content of the product contains a minimum of thirty percent
6 postconsumer material.

7 Sec. 4. Section 262.9, Code Supplement 2005, is amended by
8 adding the following new subsection:

9 NEW SUBSECTION. 31. Require, to the extent practicable,
10 that all equipment, supplies, or services procured by all
11 institutions under the jurisdiction of the board be purchased
12 through a competitive bidding procedure as established by
13 rule. To the extent practicable, the rules shall be
14 substantially similar to the 2000 model procurement code for
15 state and local governments. However, the secretary may
16 exempt by rule purchases of noncompetitive items and purchases
17 in lots or quantities too small to be effectively purchased by
18 competitive bidding. The rules shall provide that
19 architectural and engineering services shall be procured on
20 the basis of bidder competence and reasonable price and shall
21 not be based on competitive bidding. The rules may include
22 the use of a master contract; however, the term of a master
23 contract shall be no longer than five years unless a longer
24 term is determined, in the sole discretion of the purchasing
25 authority, to provide a greater fiscal savings. Documentation
26 supporting that determination shall be provided to the
27 department of management, which shall maintain that
28 documentation in a master contract file. A master contract
29 shall not be extended beyond the specified term unless a
30 competitive bidding process is used. Any master contract in
31 effect on July 1, 2006, may be extended beyond the term of the
32 master contract as expressly provided by the terms of the
33 master contract; however, that extension may be for no longer
34 than three years.

35 Sec. 5. Section 307.21, subsection 4, paragraph a, Code

1 2005, is amended to read as follows:

2 a. Provide centralized purchasing services for the
3 department, in cooperation with the department of
4 administrative services. Equipment, supplies, or services
5 procured by the department shall be purchased through a
6 competitive bidding procedure as established by rule. To the
7 extent practicable, the rules shall be substantially similar
8 to the 2000 model procurement code for state and local
9 governments. However, the administrator 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, the term of a master
17 contract shall be no longer than five years unless a longer
18 term is determined, in the sole discretion of the
19 administrator, to provide a greater fiscal savings.
20 Documentation supporting that determination shall be provided
21 to the department of management, which shall maintain that
22 documentation in a master contract file. A master contract
23 shall not be extended beyond the specified term unless a
24 competitive bidding process is used. Any master contract in
25 effect on July 1, 2006, may be extended beyond the term of the
26 master contract as expressly provided by the terms of the
27 master contract; however, that extension may be for no longer
28 than three years.

29 PARAGRAPH DIVIDED. The administrator shall, when the price
30 is reasonably competitive and the quality as intended,
31 purchase soybean-based inks and plastic products with recycled
32 content, including but not limited to plastic garbage can
33 liners, and shall purchase these items in accordance with the
34 schedule established in section 8A.315. However, the
35 administrator need not purchase garbage can liners in

1 accordance with the schedule if the liners are utilized by a
2 facility approved by the environmental protection commission
3 created under section 455A.6, for purposes of recycling. For
4 purposes of this subsection, "recycled content" means that the
5 content of the product contains a minimum of thirty percent
6 postconsumer material.

7

EXPLANATION

8 This bill establishes a general policy for state executive
9 branch agencies that equipment, supplies, or services procured
10 by the state shall be purchased using a competitive bidding
11 procedure, which is substantially similar to the 2000 model
12 procurement code for state and local governments. However,
13 architectural and engineering services shall be obtained on
14 the basis of competence and price instead of a competitive
15 bid. The bill also provides, as a general principle, that a
16 master contract may be in effect for only five years.
17 However, a longer term may be provided for if the agency
18 determines, in its sole discretion, that it would provide
19 greater savings. Documentation that supports this
20 determination must be provided to the department of
21 management, which shall maintain that documentation in a
22 central file available for public inspection. The bill does
23 not grant the department approval authority over these
24 contracts. The bill contains a grandfather clause for master
25 contracts in effect on July 1, 2006. These contracts may be
26 extended as expressly provided in the contract, but for no
27 longer than three years beyond the normal term of the master
28 contract.

29 A master contract is generally an agreement with a vendor
30 to sell a good or a service at a specified price, and allows
31 any number of individual sales at that price, usually to any
32 state agency.

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