

CHAPTER 183

[Engrossed Substitute House Bill No. 232]

IN-STATE PREFERENCE CLAUSES—RECIPROCITY

AN ACT Relating to state purchasing; amending section 43.19.1911, chapter 8, Laws of 1965 as amended by section 8, chapter 172, Laws of 1980 and RCW 43.19.1911; and adding new sections to chapter 43.19 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. There is added to chapter 43.19 RCW a new section to read as follows:

The legislature finds that in-state preference clauses used by other states in procuring goods and services have a discriminatory effect against Washington vendors with resulting harm to this state's revenues and the welfare of this state's citizens. This act is intended to promote fairness in state government procurement by requiring that, when appropriate, Washington exercise reciprocity with those states having in-state preferences, and it shall be liberally construed to that effect.

NEW SECTION. Sec. 2. There is added to chapter 43.19 RCW a new section to read as follows:

The director of general administration shall compile a list of the statutes and regulations, relating to state purchasing, of each state, which statutes and regulations the director believes grant a preference to vendors located within the state or goods manufactured within the state. At least once every twelve months the director shall update the list.

NEW SECTION. Sec. 3. There is added to chapter 43.19 RCW a new section to read as follows:

The director of general administration shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under section 2 of this act. The director of general administration shall have broad discretionary power in developing these rules and the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW 43.19.1911, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted.

Sec. 4. Section 43.19.1911, chapter 8, Laws of 1965 as amended by section 8, chapter 172, Laws of 1980 and RCW 43.19.1911 are each amended to read as follows:

When purchases are made through competitive bidding, the contract shall be let to the lowest responsible bidder, subject to any preferences provided by law to Washington products and vendors and to section 3 of this 1983 act, taking into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery: **PROVIDED**, That whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the division of purchasing may call for new bids or enter into direct negotiations to achieve the best possible price. Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or services;

(6) Such other information as may be secured having a bearing on the decision to award the contract: **PROVIDED**, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.

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Passed the Senate April 16, 1983.

Approved by the Governor May 16, 1983.

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