

SENATE BILL NO. 94

INTRODUCED BY E. BUTTREY

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DEFINITIONS AND TERMINOLOGY CONCERNING THE PROCUREMENT OF OFFICE SUPPLIES FOR STATE AGENCIES; AMENDING SECTIONS 18-4-301 AND 18-4-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 18-4-301, MCA, is amended to read:

"18-4-301. Definitions. As used in this part, the following definitions apply:

(1) "Alternative procurement method" means a method of procuring supplies or services in a manner not specifically described in this chapter, but instead authorized by the department under 18-4-302.

(2) "American-made" means either a product made exclusively within the United States or a value-added product consisting of a product that contains 50% or more of materials from the United States.

(3) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs that are allowable and allocable in accordance with the contract terms and the provisions of this chapter and a fee, if any.

(4) (a) "Displacement" means the layoff, demotion, or involuntary transfer of a state employee.

(b) Displacement does not include changes in shift or days off or reassignment to other positions within the same class and at the same general location.

(5) "Established catalog price" means the price included in a catalog, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is either published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(6) "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.

1 ~~(7)~~ "Office supply" means an item included under the office supply commodity class codes maintained
2 by the department.

3 ~~(8)~~(7) "Purchase description" means the words used in a solicitation to describe the supplies or services
4 to be purchased and includes specifications attached to or made a part of the solicitation.

5 ~~(9)~~(8) "Request for proposals" means all documents, whether attached or incorporated by reference,
6 used for soliciting proposals.

7 ~~(10)~~(9) "Responsible" means the capability in all respects to perform fully the contract requirements and
8 the integrity and reliability that will ensure good faith performance.

9 ~~(11)~~(10) "Responsive" means conforms in all material respects to the invitation for bids or request for
10 proposals.

11 ~~(12)~~(11) "Term contract" means a contract in which supplies or services are purchased at a
12 predetermined unit price for a specific period of time."

13

14 **Section 2.** Section 18-4-302, MCA, is amended to read:

15 **"18-4-302. Methods of source selection -- authorization for alternative procurement methods. (1)**

16 Unless otherwise authorized by law, all state contracts for supplies and services must be awarded by a source
17 selection method provided for in this title. Supplies or services offered for sale, lease, or rental by public utilities
18 are exempt from this requirement if the prices of the supplies or services are regulated by the public service
19 commission or other governmental authority.

20 (2) When the department or another agency opens bids or proposals, if a supplier's current publicly
21 advertised or established catalog price is received at or before the time that the bids or proposals are opened and
22 is less than the bid of the lowest responsible and responsive bidder or offeror or improves upon the conditions
23 for the best proposal received using the same factors and weights included in the proposal, the department or
24 agency may reject all bids and purchase the supply from that supplier without meeting the requirements of
25 18-4-303 through 18-4-306.

26 (3) An office supply procured by the ~~department's central stores program~~ department may be purchased
27 by an agency, without meeting the requirements of 18-4-303 through 18-4-306, from a supplier whose publicly
28 advertised price, established catalog price, or discount price offered to the agency is less than the price offered
29 by the ~~central stores program~~ department if the office supply conforms in all material respects to the terms,
30 conditions, and quality offered by the ~~central stores program~~ department. A state office supply term contract must

1 include a provision by which the contracting parties acknowledge and agree to the provisions of this subsection.

2 (4) (a) Under rules adopted by the department, an agency may request from the department
3 authorization for an alternative procurement method.

4 (b) A request for authorization must specify:

5 (i) the problem to be solved;

6 (ii) the proposed alternative procurement method;

7 (iii) the reasons why the alternative procurement method may be more appropriate than a method
8 authorized by law; and

9 (iv) how competition and fairness will be achieved by the alternative procurement method.

10 (c) Within 30 days after receiving the request, the department shall:

11 (i) evaluate the request;

12 (ii) approve or deny the request; and

13 (iii) issue a written statement providing the reasons for its decision.

14 (d) Whenever the department approves a request submitted under this section, the department:

15 (i) may authorize the alternative procurement method on a trial basis; and

16 (ii) if the alternative procurement method is employed, shall make a written determination as to the
17 success of the method.

18 (e) If the department determines that the alternative procurement method is successful and should be
19 an alternative that is generally available, it shall promulgate rules that establish the use of the alternative
20 procurement method as an additional source selection method. The rules promulgated by the department under
21 this subsection must reflect the purposes described in 18-4-122."

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23 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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