

HOUSE BILL NO. 180

INTRODUCED BY FRITZ, GRADY, NATHE, STANG, CODY

IN THE HOUSE

JANUARY 13, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
JANUARY 23, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 24, 1987	PRINTING REPORT.
JANUARY 26, 1987	SECOND READING, DO PASS AS AMENDED. ON MOTION, TAKEN FROM ENGROSSING AND REREFERRED TO COMMITTEE ON APPROPRIATIONS.
JANUARY 27, 1987	ENGROSSING REPORT.
FEBRUARY 6, 1987	COMMITTEE RECOMMEND BILL DO NOT PASS. REPORT ADOPTED.
FEBRUARY 7, 1987	ON MOTION, ADVERSE COMMITTEE REPORT REJECTED. BILL PRINTED AND PLACED ON SECOND READING.
FEBRUARY 9, 1987	PRINTING REPORT.
FEBRUARY 10, 1987	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 11, 1987	ENGROSSING REPORT.
FEBRUARY 12, 1987	THIRD READING, PASSED. AYES, 98; NOES, 1. TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 13, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
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MARCH 16, 1987

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 19, 1987

SECOND READING, CONCURRED IN.

MARCH 21, 1987

THIRD READING, CONCURRED IN.
AYES, 41; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 21, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1
 2 INTRODUCED BY ^{HB} *[Signature]* BILL NO. 180
 3 *[Signature]* NATH. *[Signature]*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE STATE
 5 COMPETITIVE BIDDING REQUIREMENTS TO PERMIT STATE AGENCIES TO
 6 PURCHASE SUPPLIES USING ADVERTISED OR CATALOG PRICES IN
 7 CERTAIN CIRCUMSTANCES; PROVIDING SPECIAL PURCHASING
 8 PROCEDURES FOR OFFICE SUPPLIES; AMENDING SECTIONS 18-4-301
 9 AND 18-4-302, MCA; AND PROVIDING AN APPLICABILITY DATE AND
 10 AN EFFECTIVE DATE."
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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 18-4-301, MCA, is amended to read:
 14 "18-4-301. Definitions. As used in this part, the
 15 following definitions apply:
 16 (1) "Cost-reimbursement contract" means a contract
 17 under which a contractor is reimbursed for costs which are
 18 allowable and allocable in accordance with the contract
 19 terms and the provisions of this chapter, and a fee, if any.
 20 (2) "Established catalog price" means the price
 21 included in a catalog, price list, schedule, or other form
 22 that:
 23 (a) is regularly maintained by a manufacturer or
 24 contractor;
 25 (b) is either published or otherwise available for

1 inspection by customers; and
 2 (c) states prices at which sales are currently or were
 3 last made to a significant number of any category of buyers
 4 or buyers constituting the general buying public for the
 5 supplies or services involved.
 6 (3) "Invitation for bids" means all documents, whether
 7 attached or incorporated by reference, utilized for
 8 soliciting bids.
 9 (4) "Office supply" means an item included under the
 10 office supply commodity class codes maintained by the
 11 department.
 12 ~~(4)~~(5) "Purchase description" means the words used in
 13 a solicitation to describe the supplies or services to be
 14 purchased and includes specifications attached to or made a
 15 part of the solicitation.
 16 ~~(5)~~(6) "Request for proposals" means all documents,
 17 whether attached or incorporated by reference, utilized for
 18 soliciting proposals.
 19 ~~(6)~~(7) "Responsible bidder or offeror" means a person
 20 who has the capability in all respects to perform fully the
 21 contract requirements and the integrity and reliability
 22 which will assure good faith performance.
 23 ~~(7)~~(8) "Responsive bidder" means a person who has
 24 submitted a bid which conforms in all material respects to
 25 the invitation for bids.



1 (9) "Term contract" means a contract in which supplies
 2 or services are purchased at a predetermined unit price for
 3 a specific period of time."

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

5 "18-4-302. Methods of source selection. (1) Unless
 6 otherwise authorized by law, all state contracts for
 7 supplies and services must be awarded by competitive sealed
 8 bidding, pursuant to 18-4-303, except as provided in
 9 18-4-133, 18-4-304 through 18-4-306, and chapters 5 and 8 of
 10 this title, and subsections (2) and (3). Supplies or
 11 services offered for sale, lease, or rental by public
 12 utilities are exempt from this requirement if the prices of
 13 the supplies or services are regulated by the public service
 14 commission or other governmental authority.

15 (2) At the time the department or a purchasing agency
 16 opens bids or proposals, if a supplier's current publicly
 17 advertised or established catalog price is less than any bid
 18 or proposal received, the department or purchasing agency
 19 may reject all bids and purchase the office supply from that
 20 supplier without meeting the requirements of 18-4-303
 21 through 18-4-306.

22 (3) Any office supply procured by the department
 23 through a bulk-purchase program or contracted for by means
 24 of a term contract may be purchased by a purchasing agency,
 25 without meeting the requirements of 18-4-303 through

1 18-4-306, from a supplier whose publicly advertised or
 2 established catalog price, at the time of purchase, is less
 3 than the price for which the office supply is available from
 4 the department or under the provisions of the term contract.
 5 All state office supply term contracts must include a
 6 provision by which the contracting parties acknowledge and
 7 agree to the provisions of this subsection."

8 NEW SECTION. Section 3. Extension of authority. Any
 9 existing authority of the department of administration to
 10 make rules on the subject of the provisions of this act is
 11 extended to the provisions of this act.

12 NEW SECTION. Section 4. Applicability. This act
 13 applies to term contracts entered into after the effective
 14 date of this act.

15 NEW SECTION. Section 5. Effective date. This act is
 16 effective July 1, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB180, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising competitive bidding requirements to permit state agencies to purchase supplies using advertised or catalog prices in certain circumstances; providing special purchasing procedures for office supplies.

ASSUMPTIONS:


1. The state has 79 term contracts awarded to vendors which represent approximately \$9.7 annually. They average 15% less than suggested retail pricing.
2. The state bulk-purchases and warehouses (Central Stores) over 12,000 daily-use supply items which are purchased on a competitive sealed bid basis (61% of purchases are from Montana vendors). These items are resold to state agencies at \$2.4 million annually, averaging 58% less than suggested retail, saving an estimated \$3.3 million annually.
3. Vendors may underbid term contract and Central Stores prices by up to 1% for approximately one year. After that time period, these purchasing methods, as well as many other competitively sealed bid items will progressively decline for lack of participation on the part of vendors (bid prices will only serve as target prices to be beaten by other vendors advertising \$X or X% off term contract or Central Stores prices). For the purpose of this note, it is assumed term contracts and bid items will drop by 25% in FY89.
4. With no published state volume discounted price as a benchmark, bid prices or otherwise obtained prices to the state will increase toward suggested retail pricing.
5. No inflation is reflected in estimates.
6. No dollar estimate is offered for value of merchandise purchased which is not of comparable value to specifications required due to incomplete descriptions in catalog or sale literature.
7. No dollar amount is offered for unsold inventory and lost revenue at Central Stores on term contract vendors.

FISCAL IMPACT:

Expenditures for term contract and warehoused bulk purchase supplies and services would be impacted by this legislation:

<u>FY88</u>			<u>FY89</u>		
<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
\$12,096,101	\$11,975,140	\$120,961	\$12,906,101	\$14,047,714	(\$1,141,613)

The net cost of this legislation is estimated at \$1,020,652 over the 1989 biennium. It is not possible to determine the impact on each fund type because it is dependent upon which agencies use Central Stores and the funding sources of the user agencies.


 DATE 1/16/87
 DAVID L. HUNTER, BUDGET DIRECTOR
 Office of Budget and Program Planning


 DATE 1/16/87
 Fiscal Note for _____

HB 180

- Fiscal Note Request, HB180, as introduced.

Form BD-15

Page 2

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

1. This note assumes 25% of term contract and bid items will no longer be established by bid in FY89. If all bids and term contracts are lost due to non-participation, the potential cost to user state agencies would total \$5.05 million annually.
2. Administrative costs to the state may increase with more transfer warrant claims and more alternate bids and sources.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

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

(2) "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;

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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.

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

(4) "Office supply" means an item included under the
office supply commodity class codes maintained by the
department.

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

(6) "Request for proposals" means all documents,
whether attached or incorporated by reference, utilized for
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(7) "Responsible bidder or offeror" means a person
who has the capability in all respects to perform fully the
contract requirements and the integrity and reliability
which will assure good faith performance.

(8) "Responsive bidder" means a person who has
submitted a bid which conforms in all material respects to
the invitation for bids.

1 (9) "Term contract" means a contract in which supplies
 2 or services are purchased at a predetermined unit price for
 3 a specific period of time."

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

5 "18-4-302. Methods of source selection. (1) Unless
 6 otherwise authorized by law, all state contracts for
 7 supplies and services must be awarded by competitive sealed
 8 bidding, pursuant to 18-4-303, except as provided in
 9 18-4-133, 18-4-304 through 18-4-306, and chapters 5 and 8 of
 10 this title, and subsections (2) and (3). Supplies or
 11 services offered for sale, lease, or rental by public
 12 utilities are exempt from this requirement if the prices of
 13 the supplies or services are regulated by the public service
 14 commission or other governmental authority.

15 (2) At the time the department or a purchasing agency
 16 opens bids or proposals FOR OFFICE SUPPLIES, if a MONTANA
 17 supplier's current publicly advertised or established
 18 catalog price AVAILABLE TO THE PUBLIC is less than any bid
 19 or proposal received, the department or purchasing agency
 20 may reject all bids and purchase the office supply from that
 21 supplier without meeting the requirements of 18-4-303
 22 through 18-4-306.

23 (3) Any office supply procured by the department
 24 through a bulk-purchase program or contracted for by means
 25 of a term contract may be purchased by a purchasing agency,

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 5 office supply is available from the department or under the
 6 provisions of the term contract. All state office supply
 7 term contracts must include a provision by which the
 8 contracting parties acknowledge and agree to the provisions
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THIRD READING

HB 180

SECOND PRINTING

AS AMENDED



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3 NEW SECTION. SECTION 6. TERMINATION DATE. THIS ACT
4 TERMINATES JUNE 30, 1989.

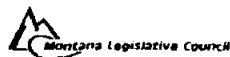
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