

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 657

Introduced by Preister, 5

Read first time January 19, 2005

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to state government; to amend sections 73-506
2 and 73-509, Reissue Revised Statutes of Nebraska; to
3 change provisions relating to state contracts for
4 services; and to repeal the original sections.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 73-506, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 73-506. (1) State agency contracts for services shall be
4 subject to the following requirements:

5 ~~(1)~~ (a) Payments shall be made when contractual
6 deliverables are received or in accordance with specific
7 contractual terms and conditions;

8 ~~(2)~~ (b) State agencies may not enter into contracts for
9 services with an unspecified or unlimited duration; ~~and~~

10 ~~(3)~~ (c) State agencies may not structure contracts for
11 services to avoid any of the requirements of sections 73-501 to
12 73-509; and

13 (d) State agencies may not award a contract to a
14 contractor or subcontractor who performs the work at a site outside
15 of the United States unless refusing to award a particular contract
16 would violate the specific terms to which the State of Nebraska
17 consents under the Agreement on Government Procurement of the World
18 Trade Organization.

19 (2) Subject to subdivision (1)(d) of this section, a
20 contractor or subcontractor submitting a bid for a contract for
21 services to a state agency shall certify that the services covered
22 by the contract will be performed in the United States. If a
23 contractor or subcontractor performs services covered by the
24 contract to a site outside of the United States during the term of
25 the contract, the state agency shall require the contractor or
26 subcontractor to pay damages equal to the amount paid by the state
27 agency to the contractor or subcontractor for the percentage
28 services covered by the contract performed outside of the United

1 States. The state agency shall also terminate such contract for
2 noncompliance with the terms of the contract.

3 Sec. 2. Section 73-509, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 73-509. (1) Each proposed contract for services in
6 excess of fifty thousand dollars shall use a preprocess prescribed
7 by the materiel division as required in subsection (2) of this
8 section. The state agency proposing the contract shall present to
9 the materiel division, with a copy to the appropriate collective
10 bargaining unit:

11 (a) The proposed contract;

12 (b) A detailed requisition for the services to be
13 purchased; and

14 (c) Results of a preprocess analysis which shall document
15 the state agency's need to purchase services.

16 (2) The materiel division shall develop guidelines for
17 state agencies to use in conducting this preprocess analysis.
18 These guidelines, at a minimum, shall require state agencies to
19 provide the following information:

20 (a) A statement of the service needed;

21 (b) The reason for purchasing the service instead of
22 using or hiring state employees, including, but not limited to:

23 (i) Whether there is a freeze on hiring new state
24 employees; or

25 (ii) Whether the job functions were previously performed
26 within the last twelve months prior to the date of the proposed
27 contract by a state employee, and if so, the state agency shall
28 include evaluation of the displacement of the state employee or

1 position held by the state employee within the preceding year and
2 the disadvantages of such a contract for services against the
3 expected advantages, whether economic or otherwise;

4 (c) Any federal requirements that the service be provided
5 by an external source;

6 (d) Demonstration by the state agency that it has taken
7 formal and positive steps in considering alternatives to such
8 contract, including reorganization, reevaluation of service, and
9 reevaluation of performance;

10 (e) Whether the request is temporary, urgent, or
11 occasional in nature. For purposes of this subdivision:

12 (i) Occasional means a service that is seasonal,
13 irregular, or fluctuating in nature;

14 (ii) Temporary means a contract that meets a need for a
15 specific task or result for a finite period of time. Such
16 contracts must state an ending date and are not renewable; and

17 (iii) Urgent means a contract for services that meets a
18 compelling need for immediate action to protect the health,
19 welfare, or safety of people or property or to meet an externally
20 imposed deadline beyond the state agency's control;

21 (f) A description of any relevant legal issues, including
22 barriers to contracting for the service or requirements that the
23 state agency contract for the service; and

24 (g) An explanation of the expected level of control the
25 state agency will maintain over the service provider and
26 identification of staff who will be monitoring the contract for
27 performance.

28 (3) Within thirty business days after receipt of the

1 state agency's request, the materiel division shall notify the
2 state agency whether the proof of need has been met to contract for
3 the proposed service.

4 (4) A state agency that seeks to enter into a personal
5 services contract shall also submit to the Director of
6 Administrative Services a formal plan of assistance for any
7 employee of the state agency who may be displaced by such contract.
8 A state employee shall be deemed to be displaced if the services
9 are now performed or have, within the last twelve months prior to
10 the date of the proposed contract, been performed by a state
11 employee covered by the classified personnel system or by any labor
12 contract. The plan shall include, but need not be limited to, the
13 following provisions:

14 (a) Efforts by the state agency to place displaced
15 employees in vacant positions in that state agency or another state
16 agency; and

17 (b) Provisions in the contract for services, if feasible,
18 for the hiring of displaced employees by the contractor. which
19 requests services that are now performed or have, within the year
20 immediately preceding the date of the proposed contract, been
21 performed by a state employee covered by the classified personnel
22 system or by any labor contract shall use a pre-process prescribed
23 by the materiel division. The pre-process shall include evaluation
24 of the displacement of the employee of the state agency or position
25 held by the employee of the state agency within the preceding year
26 and of the disadvantages of such a contract for services against
27 the expected advantages, whether economic or otherwise.
28 Documentation of each evaluation shall be maintained in the

1 ~~contract file by the state agency.~~

2 (5) The information provided in this section shall, at a
3 minimum, be available to the public by web site access.

4 Sec. 3. Original sections 73-506 and 73-509, Reissue
5 Revised Statutes of Nebraska, are repealed.