

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 2685 & 2686
101ST GENERAL ASSEMBLY

5603H.04C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 8.051, 34.044, and 34.045, RSMo, and to enact in lieu thereof six new sections relating to state purchasing.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 8.051, 34.044, and 34.045, RSMo, are repealed and six new
2 sections enacted in lieu thereof, to be known as sections 8.051, 34.041, 34.044, 34.045,
3 34.063, and 34.064, to read as follows:

8.051. 1. The commissioner of administration shall establish a gift shop in the
2 museum of the state capitol.

3 2. The commissioner shall contract with the licensing agent, as defined in section
4 8.700 to operate the capitol gift shop, as provided in section 8.705; provided, however, that
5 the gift shop shall be staffed by persons who are legally blind or otherwise handicapped.

6 3. At least fifty percent of the items on sale in the gift shop will be items made, on
7 consignment, by the sheltered workshops operating within the state. "Sheltered workshops"
8 as used in this section shall be defined as in section 178.900.

9 **4. Any nonfood item sold in the Missouri state capitol building shall be made in**
10 **the United States. As used in this section, "made in the United States" means a product**
11 **that supports a claim to be made in the United States under the policy on "Made in**
12 **USA" claims enforced by the Federal Trade Commission. Any product purchased**
13 **before implementation of this subsection shall be exempt from the requirements of this**
14 **subsection.**

34.041. 1. Notwithstanding any other law to the contrary, the commissioner of
2 **administration may, for contracts for services and information technology, use a**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

3 **negotiation process with a shortlist of up to three of the highest-scoring compliant**
4 **bidders if the commissioner finds that one or more of the following conditions exist:**

5 (1) **The business need or purpose of a procurement or contract can be further**
6 **defined as a result of a negotiation process;**

7 (2) **The business need or purpose of a procurement or contract is known by the**
8 **commissioner, but a negotiation process may identify different types of solutions to**
9 **fulfill this business need or purpose;**

10 (3) **The complexity of the purpose or need suggests a bidder's costs to prepare**
11 **and develop a solicitation response are extremely high; or**

12 (4) **The business need or purpose of a procurement or contract is known by the**
13 **commissioner, but negotiation is necessary to ensure that the commissioner is receiving**
14 **the best value or the most cost-efficient services and information technology.**

15 2. **When it is in the best interests of the state, the commissioner may negotiate**
16 **amendments to the terms and conditions, including scope of work, of existing contracts**
17 **for services and information technology, whether the original contract was the result of**
18 **competition, on behalf of itself or another state agency.**

19 3. (1) **The department shall establish the procedures and guidelines for the**
20 **negotiation process described in subsection 1 of this section. Those procedures and**
21 **guidelines shall include, but are not limited to, a clear description of the methodology**
22 **that will be used by the department to evaluate a bid for the procurement of goods,**
23 **services, information technology, and telecommunications.**

24 (2) **The procedures and guidelines described in subdivision (1) of this subsection**
25 **may include provisions that authorize the department to receive supplemental bids after**
26 **the initial bids are opened. If the procedures and guidelines include these provisions,**
27 **the procedures and guidelines shall specify the conditions under which supplemental**
28 **bids may be received by the department.**

34.044. 1. **The commissioner of administration may waive the requirement of**
2 **competitive bids or proposals for supplies when the commissioner has determined in writing**
3 **that there is only a single feasible source for the supplies. **No single feasible source contract****
4 **shall be more than one year in length.** Immediately upon discovering that other feasible
5 sources exist, the commissioner shall rescind the waiver and proceed to procure the supplies
6 through the competitive processes as described in this chapter. A single feasible source exists
7 when:

8 (1) **Supplies are proprietary and only available from the manufacturer or a single**
9 **distributor; or**

10 (2) **Based on past procurement experience, it is determined that only one distributor**
11 **services the region in which the supplies are needed; or**

12 (3) Supplies are available at a discount from a single distributor for a limited period
13 of time.

14 2. On any single feasible source purchase where the estimated expenditure shall be
15 ten thousand dollars or over, the commissioner of administration shall post notice of the
16 proposed purchase **on the MissouriBUYS platform**. Where the estimated expenditure is one
17 hundred thousand dollars or over, the commissioner of administration shall ~~also~~, **in addition**
18 **to posting on the MissouriBUYS platform**, advertise the commissioner's intent to make
19 such purchase in at least two daily newspapers of general circulation in such places as are
20 most likely to reach prospective bidders or offerors and may provide such information
21 through an electronic medium available to the general public at least five days before the
22 contract is to be let. Other methods of advertisement, however, may be adopted by the
23 commissioner of administration when such other methods are deemed more advantageous for
24 the supplies to be purchased. The requirement for advertising may be waived, if not feasible,
25 due to the supplies being available at a discount for only a limited period of time.

26 **3. The commissioner of administration shall post and keep current a list of all**
27 **state contracts issued to single feasible sources on the MissouriBUYS platform. This list**
28 **shall be reviewed and updated quarterly. On the same page, the commissioner of**
29 **administration shall provide information for other vendors that compete in this area**
30 **about bidding on such contracts.**

34.045. 1. The commissioner of administration may waive the requirement of
2 competitive bids or proposals for supplies when the commissioner of administration has
3 determined that there exists a threat to life, property, public health or public safety or when
4 immediate expenditure is necessary for repairs to state property in order to protect against
5 further loss of, or damage to, state property, to prevent or minimize serious disruption in state
6 services or to ensure the integrity of state records. Emergency procurements shall be made
7 with as much competition as is practicable under the circumstances.

8 **2. At the time of issuance of an emergency contract, the commissioner of**
9 **administration shall set forth a plan and conduct a review to compose a competitive**
10 **procurement process to be completed within twelve months of the emergency**
11 **procurement. No emergency procurement contract shall be more than one year in**
12 **length. The commissioner of administration may, if necessary, extend an emergency**
13 **contract while a competitive bid process is ongoing.**

34.063. 1. For the purposes of this chapter, a "qualified vendor list" or "QVL"
2 is a list of contractors who can perform a needed service, provide necessary equipment,
3 or perform necessary work as required by the state. The QVL shall be created by
4 issuing a request for proposals and allowing all interested vendors to submit responses.
5 If a proposal is deemed acceptable, the vendor shall be placed on the QVL. The QVL

6 shall be created for a set time period and allow for a process for vendors to be added
7 during such time period, if the vendor's proposal is deemed acceptable.

8 2. When a QVL is utilized, the commissioner of administration shall post notice
9 on the MissouriBUYS platform and contact all qualified vendors for a response. On a
10 quarterly basis, the commissioner of administration shall publish a list of QVL requests,
11 vendor responses, vendors selected, and the scope of the project and its length.

 34.064. The commissioner of administration shall, for the purchase of goods or
2 services exceeding one million dollars, develop and implement contract reporting
3 requirements that provide information on the following:

- 4 (1) Compliance with financial provisions and delivery schedules in the contract;
- 5 (2) Corrective action plans required and the status of such plans;
- 6 (3) Liquidated damages collected;
- 7 (4) Accuracy of the information provided in the bid and the number of change
8 orders required; and
- 9 (5) Delivery schedule compliance.

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