

AMENDED IN SENATE AUGUST 28, 2000

AMENDED IN SENATE JUNE 9, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1684

**Introduced by Committee on Information Technology
(Dutra (Chair), Bates (Vice Chair), Alquist, Briggs, and
Ducheny)**

March 18, 1999

An act to amend Sections 10290, 10290.1, 10301, 10302, 10306, 12100, and 12101.5 of, to repeal Sections 10324 and 12110 of, and to repeal and add Section 10298 of, the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1684, as amended, Committee on Information Technology. Public contracts.

Existing law authorizes the Department of General Services to contract with suppliers to obtain materials, supplies, equipment, and services.

This bill would make various corrective and clarifying changes to these provisions, including revising provisions that authorize the department to assist local government entities in procuring various goods and services. The bill would also revise provisions governing the department's acquisition of information technology.

Existing law relating to state agency procurement generally requires all written contracts for the sale or hiring of materials,

supplies, or equipment in an amount of \$10,000 or more, and all other purchases or hiring of the same in an amount of \$10,000 or more, to be made or entered into with the lowest responsible bidder meeting specifications.

This bill would instead make that provision applicable to the acquisition or lease of goods, increase the specified dollar amount to \$25,000, and make conforming changes in related provisions.

This bill would revise the notice requirements where a contract or purchase order is not to be awarded to the lowest bidder by eliminating the requirement that the notice be by telegram.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 10290 of the Public Contract
- 2 Code is amended to read:
- 3 10290. As used in this chapter:
- 4 (a) "Department" means the Department of General
- 5 Services.
- 6 (b) "Director" means the Director of General
- 7 Services.
- 8 (c) "Centralized purchasing" means the purchase for
- 9 state agencies of materials, supplies, and equipment by
- 10 the Office of Procurement.
- 11 (d) "Goods" means all types of tangible personal
- 12 property, including materials, supplies, and equipment.
- 13 (e) "Office" means the Office of Procurement in the
- 14 Department of General Services.
- 15 (f) "Price schedule" means an agreement between
- 16 the Office of Procurement and a supplier under which
- 17 the supplier agrees to accept orders from the office or a
- 18 state agency for specified goods at set prices for a
- 19 specified period of time but which does not obligate the
- 20 office or state agencies to contract for the specified goods
- 21 from the supplier.
- 22 (g) "Regional contract" means a contract of the same
- 23 type as a statewide contract but applicable only to



1 specified contracting in a particular area or region of the
2 state.

3 (h) “Statewide contract” means a contract awarded
4 by the Office of Procurement to one or more suppliers for
5 the acquisition of specified goods for a period of time, at
6 a price, and in an amount set forth in the contract.

7 (i) “Multiple award” means a contract of indefinite
8 quantity for one or more similar goods, information
9 technology, or services to more than one supplier.

10 (j) “Multiple award schedule” (MAS) is an agreement
11 established between the General Services Administration
12 of the United States and certain suppliers to do business
13 under specific prices, terms, and conditions for specified
14 goods, information technology, or services.

15 SEC. 2. Section 10290.1 of the Public Contract Code
16 is amended to read:

17 10290.1. (a) Notwithstanding any other provision of
18 law, in exercising their delegation of contracting
19 authority from the department, state agencies may
20 contract for goods, information technology, or services
21 with suppliers who have multiple award schedules with
22 the General Services Administration of the United States
23 if the supplier is willing to extend those terms, conditions,
24 and prices. The department may also develop multiple
25 award schedules or agreements for use by state agencies
26 in the same manner.

27 (b) The department shall determine the delegation
28 contracting authority for agencies wishing to contract
29 with suppliers who have multiple award schedules. The
30 department shall seek input from both customer
31 departments and agencies and private sector suppliers.

32 SEC. 3. Section 10298 of the Public Contract Code is
33 repealed.

34 SEC. 4. Section 10298 is added to the Public Contract
35 Code, to read:

36 10298. (a) The director may consolidate the needs of
37 multiple state agencies ~~on commonly used~~ for goods,
38 information technology, and services, and, pursuant to
39 the procedures established in Chapter 3 (commencing
40 with Section 12100), establish contracts, master



1 agreements, multiple award schedules, *cooperative*
2 *agreements, including agreements with entities outside*
3 *the state*, and other types of agreements that leverage the
4 state's buying power, for acquisitions authorized under
5 Chapter 2 (commencing with Section 10290), Chapter 3
6 (commencing with Section 12100), and Chapter 3.6
7 (commencing with Section 12125). State *and local*
8 agencies may contract with suppliers awarded those
9 contracts without further competitive bidding.

10 (b) The director may make the services of the
11 department available, upon the terms and conditions
12 agreed to, to any city, county, city and county, district, or
13 other local governmental body or corporation
14 empowered to expend public funds for the acquisition of
15 ~~goods or services, upon written request of the local~~
16 ~~agency;~~ *goods, information technology, or services* for
17 assisting the agency in acquisitions conducted pursuant to
18 Chapter 2 (commencing with Section 10290), Chapter 3
19 (commencing with Section 12100), and Chapter 3.6
20 (commencing with Section 12125). The state ~~may~~ *shall*
21 not incur financial responsibility in connection with
22 contracting for local agencies under this section.

23 SEC. 5. Section 10301 of the Public Contract Code is
24 amended to read:

25 10301. Except in cases when the agency and the
26 department agree that an article of a specified brand or
27 trade name is the only article that will properly meet the
28 needs of the agency, or in cases where the State Board of
29 Control has made a determination pursuant to Section
30 10308, all contracts for the acquisition or lease of goods in
31 an amount of twenty-five thousand dollars (\$25,000), or
32 a higher amount as established by the director, shall be
33 made or entered into with the lowest responsible bidder
34 meeting specifications.

35 For purposes of determining the lowest bid, the
36 amount of sales tax shall be excluded from the total
37 amount of the bid.

38 SEC. 6. Section 10302 of the Public Contract Code is
39 amended to read:



1 10302. Except in cases of emergency where
2 immediate purchase of goods without bid is necessary for
3 the protection of the public health, welfare, or safety,
4 whenever the department contracts for goods in excess
5 of twenty-five thousand dollars (\$25,000), or a higher
6 amount as established by the director, the department
7 shall advertise in the California State Contracts Register
8 the availability of its solicitation, and interested suppliers,
9 upon request, shall be furnished with copies of the
10 solicitation. In addition to advertising in the California
11 State Contracts Register, the department shall post in a
12 public place a copy of the solicitation, which shall remain
13 posted until seven days after an award has been made.
14 Whenever a contract in excess of twenty-five thousand
15 dollars (\$25,000), or a higher amount as established by the
16 director, is made under this section or Section 10301
17 without the taking of bids, the department shall prepare
18 a written document stating the fact of the contract
19 together with the facts requiring the contract of the goods
20 without the taking of bids. This document shall be
21 maintained by the department and shall be available as
22 a public record.

23 SEC. 7. Section 10306 of the Public Contract Code is
24 amended to read:

25 10306. Whenever a contract or purchase order under
26 this article is not to be awarded to the lowest bidder, the
27 bidder shall be notified 24 hours prior to awarding the
28 contract or purchase order to another bidder. Upon
29 written request by any bidder who has submitted a bid,
30 notice of the proposed award shall be posted in a public
31 place in the offices of the department at least 24 hours
32 prior to awarding the contract or purchase order. If prior
33 to making the award, any bidder who has submitted a bid
34 files a protest with the department against the awarding
35 of the contract or purchase order on the ground that he
36 or she is the lowest responsible bidder meeting
37 specifications, the contract or purchase order shall not be
38 awarded until either the protest has been withdrawn or
39 the State Board of Control has made a final decision as to
40 the action to be taken relative to the protest. In

1 computing the 24-hour periods provided for in this
2 section, Saturdays, Sundays, and legal holidays shall be
3 excluded.

4 Within 10 days after filing a protest, the protesting
5 bidder shall file with the State Board of Control a full and
6 complete written statement specifying in detail the
7 ground of the protest and the facts in support thereof.

8 SEC. 8. Section 10324 of the Public Contract Code is
9 repealed.

10 SEC. 9. Section 12100 of the Public Contract Code is
11 amended to read:

12 12100. The Legislature finds that the unique aspects
13 of information technology, as defined in Section 11702 of
14 the Government Code, and its importance to state
15 programs warrant a separate acquisition authority. The
16 Legislature further finds that this separate authority
17 should enable the timely acquisition of information
18 technology goods and services in order to meet the state's
19 needs in the most value-effective manner.

20 All contracts for the acquisition of information
21 technology goods or services, whether by lease or
22 purchase, shall be made by or under the supervision of the
23 Department of General Services.

24 SEC. 10. Section 12101.5 of the Public Contract Code
25 is amended to read:

26 12101.5. (a) It is the intent of the Legislature that
27 agencies of the State of California use an acquisition
28 method that is compatible with their short- and long-term
29 fiscal needs in contracts relating to commodities and
30 information technology goods and services. State
31 agencies should be able to specify their anticipated life
32 cycle requirements that would become one of the criteria
33 for contractor selection. These agencies should be given
34 the choice of suppliers to meet statewide standardization
35 needs, unique service requirements, application
36 requirements, and long-term satisfaction criteria. There
37 is a need for the State of California to enter into long-term
38 contracts with annual cancellation and ~~fund-out~~ *fund-out*
39 clauses, as required, to protect the state's interests as well
40 as provide the option for multiyear renewals to



1 encourage suppliers to develop higher levels of service
2 and support throughout the contracts.

3 (b) The state may utilize multiple awards, including
4 federal General Service Administration Multiple Awards
5 Schedules and master agreements or contracts for goods,
6 information technology, services, or consulting services.
7 For purposes of this subdivision, a multiple award is an
8 award of an indefinite quantity contract for one or more
9 similar goods, information technology, or services to
10 more than one supplier. Except for possible multiple
11 awards as permitted by this subdivision, all the
12 requirements of this chapter pertaining to other types of
13 information technology acquisitions shall be followed.
14 The department shall ensure that multiple award
15 schedules are in compliance with all other applicable
16 statutes.

17 (c) Notwithstanding any other provision of law, state
18 agencies, in exercising their contracting authority
19 delegated by the department, may contract with
20 suppliers who have multiple award schedules with the
21 General Services Administration of the United States on
22 the same terms, conditions, and prices if the supplier is
23 willing to do so. The department may also develop
24 multiple award schedules or agreements for use by state
25 agencies in the same manner. The department shall
26 determine the delegation contracting authority for
27 agencies wishing to use multiple award schedules.

28 SEC. 11. Section 12110 of the Public Contract Code is
29 repealed.

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