

1 State of Arkansas
2 92nd General Assembly
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4

As Engrossed: S2/20/19

A Bill

HOUSE BILL 1180

5 By: Representative Wardlaw
6 By: Senator Flippo
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS PROCUREMENT LAW; TO
10 AMEND THE LAW CONCERNING STATE CONTRACTS; TO AMEND
11 THE LAW CONCERNING COOPERATIVE PURCHASING; AND FOR
12 OTHER PURPOSES.
13
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Subtitle

15 TO AMEND THE ARKANSAS PROCUREMENT LAW; TO
16 AMEND THE LAW CONCERNING STATE CONTRACTS;
17 AND TO AMEND THE LAW CONCERNING
18 COOPERATIVE PURCHASING.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 19-11-206(1), concerning the definitions
25 relating to intergovernmental relations under the Arkansas Procurement Law,
26 is amended to read as follows:

27 (1) ~~"Cooperative procurement"~~ "Cooperative purchasing agreement"
28 means an agreement entered into as the result of a procurement conducted by,
29 or on behalf of, more than one (1) public procurement unit or by a public
30 procurement unit with an external procurement activity;
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32 SECTION 2. Arkansas Code § 19-11-223 is amended to read as follows:
33 19-11-223. Commodities, technical and general services, and
34 professional and consultant services under state contract.

35 (a)(1) In addition to establishing a state contract for those
36 commodities, technical and general services, and professional and consultant



1 services within the exclusive jurisdiction of the State Procurement Director
2 under § 19-11-222, the director may award a mandatory state contract for
3 other commodities, technical and general services, and professional and
4 consultant services ~~in those instances when substantial savings may be~~
5 ~~effected by quantity purchasing of commodities, technical and general~~
6 ~~services, or professional and consultant services in general use by several~~
7 ~~state agencies when the director determines that combining the collective~~
8 ~~purchasing power of the state would be beneficial to the state.~~

9 (2) The director shall submit a mandatory state contract that is
10 not for commodities or services within the exclusive jurisdiction of the
11 director to the Legislative Council or, if the General Assembly is in
12 session, to the Joint Budget Committee, for review.

13 ~~(b)(1) State contracts shall be limited to those commodities on which,~~
14 ~~by virtue of custom or trade, substantial savings may be realized.~~

15 ~~(2) In those instances in which substantial savings are not~~
16 ~~effected, the letting of state contracts for those commodities shall be~~
17 ~~discontinued.~~

18 ~~(c)(1) Except for the procurement of commodities, technical and~~
19 ~~general services, and professional and consultant services within the~~
20 ~~exclusive jurisdiction of the director, state agencies with agency~~
21 ~~procurement officials that can demonstrate a geographical or volume buying~~
22 ~~advantage need not participate in the state contract.~~

23 ~~(2) However, if the commodities, technical and general services,~~
24 ~~or professional and consultant services obtained are procured at a~~
25 ~~substantially higher price during the same state contract period, that state~~
26 ~~agency must participate in the state contract upon expiration of the state~~
27 ~~agency's contract.~~

28 ~~(d) Except as authorized in this section, all state agencies which~~
29 ~~require (b)(1) Unless an exemption is approved by the director under~~
30 ~~subdivision (b)(2) of this section, a state agency that requires commodities,~~
31 ~~technical and general services, and professional and consultant services that~~
32 ~~are under a mandatory state contract shall procure these commodities,~~
33 ~~technical and general services, and professional and consultant services~~
34 ~~exclusively under such the mandatory state contract.~~

35 (2)(A) Except as provided in § 19-11-233, the director may
36 approve an exemption from a mandatory state contract awarded under this

1 section only if the state agency demonstrates that substantial savings will
2 likely be effected by purchasing outside of the mandatory state contract.

3 (B)(i) Approval of an exemption from a mandatory state
4 contract under this section shall be in writing.

5 (ii) Denial of a request for an exemption from a
6 mandatory state contract under this section is not required to be in writing.

7 ~~(e)~~ (c) All contracts concerning commodities, technical and general
8 services, and professional and consultant services shall disclose a projected
9 total cost, including, ~~but not limited to,~~ without limitation expenditures
10 that may be incurred under all available periods of extension if the
11 extensions were executed.

12 (d) The director shall:

13 (1) Identify and prioritize opportunities for awarding mandatory
14 state contracts under this section;

15 (2) Conduct mandatory state contract procurements under this
16 section that would produce savings for the state;

17 (3) Attempt to invite the participation of the potentially
18 affected state agencies in the development and evaluation of a mandatory
19 state contract procurement;

20 (4) Post notice of his or her intent to procure a mandatory
21 state contract on the official website of the Office of State Procurement;
22 and

23 (5)(A) Promote the use of mandatory state contracts among county
24 and city governments, including without limitation making information about
25 the mandatory state contracts readily available and searchable.

26 (B) The director shall adopt rules to include any
27 necessary conditions, reporting, or document retention standards related to
28 the director's duty to promote mandatory state contract use under this
29 subsection.

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31 SECTION 3. Arkansas Code § 19-11-249 is amended to read as follows:

32 19-11-249. Cooperative purchasing.

33 (a)(1) A public procurement unit may participate in, sponsor, conduct,
34 or administer a cooperative purchasing agreement for the acquisition of
35 commodities or services ~~with one (1) or more public procurement units or~~
36 ~~external procurement activities~~ in accordance with an agreement entered into

1 between the participants.

2 ~~(2)(A) A cooperative purchasing agreement under this section may~~
3 ~~include without limitation a joint or multiparty contract between public~~
4 ~~procurement units and an open ended state public procurement unit contract~~
5 ~~that is made available to local public procurement units. A cooperative~~
6 ~~purchasing agreement is limited to commodities and services for which the~~
7 ~~public procurement unit may realize savings or material economic value, or~~
8 ~~both.~~

9 (B)(i) For cooperative purchasing agreements entered into
10 by a state agency, the State Procurement Director shall consider the economic
11 justification for using a cooperative purchasing agreement when granting or
12 withholding approval for the cooperative purchasing agreement.

13 (ii) The State Procurement Director shall adopt
14 rules to create a review policy outlining how the economic justification
15 required under this section may be demonstrated, including without limitation
16 a comparison of:

17 (a) Current state contract pricing and the
18 pricing under a cooperative purchasing agreement; or

19 (b) Information obtained from a request for
20 information and pricing under a cooperative purchasing agreement.

21 (C) The State Procurement Director and the Director of the
22 Department of Finance and Administration shall submit any request for the
23 Office of State Procurement or the Department of Finance and Administration,
24 respectively, to participate in a cooperative purchasing agreement to the
25 Governor for approval.

26 ~~(b)(1)(A) The State Procurement Director shall present a quarterly an~~
27 ~~annual report of all purchases made under cooperative purchasing agreements~~
28 ~~by a state agency without an agency procurement official under this section~~
29 ~~to the Legislative Council or, if the General Assembly is in session, to the~~
30 ~~Joint Budget Committee.~~

31 (B) A state agency that has an agency procurement official
32 shall present an annual report of all purchases made under cooperative
33 purchasing agreements under this section to the Legislative Council or, if
34 the General Assembly is in session, to the Joint Budget Committee.

35 ~~(2) The report reports~~ required under this subsection shall be
36 in the format required by the Legislative Council and shall include the

1 following:

- 2 (A) The name of the contractor;
- 3 (B) The name of the procuring agency;
- 4 (C) The contact information for the contractor and
5 procuring agency;
- 6 (D) The total cost of the contract, including all
7 available extensions;
- 8 (E) A description of the goods or services procured; and
- 9 (F) Any other information requested by the Legislative
10 Council or the Joint Budget Committee.

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12 SECTION 4. DO NOT CODIFY. Rules.

13 (a) When adopting the initial rules required under this act, the State
14 Procurement Director shall file the final rules with the Secretary of State
15 for adoption under § 25-15-204(f):

16 (1) On or before January 1, 2020; or

17 (2) If approval under § 10-3-309 has not occurred by January 1,
18 2020, as soon as practicable after approval under § 10-3-309.

19 (b) The director shall file the proposed rules with the Legislative
20 Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so
21 that the Legislative Council may consider the rules for approval before
22 January 1, 2020.

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25 /s/Wardlaw

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28 **APPROVED: 3/11/19**

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