

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill No. 2140, Page 1, Section A, Line 2, by  
2 inserting the following after all of said line:

3  
4 "34.040. 1. All purchases in excess of [~~three~~] ten thousand dollars shall be based on  
5 competitive bids, except as otherwise provided in this chapter.

6 2. On any purchase where the estimated expenditure shall be [~~twenty-five~~] one hundred  
7 thousand dollars or over, except as provided in subsection 6 of this section, the commissioner of  
8 administration shall:

9 (1) Advertise for bids in at least two daily newspapers of general circulation in such places  
10 as are most likely to reach prospective bidders and may advertise in at least two weekly minority  
11 newspapers and may provide such information through an electronic medium available to the  
12 general public at least five days before bids for such purchases are to be opened. Other methods of  
13 advertisement, which may include minority business purchase councils, however, may be adopted  
14 by the commissioner of administration when such other methods are deemed more advantageous for  
15 the supplies to be purchased;

16 (2) Post a notice of the proposed purchase in his or her office; and

17 (3) Solicit bids by mail or other reasonable method generally available to the public from  
18 prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the  
19 commissioner of administration so as to reach such office before the time set for opening bids.

20 3. The contract shall be let to the lowest and best bidder. The commissioner of  
21 administration shall have the right to reject any or all bids and advertise for new bids, or purchase  
22 the required supplies on the open market if they can be so purchased at a better price. When bids  
23 received pursuant to this section are unreasonable or unacceptable as to terms and conditions,  
24 noncompetitive, or the low bid exceeds available funds and it is determined in writing by the  
25 commissioner of administration that time or other circumstances will not permit the delay required  
26 to resolicit competitive bids, a contract may be negotiated pursuant to this section, provided that  
27 each responsible bidder who submitted such bid under the original solicitation is notified of the  
28 determination and is given a reasonable opportunity to modify their bid and submit a best and final  
29 bid to the state. In cases where the bids received are noncompetitive or the low bid exceeds  
30 available funds, the negotiated price shall be lower than the lowest rejected bid of any responsible  
31 bidder under the original solicitation.

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1           4. The director of the department of revenue shall follow bidding procedures as contained in  
2 this chapter and may promulgate rules necessary to establish such procedures. No points shall be  
3 awarded on a request for proposal for a contract license office to a bidder for a return-to-the-state  
4 provision offer.

5           5. All bids shall be based on standard specifications wherever such specifications have been  
6 approved by the commissioner of administration. The commissioner of administration shall make  
7 rules governing the delivery, inspection, storage and distribution of all supplies so purchased and  
8 governing the manner in which all claims for supplies delivered shall be submitted, examined,  
9 approved and paid. The commissioner shall determine the amount of bond or deposit and the  
10 character thereof which shall accompany bids or contracts.

11           6. The department of natural resources may, without the approval of the commissioner of  
12 administration required pursuant to this section, enter into contracts of up to five hundred thousand  
13 dollars to abate illegal waste tire sites pursuant to section 260.276 when the director of the  
14 department determines that urgent action is needed to protect public health, safety, natural resources  
15 or the environment. The department shall follow bidding procedures pursuant to this section and  
16 may promulgate rules necessary to establish such procedures. Any rule or portion of a rule, as that  
17 term is defined in section 536.010, that is created under the authority delegated in this section shall  
18 become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if  
19 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
20 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to  
21 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking  
22 authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

23           7. The commissioner of administration and other agencies to which the state purchasing law  
24 applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the  
25 vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or  
26 consumption in this state but fails to collect and properly pay the tax as provided in chapter 144.  
27 For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is  
28 controlled by or is under common control with the vendor, whether through stock ownership or  
29 otherwise.

30           8. The commissioner of administration shall be authorized to hold a reverse auction to  
31 procure merchandise, supplies, raw materials, or finished goods if price is the primary factor in  
32 evaluating bids. The office of administration shall promulgate rules regarding the handling of the  
33 reverse auction process. Any rule or portion of a rule, as that term is defined in section 536.010, that  
34 is created under the authority delegated in this section shall become effective only if it complies  
35 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This  
36 section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly  
37 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
38 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or  
39 adopted after August 28, 2018, shall be invalid and void.

40           34.042. 1. When the commissioner of administration determines that the use of competitive  
41 bidding is either not practicable or not advantageous to the state, supplies may be procured by

1 competitive proposals. The commissioner shall state the reasons for such determination, and a  
2 report containing those reasons shall be maintained with the vouchers or files pertaining to such  
3 purchases. All purchases in excess of [~~five~~] ten thousand dollars to be made under this section shall  
4 be based on competitive proposals.

5 2. On any purchase where the estimated expenditure shall be [~~twenty-five~~] one hundred  
6 thousand dollars or over, the commissioner of administration shall:

7 (1) Advertise for proposals in at least two daily newspapers of general circulation in such  
8 places as are most likely to reach prospective offerors and may advertise in at least two weekly  
9 minority newspapers and may provide such information through an electronic medium available to  
10 the general public at least five days before proposals for such purchases are to be opened. Other  
11 methods of advertisement, however, may be adopted by the commissioner of administration when  
12 such other methods are deemed more advantageous for the supplies to be purchased;

13 (2) Post notice of the proposed purchase; and

14 (3) Solicit proposals by mail or other reasonable method generally available to the public  
15 from prospective offerors.

16  
17 All proposals for such supplies shall be mailed or delivered to the office of the commissioner of  
18 administration so as to reach such office before the time set for opening proposals. Proposals shall  
19 be opened in a manner to avoid disclosure of contents to competing offerors during the process of  
20 negotiation.

21 3. The contract shall be let to the lowest and best offeror as determined by the evaluation  
22 criteria established in the request for proposal and any subsequent negotiations conducted pursuant  
23 to this subsection. In determining the lowest and best offeror, as provided in the request for  
24 proposals and under rules promulgated by the commissioner of administration, negotiations may be  
25 conducted with responsible offerors who submit proposals selected by the commissioner of  
26 administration on the basis of reasonable criteria for the purpose of clarifying and assuring full  
27 understanding of and responsiveness to the solicitation requirements. Those offerors shall be  
28 accorded fair and equal treatment with respect to any opportunity for negotiation and subsequent  
29 revision of proposals; however, a request for a proposal may set forth the manner for determining  
30 which offerors are eligible for negotiation including, but not limited to, the use of shortlisting.  
31 Revisions may be permitted after submission and before award for the purpose of obtaining best and  
32 final offers. In conducting negotiations there shall be no disclosure of any information derived from  
33 proposals submitted by competing offerors. The commissioner of administration shall have the  
34 right to reject any or all proposals and advertise for new proposals or purchase the required supplies  
35 on the open market if they can be so purchased at a better price.

36 4. The commissioner shall make available, upon request, to any members of the general  
37 assembly, information pertaining to competitive proposals, including the names of bidders and the  
38 amount of each bidder's offering for each contract.

39 34.044. 1. The commissioner of administration may waive the requirement of competitive  
40 bids or proposals for supplies when the commissioner has determined in writing that there is only a  
41 single feasible source for the supplies. Immediately upon discovering that other feasible sources

1 exist, the commissioner shall rescind the waiver and proceed to procure the supplies through the  
2 competitive processes as described in this chapter. A single feasible source exists when:

3 (1) Supplies are proprietary and only available from the manufacturer or a single  
4 distributor; or

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

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

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

19 34.047. Notwithstanding any provision in section 34.040, section 34.100, or any other law  
20 to the contrary, departments shall have the authority to purchase products and services related to  
21 information technology when the estimated expenditure of such purchase shall not exceed [~~seventy-~~  
22 ~~five~~] one hundred fifty thousand dollars, the length of any contract or agreement does not exceed  
23 twelve months, the department complies with the informal methods of procurement established in  
24 section 34.040, and 1 CSR 40-1.050(1) for expenditures of less than [~~twenty-five~~] one hundred  
25 thousand dollars, and the department posts notice of such proposed purchase on the online  
26 bidding/vendor registration system maintained by the office of administration. For the purposes of  
27 this section, "information technology" shall mean any computer or electronic information equipment  
28 or interconnected system that is used in the acquisition, storage, manipulation, management,  
29 movement, control, display, switching, interchange, transmission, or reception of information,  
30 including audio, graphic, and text."; and

31  
32 Further amend said bill, page, and section, Line 9, by inserting the following after all of said line:

33  
34 "34.353. 1. Each contract for the purchase or lease of manufactured goods or commodities  
35 by any public agency, and each contract made by a public agency for construction, alteration, repair,  
36 or maintenance of any public works shall contain a provision that any manufactured goods or  
37 commodities used or supplied in the performance of that contract or any subcontract thereto shall be  
38 manufactured or produced in the United States.

39 2. This section shall not apply where the purchase, lease, or contract involves an  
40 expenditure of less than [~~twenty-five~~] one hundred thousand dollars. This section shall not apply  
41 when only one line of a particular good or product is manufactured or produced in the United

1 States.

2 3. This section shall not apply where the executive head of the public agency certifies in  
3 writing that:

4 (1) The specified products are not manufactured or produced in the United States in  
5 sufficient quantities to meet the agency's requirements or cannot be manufactured or produced in the  
6 United States within the necessary time in sufficient quantities to meet the agency's requirements;

7 (2) Obtaining the specified products manufactured or produced in the United States would  
8 increase the cost of the contract by more than ten percent;

9 (3) The specified products are to be purchased or leased by a state-supported four-year  
10 institute of higher education and such certification as required by subdivision (1) or (2) of this  
11 subsection has been made within the last three years;

12 (4) The specified products are to be purchased or leased by a publicly supported institution  
13 and such certification as required by subdivision (1) or (2) of this subsection has been made within  
14 the last three years; or

15 (5) The political subdivision has adopted a formal written policy to encourage the purchase  
16 of products manufactured or produced in the United States.

17 4. The certificate required by this section shall specify the nature of the contract, the product  
18 being purchased or leased, the names and addresses of the United States manufacturers and  
19 producers contacted by the public agency or the project architect or engineer, and an indication that  
20 such manufacturers or producers could not supply sufficient quantities or that the price of the  
21 products would increase the cost of the contract by more than ten percent.

22 5. Certificates required by this section shall be maintained by the public agency for a period  
23 of three years." and

24

25 Further amend said bill by amending the title, enacting clause, and intersectional references  
26 accordingly.