

## What is “competitive contracting?”

The **Personnel Reform Act of 2002** authorized competitive contracting.

Under **RCW 41.06.142** agencies may contract for services, including services historically provided by state employees. The decision to contract for services is usually driven by an opportunity to achieve further process improvements, efficiencies or savings.

State employees whose position or work would be displaced by the contract must be given an opportunity to:

- a. Offer alternatives to contracting, and,
- b. If these alternatives are not accepted, to compete for the contract by forming an Employee Business Unit (EBU).

RCW 41.06.142 also grants General Administration (GA) authority to adopt rules “to ensure that bids are submitted and evaluated in a fair and objective manner . . .” These rules are codified at **Chapter 236-51 WAC**.

### **There are some exceptions.**

RCW 41.06.142 provides that if the contract was:

- a. Legislatively mandated, or
- b. Authorized by law before July 1, 2005,

It is not subject to the competitive contracting process. If so, agencies should follow applicable laws and rules governing the purchase of such services.

## Key Contacts & Resources

**GA Policy & Protest Manager  
Office of State Procurement**  
(360) 902-7233

**GA Director’s Office**  
(360) 902-7200

**GA Email:**  
csmail@ga.wa.gov

**OFM Labor Relations Office**  
(360) 725-5167

### On the web:

**General information:**  
[www.ga.wa.gov/competitivecontracting/](http://www.ga.wa.gov/competitivecontracting/)

**Competitive Contracting Manual:**  
[www.ga.wa.gov/competitivecontracting/CCmanual.htm](http://www.ga.wa.gov/competitivecontracting/CCmanual.htm)

**Agencies should consult with the OFM Labor Relations Office and their Labor & Personnel AAG for questions about applying RCW 41.06.142 to a particular circumstance.**

## Basic Guide to Competitive Contracting

January 2010

## Are you thinking about contracting for services historically done by classified state employees?

*Engaging with your employees and the union early and throughout the process is encouraged. Consult with the Labor Relations Office (LRO) to check any applicable Collective Bargaining Agreements (CBAs) for any additional requirements.*

- 1** Determine if you have an opportunity to save money and/or increase efficiency by contracting for services and if a competitive market exists for the services.
- 2** Ask: Will the contract displace the positions or work of classified employees?  
**No** - go to #12  
**Yes** - continue to #3
- 3** At least 90 days before you intend to seek bids for a contract, notify the employees (and the union if the employees are in a bargaining unit), that:
  - a. To save money and/or increase efficiency (briefly explain...),
  - b. You are considering contracting "x" work, which may displace "y" positions or work.
  - c. The employees have 60 days to offer alternatives to contracting for the services.Describe any resources you will provide the employees to help in offering alternatives.
- 4** The union may demand to bargain, and you must fulfill your bargaining obligations. In addition, the law requires you to consider any employee alternatives for at least 30 days. This gives you time to consider other options that may achieve your performance objectives - before you make the decision to contract for the work.
- 5** If the employees offer alternatives, contact the LRO for help in working out any alternative proposals that might differ from the CBAs.
- 6** If you reject the alternatives offered by the employees, the rules direct you to notify them that you intend to solicit bids for the contract after 20 days. This ensures employees have time to form an Employee Business Unit (EBU) if they wish.  
Consult with the LRO to check applicable CBAs for any additional requirements.
- 7** If the employees decide to form an EBU to compete for the contract, they must:
  - a. Notify your agency, and
  - b. Have access to the Department of Personnel's bid process training.You should advise the EBU that your acceptance of their bid will be conditioned upon resolving any differences with CBAs.
- 8** Conduct your bid process according to the rules in WAC 236-51. You may also contract with GA to conduct the bid process.
- 9** Do the employees form an EBU?  
**No** - go to #11  
**Yes** - continue to #10
- 10** Does the EBU win the contract?  
**Yes** - Award the contract to the EBU and manage contract performance  
**No** - continue to #11
- 11** Award the contract and manage contract performance. Please note that the private firm awarded the contract must consider any of your displaced employees for employment.
- 12** **Remember** – even if the contract will not displace the positions or work of classified employees, you may have a duty to provide information and/or bargain the effects on another bargaining unit's members. Please contact the LRO for guidance.