

LEGISLATIVE BILL 447

Approved by the Governor May 9, 1975

Introduced by Appropriations Committee, Marvel, 33, Chmn.; Savage, 10; S. Marsh, 29; Bereuter, 24; Johnson, 15; Stull, 49; Simpson, 46

AN ACT to amend sections 81-149, 81-161.01, and 81-1107, Reissue Revised Statutes of Nebraska, 1943, section 81-161.04, Revised Statutes Supplement, 1974, section 81-145, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, section 81-161.03, Reissue Revised Statutes of Nebraska, 1943, as amended by section 9, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, section 81-153, Revised Statutes Supplement, 1974, as amended by section 5, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, and section 81-1118, Revised Statutes Supplement, 1974, as amended by section 14, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, relating to the Department of Administrative Services; to harmonize provisions; to change provisions relating to the Purchasing Agent; to provide duties of the materiel division; to change competitive bid procedures; to provide authority to contract for prescribed services; to allow for direct purchase by agencies as prescribed; to eliminate an exception for the reproduction services bureau; and to repeal the original sections, and also section 81-161.06, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-145, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

81-145. As used in sections 81-145 to 81-163, unless the context otherwise requires:

(1) Materiel division shall mean the head of the division of the state government charged with the administration of sections 81-145 to 81-163 and section 81-1118, which division shall be a part of and subject to

the supervision of the office of Director of Administrative Services;

(2) Articles shall mean articles of personal property and shall include all materials, supplies, furniture, equipment, printing, stationery, automotive and road equipment, and all other chattels, goods, wares and merchandise whatsoever;

(3) Using agencies shall mean and include all officers of the state, departments, bureaus, boards, commissions, councils and institutions receiving legislative appropriations;

(4) Property shall mean public or privately-owned real property containing a building or buildings used primarily for office space, storage, maintenance, parking, or other use; and

(5) Lease and contract shall mean an agreement entered into by the state or using agency with another party whereby, for a stated consideration, the state or using agency is to receive the articles or property, or use thereof, furnished by the other party.

Sec. 2. That section 81-149, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-149. The Purchasing Agent shall have had at least three years practical experience, in the ten years immediately preceding his appointment, as an executive in a regularly organized purchasing department of some branch of government, either municipal, state or federal, or of some private business firm or corporation. He shall not ~~have been connected, during the period of two years immediately prior to his appointment~~ be, at any time during his term of office, connected, interested, or otherwise concerned, directly or indirectly, with any person, partnership, firm, association, corporation or other vendor, agent or intermediary, from or through whom any purchases, or contracts for purchases, shall be made by him during his incumbency in office.

Sec. 3. That section 81-153, Revised Statutes Supplement, 1974, as amended by section 5, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

81-153. The materiel division shall have the power and duty to:

(1) Purchase or contract for, in the name of the state, the articles required by the using agencies and the state;

(2) Promulgate, apply and enforce standard specifications established as provided in section 81-154;

(3) Sell and dispose of personal property that is not needed by the state or its using agencies as provided in section 81-161.04 or accept trade-ins when determined by it to be an advantage to the state;

(4) Determine the utility, quality, fitness and suitability of all articles or property tendered or furnished, and for such purposes, make use of the existing laboratories maintained by the state and establish a list of other public or private laboratories the tests and analyses of which will be acceptable;

(5) Fix the fees required to be paid for tests or analyses made in any state laboratory;

(6) Make rules and regulations not inconsistent with sections 81-145 to 81-163, to carry into effect the provisions thereof;

(7) Appoint such clerical, technical and other assistants as may be necessary to properly administer this act, fix their compensation and prescribe their duties in connection therewith, subject to existing laws and appropriations made therefor; and

(8) Allow the purchase of items without competitive bidding when the price has been established by the federal General Services Administration;

(9) Enter into any personal property lease agreement when it appears to be in the best interest of the state; and

~~(8)~~ (10) Negotiate purchases and contracts when conditions exist to defeat the purpose and principles of public competitive bidding.

Sec. 4. That section 81-161.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-161.01. A minimum of ~~ten~~ fifteen days shall elapse between the time bids are advertised or called for and the time of their opening; Provided, that, as may be provided by rule or regulation promulgated by the materiel division, this requirement may be waived in case

of emergency.

Sec. 5. That section 81-161.03, Reissue Revised Statutes of Nebraska, 1943, as amended by section 9, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

81-161.03. The materiel division may, by written order, permit purchases, contracts, or leases to be made, by any using agency directly with the vendor or supplier, whenever it shall appear to the satisfaction of the materiel division that, because of the unique nature of the article or property, the price in connection therewith, the quantity to be purchased, the location of the using agency, the time of the use of the article or property or any other circumstance, the interests of the state will be served better by purchasing or contracting direct than through the materiel division. Such permission shall be revocable; and shall be operative for a period not exceeding six months from the date of issue. Using agencies, receiving such permission, shall report their acts and expenditures, under such orders, to the materiel division in writing and furnish such agent with proper evidence that competition has been secured, at such time and covering such period as may be required by the materiel division. Purchases for miscellaneous needs may be made directly by any agency without prior approval from the materiel division for purchases not to exceed thirty-five dollars.

Sec. 6. That section 81-161.04, Revised Statutes Supplement, 1974, be amended to read as follows:

81-161.04. Whenever any using agency shall have any personal property for which it no longer has any need or use, it shall notify the materiel division of the Department of Administrative Services in writing, setting forth a description of the property and the approximate length of time that such property has been in the possession of the using agency. The materiel division of the Department of Administrative Services shall appraise such property and send a bulletin to all other using agencies of the state, setting forth that he has such property for sale and that it can be bought at the appraised price. Such property shall not be sold until first offered to the using agencies as provided by this section, unless such property is unusable. If the materiel division of the Department of Administrative Services shall fail to receive an offer from any using agency, ~~within thirty days; it may, after obtaining approval of the Governor;~~ sell or dispose of such property by such method as is to the best advantage of the State of Nebraska, with priorities given to other

political subdivisions of state government, including auction, sealed bid, private or public sale or trade-in for other property. All sales shall be made in the name of the state and the proceeds of such sales shall be deposited with the State Treasurer and credited to the General Fund unless the agency shall certify to the materiel division of the Department of Administrative Services that the property was purchased in part or in total from either cash accounts or federal funds, or from a percentage of such accounts or funds, in which event the proceeds of the sale to that extent shall be credited to the cash or federal account in the percentage used in originally purchasing the property; Provided, that the cost of selling such surplus property shall be deducted from the proceeds of the property being sold; and provided further, that the proceeds received from the sale of passenger-carrying motor vehicles originally purchased with money from the General Fund, less the selling costs, shall be deposited in the state treasury and by the State Treasurer credited to the Transportation Services Bureau Revolving Fund.

Sec. 7. That section 81-1107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1107. The Director of Administrative Services is hereby vested with the duties, powers and responsibilities involved in the preparation of the executive budget and execution of the approved budget except as otherwise provided by law, including a system of periodic allotments for the management and regulation of expenditures and making surveys and studies for the purpose of improving administrative procedures, methods and organization; in the keeping of general accounts and the promulgation of appropriate regulations and administrative orders designed to assure a uniform and effective system of accounts and accounting, in the approval of all vouchers and the preparation and issuance of warrants for all purposes; in the operation of such storerooms and warehouses as may be necessary; the allotment of space in the State Capitol building and other state office buildings to the various departments and agencies according to their needs and the space available as provided in section 81-1120; the supervision of telephone, mailing, messenger, duplicating, central data processing, and other like services adaptable to economical and centralized management; and the planning, review and preparation of a state capital construction budget. The director shall adopt a seal. The director may contract with another state agency to furnish centralized mailing, messenger, duplicating, and printing services in the interest of economy and efficiency in

government, while retaining ultimate direction and control.

Sec. 8. That section 81-1118, Revised Statutes Supplement, 1974, as amended by section 14, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, be amended to read as follows:

81-1118. The purchasing division of the Department of Administrative Services is hereby transferred into the materiel division of the Department of Administrative Services, which is hereby established, and shall be managed by the materiel administrator who shall assume the former role of Purchasing Agent.

There is hereby established the following five bureaus of the materiel division of the Department of Administrative Services which shall have the following duties, powers and responsibilities:

(1) Central stores bureau shall be responsible for general stores, food, scientific, photo, visual aids material and the book stores. In addition, the central stores bureau shall keep inventory control records, requisition material from the purchasing bureau and dispose of surplus material;

(2) The traffic bureau shall be responsible for the transportation of material, tracking shipments and making freight claims;

(3) The reproduction services bureau shall be responsible for specifications and for receiving bids and placing orders to the lowest and best commercial bidder for all printing, reproduction and mailing operations for the state, ~~with the exception of printing work produced on copying and mimeograph machines.~~ The reproduction services bureau shall also be responsible for coordinating all existing printing, reproduction and mailing operations of the state which shall be limited to existing state facilities;

(4) The standards and specifications bureau shall be responsible for establishing guidelines as to the quality of items purchased unless otherwise provided for by law; and

(5) The purchasing bureau shall be responsible for all purchases by all state agencies. The materiel division shall assist the State Building Administrator in administering public notice and bidding procedures and any other areas designated by the director to carry out sections 81-145 to 81-151, 81-153, 81-154, 81-156,

81-159, 81-161 to 81-162, 81-1108.16, and 81-1108.22. All purchases of and contracts for materials, supplies, or equipment, and all leases of property as defined in section 81-145 shall be made in the following manner, except in emergencies approved by the Governor:

(a) By a competitive formal sealed bidding process through the materiel division in all cases in which the purchases are of estimated value in the amount of five thousand dollars, or more;

(b) By a competitive informal bidding through the materiel division in all cases in which the purchases are of estimated value equal to or exceeding twenty-five hundred dollars but less than five thousand dollars;

(c) By unrestricted open market purchases through the materiel division in all cases in which purchases are of estimated value of less than twenty-five hundred dollars;

(d) All requisitions for whatever purpose coming to the purchasing bureau shall be in conformance with the approved budget of the requisitioning department or agency; and

(e) All contracts for purchases and leases shall be bid as a single whole item. In no case shall contracts be divided or fractionated in order to produce several contracts which are of an estimated value below that required for competitive bidding.

Sec. 9. That original sections 81-149, 81-161.01, and 81-1107, Reissue Revised Statutes of Nebraska, 1943, section 81-161.04, Revised Statutes Supplement, 1974, section 81-145, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, section 81-161.03, Reissue Revised Statutes of Nebraska, 1943, as amended by section 9, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, section 81-153, Revised Statutes Supplement, 1974, as amended by section 5, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, and section 81-1118, Revised Statutes Supplement, 1974, as amended by section 14, Legislative Bill 359, Eighty-fourth Legislature, First Session, 1975, and also section 81-161.06, Reissue Revised Statutes of Nebraska, 1943, are repealed.