

1 SENATE BILL NO. 188  
2 INTRODUCED BY C. FRIEDEL  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "SERVICES" RELATED TO  
5 PUBLIC PROCUREMENT CONTRACTS TO INCLUDE THE PROVISION OF HUMAN SERVICES  
6 ADMINISTERED BY A CONTRACTOR; AND AMENDING SECTION 18-4-123, MCA."

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8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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10 **Section 1.** Section 18-4-123, MCA, is amended to read:

11 **"18-4-123. Definitions.** In this chapter, unless the context clearly requires otherwise or a different  
12 meaning is prescribed for a particular section, the following definitions apply:

13 (1) "Business" means a corporation, partnership, individual, sole proprietorship, joint-stock  
14 company, joint venture, or other private legal entity.

15 (2) "Change order" means a written order, signed by an authorized department representative,  
16 directing the contractor to make changes that the changes clause of the contract authorizes the department to  
17 order without the consent of the contractor.

18 (3) "Contract" means all types of state agreements, regardless of what they may be called, for the  
19 procurement or disposal of supplies or services.

20 (4) "Contract modification" means a written alteration in specifications, delivery point, rate of  
21 delivery, period of performance, price, quantity, or other provisions of a contract accomplished by mutual action  
22 of the parties to the contract.

23 (5) "Contractor" means a person having a contract with a governmental body.

24 (6) "Data" means recorded information, regardless of form or characteristic.

25 (7) "Department" means the department of administration.

26 (8) "Designee" means an authorized representative of a person holding a superior position.

27 (9) "Director" means the director of the department of administration.

**Amendment - 1st Reading/2nd House-blue - Requested by: Courtenay Sprunger - (H) State Administration**

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Drafter: Rebecca Power,

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1 (10) "Employee" means an individual drawing a salary from a governmental body, whether elected  
2 or not, and any noncompensated individual performing personal services for a governmental body.

3 (11) "Governmental body" means a department, commission, council, board, bureau, committee,  
4 institution, legislative body, agency, government corporation, or other entity, instrumentality, or official of the  
5 executive, legislative, or judicial branch of this state, including the board of regents and the Montana university  
6 system.

7 (12) (a) "Grant" means the furnishing by the federal government of assistance, whether financial or  
8 otherwise, to a person or agency to support a program authorized by law.

9 (b) Grant does not include an award whose primary purpose is to procure an end product, whether  
10 in the form of supplies or services. A contract resulting from an award is not a grant but a procurement contract.

11 (13) "Person" means any business, individual, union, committee, club, other organization, or group  
12 of individuals.

13 (14) (a) "Printing" means the reproduction of an image from a printing surface generally made by a  
14 contact impression that causes a transfer of ink or the reproduction of an impression by a photographic process  
15 and includes graphic arts, typesetting, binding, and other operations necessary to produce a finished printed  
16 product.

17 (b) Printing does not include rebinding or repair by a library or an office, department, board, or  
18 commission of books, journals, pamphlets, magazines, and literary articles held as a part of its library collection.

19 (15) (a) "Procurement" means acquisition with or without cost, buying, purchasing, renting, leasing,  
20 or otherwise acquiring any supplies or services. The term includes all functions that pertain to the obtaining of  
21 any supply or service, including description of requirements, selection and solicitation of sources, preparation  
22 and award of contract, and all phases of contract administration.

23 (b) Procurement does not include the acquiring of supplies or services by gift.

24 (16) "Procurement officer" means any person authorized to enter into and administer contracts and  
25 make written determinations with respect to contracts. The term includes an authorized representative acting  
26 within the limits of the representative's authority.

27 (17) "Purchasing agency" means any governmental body, other than the department, that is

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1 authorized by this chapter or its implementing rules or by way of delegation from the director to enter into  
2 contracts.

3 (18) (a) "Services" means the furnishing of labor, time, or effort by a contractor ~~and includes the~~  
4 ~~provision of human services administered by a contractor.~~

5 (b) ~~Services~~ The term does not include:

6 (i) employment agreements or collective bargaining agreements; ~~the provision of human services~~  
7 ~~administered directly by the department of public health and human services, or~~

8 (ii) ~~services related to construction contracts;~~

9 (iii) ~~except as provided in subsection (18)(b)(iv), the provision of human services administered by~~  
10 ~~the department of public health and human services; or~~

11 (iv) ~~the provision of biological testing administered by a contractor for the department of public~~  
12 ~~health and human services.~~

13 (19) "Supplies" means all property except as otherwise provided by law, including but not limited to  
14 equipment, materials, printing, and commodities, and excluding land or any interest in land.

15 (20) "Using agency" means any governmental body of the state that uses any supplies or services  
16 procured under this chapter.

17 (21) "Vendor" means a person who offers or may offer supplies or services to a public agency."

18 - END -