



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 726** HLS 16RS 585
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:

Proposed Amd.:
Sub. Bill For.:

Date: April 23, 2016	9:05 AM	Author: MORRIS, JAY
Dept./Agy.: State contracts		
Subject: Provides relative to certain contracts not competitively bid		Analyst: Alan M. Boxberger

CONTRACTS OR SEE FISC NOTE GF EX Page 1 of 2

Provides relative to consulting, professional, personal, and social services contracts that are not competitively bid or negotiated

Present law provides relative to state contracts for the procurement of supplies and services; provides for the award of required supplies, services or major repairs without competition when the chief procurement officer of the state determines that there is only once source; authorizes contracts for professional services to be awarded without competitive bid or negotiation; authorizes contracts for social services to be awarded without competitive bid in certain conditions; authorizes contracts for personal services to be awarded without competitive bid or negotiation, and authorizes consulting services contracts that are less than \$50,000 for a 12-month period to be awarded without competitive bid or negotiation. Proposed law requires the chief procurement officer to make available on the state procurement website any contract awarded as a result of the written determination of only once source and allows for notification of alternative sources; repeals present law with regard to allowing profesional service, social service, personal service and consulting service contracts less than \$50,000, to be awarded without competitive bid or negotiation.

EXPENDITURES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total						

REVENUES	2016-17	2017-18	2018-19	2019-20	2020-21	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	\$0	\$0	\$0	\$0	\$0	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

Proposed law may result in an indeterminable increase in state expenditures. While proposed law repeals provisions allowing certain contracts to be exempted from competitive bid, which will conceptually result in a potential savings to the state for those services, the state cost associated with the competitive bidding process may exceed marginal savings for many of these transactions. The scope of this differential is indeterminable, but the LFO estimates proposed law may result in a net cost increase under certain conditions and if the competitive bid process does not result in certain marginal savings.

The Division of Administration estimates that putting all contracts out for competitive bid that currently fall within the noncompetitive exemption ranges (less than \$50,000 for professional, personal and consulting services, and less than \$250,000 for social services), will require a minimum of 50 additional T.O. positions to administer the RFP processes along with associated operating expenses at a cost in excess of \$4.25 million per year (\$4.16 million in salaries and related benefits, \$58,300 in operating services and supplies, and \$44,000 for RFP postage and printing). This scenario is only possible if through economies of scale the average RFP workload process can be decreased by approximately 75% below the existing average 200+ employee hour workload per RFP. To the extent this decrease cannot be accomplished and each RFP required the current 200+ employee hour workload, the T.O. requirement could go as high as 290 positions at an increased cost in excess of \$24 million. The LFO is unable to estimate at what level within this range of additional personnel and fiscal resources would be necessary in order to provide for an effective RFP process for all state contracts. In order to offset the DOA projected \$4.25 million expenditure increase, or a potential \$24 million maximum exposure, competitively bidding impacted contracts would require a resultant minimum aggregate decrease of between 2% and 11% from the contracted value of such awards authorized in FY 15.

Present law provides that contracts for Professional Services (RS 39:1617), Personal Services (RS 39:1620), Consulting Services with an annual contract value of less than \$50,000 (RS 39:1621(A)), and Social Services contracts of \$250,000 or less which also meet other criteria (RS 39:1619(B,C)) are not required to undergo the full, intensive competitive solicitation, proposal, evaluation and negotiation process exemplified by a Request for Proposals (RFP) process. Proposed law provides

CONTINUED ON PAGE 2

REVENUE EXPLANATION

There is no anticipated direct material effect on governmental revenues as a result of this measure.

Senate

Dual Referral Rules

House

☐ 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}

☐ 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

☐ 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

☐ 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux

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Staff Director



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CONTINUED EXPLANATION from page one: Page 2 of 2

EXPENDITURE EXPLANATION CONTINUED FROM PAGE 1

that the four existing statutory authorities by which certain types of service procurements can be made without a full competitive solicitation process such as an RFP be repealed. The Office of State Procurement (OSP) reports that in FY 15, 550 Professional Contracts (\$144 M), 115 Personal Services Contracts (\$9 M), 405 Consulting Services (\$9.8 M) and 525 Social Services Contract (\$50.8 M) were approved by OSP without use of an RFP process. Additionally, approximately 575 Professional, 55 Personal, 290 Consulting and 230 Social Service Contracts were approved by agencies acting within designated delegated authorities with an RFP at an average contract value of \$7,500.

The Office of State Procurement (OSP) estimates that each RFP issued by the state requires approximately 200+ employee-hours spread across many personnel in multiple agencies. Using an assumption of an 1,900 hour effective work year per employee (2,080 hours less holidays and personal leave), and an average annual employee salary of \$56,592 and related benefits of \$27,259, OSP estimates that an individual RFP equates to an effective average cost of \$10,000 each. For that portion of contracts issued under delegated authority, this cost could potentially exceed the average contract value of \$7,500 noted above.

The Division of Administration reports several interrelated factors that will impact the potential net cost impact of proposed law:

- 1) Responding to an RFP is time-intensive and expensive for vendors, a cost likely to be factored into a vendor’s bid response. In isolation, DOA reports that this factor is likely to *increase* contract pricing.
- 2) Responding to an RFP generally requires a base level of technological sophistication, which may unintentionally exclude some vendors that may provide a good value. In isolation, DOA reports that reducing the competitive pool is likely to *increase* contract pricing.
- 3) To the extent that proposed law incites competition among vendors for contracts falling below the current competitive exemption thresholds, the number of potential vendors competing for state contracts should increase. In isolation, DOA reports that increasing competition is likely to *decrease* contract pricing.
- 4) Because competitive procurements are time and cost intensive for state agencies, many may opt to convert previous groups of small personal contracts (paying school teachers to develop standardized test questions, grade essays, provide group therapy, etc.) into larger consulting agreements that would be completed under the umbrella of a single contract, with potentially higher prices when accounting for profits, overhead, etc. involved with larger corporate bids compared to contracts with individuals. In isolation, DOA projects this will likely *increase* contract pricing.

The DOA reports that the compounding cost factors cannot be reliably or meaningfully analyzed to provide an accurate net expenditure impact, as to whether the total impact would be positive or negative to the cost of the state’s enterprise procurement activities.

Present law authorizes the state’s chief procurement officer (RS 39:1597) to recognize and respond to cases in which there is only one identifiable, feasible supplier for a category of goods or services. In these situations, those goods or services can be declared as “sole source” and efforts are focused on negotiating favorable pricing, terms and conditions with the presumptive vendor. Proposed law provides that procurements made under this statutory authority must be published to a public-viewable website and authorizes the commissioner of administration to develop and implement a protocol by which these contracts may be reconsidered and/or terminated in the event that alternate vendors notify the state they are capable and interested in bedding to perform the service. This action will likely result in a marginal, one-time expenditure increase associated with programming and modification of OSP’s web site. To the degree that proposed law requires modifications beyond any base modifications that are done on an annual basis, a marginal one-time expenditure may result. There will also be an ongoing nominal expense associated with updating the website for future sole source agreements, and potential periodic moderate expenses associated with reviewing potential challenges to soul source awards. The LFO assumes these costs could be absorbed within the \$4.25 million increase reported on page 1 or within the agency’s existing staff and resources.

NOTE: There are circumstances within normal state operations wherein state agencies may enter into numerous short-term or one-time personal or professional service contracts to expedite certain functions of government. These contracts are utilized to access expert or professional services that may not be readily available to an agency, or for which an agency may not require the presence of a full-time staff person. Proposed law may have the effect of slowing certain governmental functions, which could result in cost impacts. For example, the state’s Medicaid Fraud Unit hires handwriting experts and medical and billing professionals to assist with investigations and trial considerations. Requiring these services to be competitively bid may result in a negative fiscal impact to the state, outside of the cost of competitively bidding individual services, in terms of extending investigation and trial durations beyond the baseline.

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>	<i>Evan Brasseaux</i>
<input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}		<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}	
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}	Evan Brasseaux Staff Director