LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION
Revision 1

May 18, 2007

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: **HB2733** by Gattis (Relating to the creation of an office of state contract management by the attorney general.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2733, As Engrossed: a negative impact of ($1,662,007) through the biennium ending August 31, 2009.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2008	($657,730)
2009	($1,004,277)
2010	($978,768)
2011	($980,124)
2012	($981,516)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *GENERAL REVENUE FUND* 1	Change in Number of State Employees from FY 2007
2008	($657,730)	7.0
2009	($1,004,277)	12.0
2010	($978,768)	12.0
2011	($980,124)	12.0
2012	($981,516)	12.0

Fiscal Analysis

The bill would require the attorney general (AG) to establish a state office of contract management to identify, review, and provide assistance on “high-risk” contracts undertaken by state agencies. The bill defines “high-risk” contracts as those agency contracts with a value of $10 million or more or that meet other non-financial high risk factors. The AG would also have the ability to waive contracts from required review and approval if the contract in question is determined to carry a low-risk to the state.

The office would be required to approve identified “high-risk” contracts at three points in the contract management process: (1) prior to the public release of solicitation documents; (2) prior to the execution of a final contract; and (3) prior to making a payment, or series of payments, that equal half of the contract value.

A contract not approved at any of the three points noted, would be referred to the Legislative Budget Board (LBB) and the governor for further review and comment. With the approval of those entities, the office may recommend the cancellation of a solicitation or a contract under review if the contract is not in the best interests of the state or places a state entity at unacceptable risk if executed.

The bill applies to contracts considered by state agencies, including contracts by the Texas Department of Transportation (TXDOT). The requirements of the bill would not apply to institutions of higher education.

Methodology

The attorney general (AG) would need to revise agency rules, contract management guidelines, and procurement and contracting forms previously developed by the Building and Procurement Commission. It is assumed that these duties and responsibilities could be absorbed within existing state resources.

To implement the additional responsibilities required by the creation of the office of contract management, the AG would require additional resources.

In fiscal year 2005, state agencies, excluding TXDOT, executed 123 contracts valued at $10 million or more. In fiscal year 2006 that total increased only slightly to 130. It is assumed that the majority of TXDOT contracts valued at $10 million or more (257 in fiscal year 2005,196 in fiscal year 2006) would be routine procurements of road construction materials and considered low risk, therefore, not necessitating review and approval. It is assumed that no more than half of applicable agency contracts and not more than 10 percent of applicable TXDOT contracts would be identified as high risk and be subject to the office's review and approval. This would result in the office reviewing 85 contracts per year.

Based on this work load, it is assumed that the AG would require a total of 12 full-time equivalents by the second year of program operations. The 12 employees would include the following classifications: Assistant Attorney General VI (1); Assistant Attorney General V (2); Assistant Attorney General III (3); Assistant Attorney General II (2); Legal Assistant II (2); and (Administrative Assistant I (2). Annual salaries for these positions range from $24,479 to $103,414. Seven of the employees listed would be available to be assigned specific individual contract reviews, handling an average of 12 contracts each per year, with the remaining personnel serving in support roles for all office operations.

The AG's response indicated a need for 27 employees and a total biennial cost of $6.0 million. However, because of the ability of the Office to define high-risk contracts and waive contracts not deemed high-risk from full-review, the staffing and funding levels identified in the table above would be appropriate to establish the office. Depending on the number of contracts identified as high-risk, future staffing levels may need to be adjusted.

Total costs are higher in fiscal year 2009 than fiscal year 2008 due to the development time required to establish, staff, and initiate office operations. It is expected that the office would be fully staffed and operational by the beginning of fiscal year 2009.

TXDOT's response indicated that the review and approval process may increase contract costs by creating substantial delays in the contracting processes in place. Because “high-risk” contracts are intended to be identified during the initial developmental stages of the contracting process and office staff is assumed to work cooperatively with contracting agency personnel throughout the contracting process, no significant delays are expected to occur, therefore, no additional costs to contracting agencies are anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 303 Building and Procurement Commission
LBB Staff: JOB, SD, CT, JI, KY