

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 18, 2007

TO: Honorable David Swinford, Chair, House Committee on State Affairs

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 at the Texas Building and Procurement Commission.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2733, As Introduced: a negative impact of (\$1,549,139) 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	(\$609,014)
2009	(\$940,125)
2010	(\$914,616)
2011	(\$915,972)
2012	(\$917,364)

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2007
2008	(\$609,014)	7.0
2009	(\$940,125)	12.0
2010	(\$914,616)	12.0
2011	(\$915,972)	12.0
2012	(\$917,364)	12.0

Fiscal Analysis

The bill would implement recommendations 1 and 2 of the *LBB Government Effectiveness and Efficiency Report* entitled "Reduce Risks Associated with State Contract Management."

The bill would require the Texas Building and Procurement Commission (TBPC) to establish a state office of contract management (office) 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 identified by the office. The Commission 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.

The bill would take effect immediately if it received a vote of two-thirds of the Legislature; otherwise, the bill would be effective September 1, 2007. The provisions would apply only to solicitations published on or after September 1, 2007, to a contract extended or modified on or after September 1, 2007, or to contracts for which change orders are submitted on or after September 1, 2007.

Methodology

TBPC would need to revise agency rules, contract management guidelines, and procurement and contracting forms developed by the agency. It is assumed that these additional 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, TBPC 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 review per year.

Based on this work load, it is assumed that TBPC would require a total of 12 full-time equivalents by the second year of program operations. The 12 employees would include the following classifications: Director II (1); Contract Administration Manager I (2); Contract Specialist IV (5); Attorney II (1); Attorney I (1); Administrative Assistant III (1); and (Administrative Assistant I (1). Annual salaries for these positions range from \$29,779 to \$80,886. 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.

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: 303 Building and Procurement Commission, 601 Department of Transportation

LBB Staff: JOB, KJG, JI, EP, KY