LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 14, 2011

TO: Honorable Bill Callegari, Chair, House Committee on Government Efficiency & Reform

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

IN RE: **HB198** by Parker (Relating to the use of private procurement specialists for certain state agency contracts.), **Committee Report 1st House, Substituted**

There would be an indeterminate fiscal impact to the state from the provisions of the bill.

The bill would require state agencies, with the approval of either the Comptroller of Public Accounts (CPA) or the Department of Information Resources (DIR), to make use of private procurement specialists (PPS) to assist them in executing high-cost contracts, defined as contracts with a value of at least $10 million. The PPS would be required to approve agency solicitations or contracts at three stages of the procurement process: (1) prior to publically releasing the solicitation documents; (2) prior to executing a final contract; and (3) prior to making a payment, or series of payments, that equals half the contract value. The bill would require the selected PPS to review related contract documentation to ensure that potential contracting and procurement risks are identified and mitigated. The selected PPS may recommend the cancelation of the contract during any stage in the process after review and comment on such a recommendation by the Legislative Budget Board and the governor, if it is found that proceeding with the contract: (1) is not in the best interests of the state; (2) places the state at unacceptable risk; or (3) results in performance failure or payment irregularities.

The bill would also eliminate the current review of solicitations exceeding a value of $1 million by the State Contract Advisory Team, resulting in fewer agency contracts proceeding through existing statewide oversight processes. The CPA and DIR would be required to adopt rules to implement and administer the provisions of this bill.

There is a direct cost to the state resulting from employing private procurement specialists to assist with contracts of $10 million or more. However, because the number of specialists required, the length of time necessary for a contract review, and the rates at which a specialist would be paid are unknown, the fiscal impact of such processes cannot be determined. The associated costs would be ongoing because the bill would require interaction with the PPS during various stages throughout the contract lifecycle, and new contracts meeting the bill’s criteria are enacted each year by state agencies.

The bill allows for PPS vendors to be paid through a pay-for-performance arrangement from savings realized, which could reduce the cost to the state. This provision cannot be considered savings because: (1) the bill allows agencies the option to compensate private vendors based on a flat-fee agreement instead of a pay-for-performance agreement; and (2) the amount of potential savings above the additional cost of PPS service contracts cannot be determined.

Agencies report that the new contracting requirements could create additional delays in the procurement and contracting process, potentially resulting in increased project management or service delivery costs. Additionally, the CPA believes the provision of HB 198 would necessitate an additional full-time equivalent position be added to the statewide purchasing program to coordinate approval of PPS use and oversee disputes between contracting agencies and PPS vendors.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 313 Department of Information Resources, 302 Office of the Attorney General, 405 Department of Public Safety, 529 Health and Human Services Commission, 601 Department of Transportation, 696 Department of Criminal Justice, 802 Parks and Wildlife Department

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