

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 18, 2017

TO: Honorable John Zerwas, Chair, House Committee on Appropriations

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB20 by Capriglione (relating to the review, oversight, and reporting of certain state agency contracts.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to modify the definition of a contract that is reportable to the Legislative Budget Board (LBB) Contracts Database to include all major types of state purchases, and to conform to the definition of "contracts" in the Introduced 2018-19 General Appropriations Bill.

The bill would require state agencies to report contracts valued over \$50,000 and all "major consulting service" contracts over \$15,000 (as defined by section 2254.021) to the Legislative Budget Board within 30 days of execution or modification.

The bill would exempt from the reporting requirements contracts solely paid for with higher education institutional funds or hospital and clinic fees, and sponsored research contracts. The bill would require institutions of higher education to report contracts paid with appropriated funds for major information systems valued at or over \$1 million, construction projects valued at or over \$50,000, and professional service contracts valued at or above \$50,000.

The bill would require that all contracts reported to the LBB include contract and solicitation document attachments. The bill would permit reporting agencies to redact certain information from these attachments to prevent fraud against the state. Health and Human Services contracts related to Medicaid provider enrollment services and Texas Department of Transportation contracts related to highway engineering and construction would be exempt from the document attachments requirement.

The bill would establish in statute LBB staff responsibilities to review contracts for violations of the State of Texas Contract Management Guide, the State Procurement Manual, and applicable contracting laws, rules, policies, and procedures. These responsibilities are currently authorized in the 2016-17 General Appropriations Act. Institution of higher education contracts that are paid for solely with institutional, hospital, or clinic fees are exempt from these reviews.

The bill would require the Director of the LBB to notify state agencies of any identified violations, and would provide 10 business days for agencies to respond to these notifications. If the LBB determines that the agency response does not address the violations identified, the bill would authorize LBB staff to establish corrective action plans with state agencies.

The bill would authorize the Director of the LBB to notify the Governor, the Comptroller, and the LBB of any violations identified, and to recommend enforcement mechanisms to address violations. The bill would authorize the LBB to implement enforcement mechanisms based on legislative authorities, and discretion to increase or reduce the severity of these enforcement mechanisms based on agency compliance with corrective action plans.

The bill would move the definition of a "major information system" from 2054.008 to 2054.0965. Moving the definition does not affect contract reporting.

The bill would repeal the requirement to post contracts on individual state agency websites, and in its place require state agencies to provide a link on their website's home page to the LBB Contracts Database. In addition, institutions of higher education would be required to post on their websites all active contracts over \$15,000 that are paid for solely with institutional funds or hospital and clinic fees. Those contracts that are awarded non-competitively would be required to include a statutory citation explaining the exemption from competitive bidding, and those contracts awarded competitively would be required to include a solicitation document.

The bill would require the Contract Advisory Team to provide the LBB with copies of reviews conducted under Government Code, Section 2262.101(a)(1) within 10 days of completing such reviews. The bill would require the Contract Advisory Team to provide the LBB with copies of agency responses provided under Government Code, Section 2262.101(d) within 10 days of receipt of such responses.

The bill would repeal contract reporting requirements from Government Code, Sections 2054.008 (information technology), 2166.2551 (construction), 2254.006 (professional services), and 2254.0301 (consulting services). The bill would also repeal Government Code, Section 322.0202(f) concerning previous exemptions from providing contract and solicitation attachments.

This bill would not be retroactive to contracts awarded before the effective date.

The bill would be effective on September 1, 2017.

There would be no significant cost to implement the provisions of the bill. The bill would codify existing LBB contract oversight authority and would be implemented using existing resources. Eliminating the requirement to post contracts on agency websites would reduce contract reporting workloads, which could be applied to uploading contract documents in the LBB Contracts Database for agencies previously exempted from this requirement.

Local Government Impact

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

Source Agencies:

LBB Staff: UP, KK, JPU, JMO