



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 1200

PRINTERS NO. 2476

PRIME SPONSOR: Folmer

COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	Minimal	Minimal

SUMMARY: Amends Title 62 (Procurement Code) to require Commonwealth agencies to post written determinations and proposed contracts relating to noncompetitive procurements on the Internet, place limitations on the membership of evaluation committees that review contract proposals under the competitive sealed proposal method of procurement and establish a program for assisting veteran-owned businesses in their efforts to obtain state contracts. This legislation would take effect in 60 days.

ANALYSIS: Amends the Procurement Code to require Commonwealth agencies to post written determinations and proposed contracts relating to noncompetitive procurements on the Internet; places limitations on the membership of evaluation committees that review contract proposals under the competitive sealed proposal method of procurement; and establishes a program for assisting veteran-owned businesses in their efforts to obtain state contracts.

Public Access to Procurement Records: This legislation would amend the Procurement Code to establish that records regarding a procurement are to be made public consistent with the Right-to-Know Law.

This legislation also requires an agency that intends to enter into a noncompetitive contract to post the proposed contract and any written determination relating to the contract on its Internet website seven calendar days prior to its execution.

The categories of noncompetitive contracts covered by provisions of the bill are those that are awarded via the:

- competitive sealed proposal method of procurement;
- sole source method of procurement;
- multiple award method of procurement;
- competitive selection procedures for certain services method of procurement;
- selection procedure for insurance and notary bonds; or
- method for procurement of design professional services.

Sole Source Procurement: The legislation would require sole source procurements over \$100,000 to be signed by the head of the purchasing agency.

Emergency Procurement: This legislation would amend the Procurement Code in regard to emergency procurement to:

- require posting of the written determination relating to an emergency contract within 7 days after the emergency procurement is authorized. The posting must remain on the website for a minimum of 30 days.
- establish that no written contract is required for an emergency procurement. The supplier may be paid based on emergency approval and approved invoice.

Competitive Sealed Proposal Method of Procurement: This legislation would place limitations on the membership of an evaluation committee. Specifically, an individual who has been employed by an offeror within the two year period preceding the evaluation of proposals for a contract may not participate in the evaluation of proposals for the contract.

Procurement for Veteran-Owned Businesses: This legislation would add a Chapter 22 (Veteran-Owned Small Businesses) to Title 62. The legislation would require the Department of General Services (DGS) to establish goals and regulations to enhance State contract participation for veteran-owned and service-disabled veteran-owned small businesses. Each purchasing agency shall have an annual goal of 5% participation by these small businesses in all contracts entered into. DGS would be required to provide staff when feasible and shall develop special training programs to assist these small businesses in learning how to do business with the Commonwealth.

A purchasing agency would be allowed to reduce or change the level of bonding for these small businesses as well make special provisions for progress payments. Each independent and executive agency shall annually submit reports to DGS that detail the actual utilization of these small businesses.

The legislation would also require DGS and each State-affiliated entity to submit annual reports to the Veterans Affairs and Emergency Preparedness Committees of both the Senate and the House of Representatives that details the total contract dollars awarded to these small businesses during the preceding fiscal year.

Small Business Reserve Program: The legislation would add Section 2109 (Small business reserve program) to Title 62. The legislation would require DGS to establish a small business reserve program for the purpose of increasing economic opportunities for small and disadvantaged, including veteran-owned small businesses. DGS shall structure its procurement procedures to reserve up to 5% of the total dollar value of its procurement contracts. DGS shall adopt and promulgate regulations to carry out the requirements of Section 2109. DGS shall submit a report to the Chief Clerks of the Senate and House of Representatives on the operation and effectiveness of the small business reserve program.

Best Practices Model: This legislation would add Section 2109 (Oversight and responsibility) to Title 62 (Procurement Code). The legislation would require DGS to establish best practices for use by Commonwealth agencies to determine the most effective means to enhance procurement opportunities for disadvantaged businesses. The department and each Commonwealth agency awarding contracts shall adopt these best practices identified by the department in order to enhance contracting opportunities for disadvantaged businesses. The department shall ensure that disadvantaged business participation is a component of its and each Commonwealth agency's strategic procurement priorities through the identification of measurable goals and objectives.

FISCAL IMPACT: According to the Department of General Services, the special training requirement would have a minimal fiscal impact on its operating budget. These expenses could be absorbed within currently allocated funds. The remainder of this legislation would have no adverse fiscal impact on Commonwealth funds.

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House Appropriations Committee (R)

DATE: October 15, 2012

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.