



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 201

PRINTERS NO. 4238

PRIME SPONSOR: Dunbar

COST / (SAVINGS)

FUND	FY 2014/15	FY 2015/16
General Fund	See fiscal impact	See fiscal impact

SUMMARY: Amends the Procurement Code to place limitations on the membership of evaluation committees charged with reviewing contract proposals under the competitive sealed proposal method of procurement. Additionally, HB 201 prohibits a person or financial institution engaging in investment activities with Iran from entering into state contracts for goods and services valued at more than \$1 million.

ANALYSIS: HB 201 amends Section 513 (Competitive sealed proposals) in the Procurement Code (Title 62 PACS) in relation to the evaluation process for competitive sealed proposals.

The competitive sealed proposal process is one of the methods of procurement enumerated in Chapter 5 of the Procurement Code. Under this process, an agency will solicit proposals from potential offerors. The proposals are reviewed by an evaluation committee, which is charged with assessing each proposal based on various factors.

HB 201 places limitations on the membership of these evaluation committees. Specifically, under the bill, an individual who has been employed by an offeror within the two-year period preceding the evaluation of proposals for the contract may not participate in the evaluation of proposals for the contract.

Additionally, HB 201 creates a new Chapter 35 (Iran Free Procurement) which restricts contractors who are seeking procurement consideration from having investment activity with the government of Iran. Engaging in investment activities is defined in this bill as:

- Providing goods or services worth at least \$20,000,000, including oil tankers or transporters and liquefied natural gas tankers or transporters, to the energy-related activities of Iran, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran.
- Extending at least \$20,000,000 in credit to a person for 45 days or more if used for providing goods or services to the energy sector in Iran and the person is identified on a list, created by the Department of General Services, of persons engaged in investment activities.

This bill requires the Department of General Services to develop a list of persons whom the department determines are engaged in investment activities in Iran, update the list every 180 days, post the list on its internet website and upon request provide the list free of charge to the General Assembly or a public entity. The department is required to provide notice to individuals included on the list and an opportunity to comment in writing. Any persons identified on the list shall be ineligible to enter into a contract with a Commonwealth entity for goods or services worth at least \$1,000,000. The Department of General Services may provide exceptions if all of the following apply:

- The investment activities were made before and were not expanded after July 1, 2015.
- The person refrains from entering into new agreements to engage in any future investment activities in Iran.
- The Department of General Services determines that the Commonwealth entity has no other cost-effective method of obtaining the goods or services than entering into a contract with the person.

This bill also requires that the Department of General Services make available a certification form indicating that a person is not on the list of persons engaged in investment activities with Iran and is eligible to contract with the Commonwealth. The penalties for false certification would include:

- A civil penalty in the amount of \$250,000 or twice the amount of the contract, whichever is greater.
- Suspension of the existing contract with the Commonwealth entity for a period of three years from the date of the determination that the person submitted the false certification. Following the three-year period, the Commonwealth entity or the Department of General Services may terminate the contract.

In addition to the penalties, the Department of General Services shall report to the Attorney General the names of any persons who submit a false certification.

FISCAL IMPACT: Enactment of this legislation would require the Department of General Services to develop a list of persons who engage in investment activities in Iran. As a result of the passage of Act 44 of 2010, the Department of Treasury currently maintains a similar list of persons engaged in investment activity in Iran. To the extent that this legislation would require a separate list or additional information to be added to the current list maintained by the Department of Treasury, additional costs would be incurred by the Department of General Services. According to the Department of General Services, these additional costs would be approximately \$20,000 annually.

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DATE: October 14, 2013

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