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FISCAL IMPACT REPORT

SPONSOR <u>Gallegos/Campos/Gonzales</u>	LAST UPDATED _____
	ORIGINAL DATE <u>3/7/2025</u>
SHORT TITLE <u>State Architectural and Engineering Contracts</u>	BILL NUMBER <u>Senate Bill 408</u>
	ANALYST <u>Simon</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
State Agency Capital Outlay and Road Maintenance		At least \$11,701.6	At least \$11,701.6	At least \$23,403.2	Recurring	General Fund and Other State Funds

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 206

Sources of Information

LFC Files

Agency Analysis Received From
 General Services Department
 Department of Transportation
 Department of Cultural Affairs

SUMMARY

Synopsis of Senate Bill 408

Senate Bill 408 (SB408) would allow state agencies and other entities under the Procurement Code to use a price agreement for architectural or engineering services of up to \$2 million, provided the total value of all contracts procured under that price agreement does not exceed \$15 million over a four-year period. Further, the bill would allow agencies to procure construction contracts from a price list for projects valued at up to \$7 million, provide the total value of all contracts procured under that price agreement does not exceed \$30 million over 10 years.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

Since 2016, the LFC has issued three Program Evaluation Unit reports noting the hazards of noncompetitive procurement processes. In an ideal world, all the goods and services that New

Mexico government entities buy with taxpayer dollars would be competitively sourced, with vendors competing to offer the best discounts to secure the state as a customer. The state would facilitate this situation by employing a central group of professionals responsible for ensuring the state gets the best deals. This type of procurement would naturally combat the waste, fraud, and abuse of taxpayer dollars that can inadvertently or purposefully occur without such oversight and guardrails. However, as highlighted by LFC evaluations, overuse of Procurement Code exemptions and overreliance on statewide price agreements have often led to the state overspending for purchases ranging from everyday acquisitions of laptops and cars to noncompetitively sourced contracts worth hundreds of millions of dollars. Any continued widening of these exemptions and additions of noncompetitive procurement processes would only increase opportunities for waste, fraud, and abuse to streamline and speed up bureaucratic processes.

Multiple sources indicate a well-run procurement program can save an organization 5 percent to 10 percent on costs. Assuming the removal of guardrails on professional services contracts in SB206 would drive up prices by a very moderate 5 percent, the fiscal impact is likely to be at least \$11.7 million, based on capital outlay and road maintenance expenses of \$234 million in FY24.

SIGNIFICANT ISSUES

Generally, the Procurement Code requires agencies to purchase goods and services valued at more than \$60 thousand through a competitive process, where the agency releases a request for proposals for the project with a defined scope of work and vendors respond with sealed proposals that include the price of each item included in the proposed scope of work. Agencies then evaluate each of the proposals to ensure the agency selects the proposal representing the best value for the state. However, provisions of the Procurement Code allow certain goods and services to be procured for multiple projects through a single request for proposals, often called a statewide price agreement. Under these agreements, vendors respond to requests for proposals and provide rates for goods or services. For example, a current price agreement for general construction includes labor rates for laborers, journeymen or experienced workers, and superintendents, as well as hourly rates for project estimates, per diem and mileage rates, and discounts on parts and materials. Rates can vary by vendor. For example, laborer wage rates for projects over \$60 thousand can vary from \$28 per hour to \$125 per hour. Price agreements are particularly useful for small projects where competition from vendors would likely be limited. Best practice is for agencies to receive at least three price quotes from vendors awarded on the price agreement to keep some element of competition.

Currently, price agreements for architectural and engineering services cannot exceed \$650 thousand for a single project, with the maximum amount for each vendor being no more than \$7.5 million over a four-year price agreement. SB408 would increase the cap on individual projects by more than 200 percent, from \$650 thousand to \$2 million. The bill would double the aggregate cap, from \$7.5 million to \$15 million.

For construction projects, the bill would increase the cap by 75 percent, from \$4 million to \$7 million, with the total aggregate value capped at \$30 million over a 10-year period. The current aggregate cap is \$12.5 million over a three-year period, so while the aggregate cap is lifted, the bill would expand the time covered by a single cap.

While price lists are often used for smaller projects, the Procurement Code currently includes project maximums, meaning larger projects cannot be procured under this method. This provides protection to the taxpayer by ensuring large projects are individually priced, with many contractors competing to provide those services. However, many agencies find these protections too complex and administratively burdensome and prefer streamlined procurement processes that provide agency staff more flexibility when awarding government contracts. Analysis from several agencies note recent cost increases have limited the ability of agencies to take advantage of price agreements for construction projects.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 408 relates to Senate Bill 206, which creates several exemptions to the Procurement Code.

Senate Bill 408 is a duplicate of House Bill 456.

JWS/hj/SL2