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FISCAL IMPACT REPORT

ORIGINAL DATE 03/07/17

SPONSOR SCORC LAST UPDATED _____ HB _____

SHORT TITLE Multiple Source Contract Dollar Limit SB 339 & 419/SCORCS

ANALYST Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB20, HB25, SB18, HB198, HB278, HB217

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
 New Mexico Department of Transportation (NMDOT)
 Administrative Office of the Courts (AOC)
 Department of Cultural Affairs (DCA)
 New Mexico Municipal League
 Public School Facilities Authority (PSFA)
 Economic Development Department (EDD)

No Response Received From

General Services Department (GSD)

SUMMARY

Synopsis of SCORC Substitute

Senate Corporations and Transportation Committee substitute for Senate Bill 339 and Senate Bill 419 proposes to amend the Procurement Code to

- 1) Allow local public bodies to solicit for multiple source architectural, engineering or construction contracts, procured through a single request for proposals (RFP);
- 2) Increase the cap for all contracts to a single contractor from \$2 million to \$6 million;
- 3) Increase the cap for multiple indefinite quantity construction contracts based on a price agreement for multiple projects under a single request from \$2 million to \$10

- million over three years and a single purchase order cannot exceed \$1 million;
- 4) Limits the term of architectural or engineering services to four years and reduces the term for construction contracts to three years.

SIGNIFICANT ISSUES

The New Mexico Department of Transportation (NMDOT) believes that it would benefit from raising the cap for the engineering services contracts because currently multi-source award contracts can reach the current cap before the term of agreement is met. For example, of the 46 engineering services firms contracted by NMDOT and procured through the multiple source contract procurement, six are at or nearing the \$2 million cap, even though the contract term for each is not yet reached expiration.

The Public Schools Facility Authority (PSFA) believes that increasing the thresholds for multiple source contracts will allow for a greater number of projects or larger projects to be accomplished under a single procurement process; however, reducing the time period for indefinite quantity construction contract expenditures from a 4-year to a 3-year period diminishes the full impact that the increase to the dollar value threshold could realize for a procurement.

The Administrative Office of the Courts (AOC) reports the bill would allow AOC to procure a three year on-call service contract with architects and engineers to perform multiple projects. Currently AOC is required to create a separate RFP for each project which is costly due to the time and staff involved. This bill would reduce that requirement and allow AOC to select a group of architects and engineers and have them on call to work on projects as long as the amounts do not exceed the stated dollar amounts. The SCORC substitute would assist in reducing construction schedules by reducing the amount of time it takes to procure architectural and engineering services, which in some cases can take up to six months.

The bill would allow the Department of Cultural Affairs (DCA) to procure up to \$10 million of construction services under a single contract; however, the amendment to the term – from three years to four years – may pose difficulties especially since large construction projects typically take several years to complete.

ADMINISTRATIVE IMPLICATIONS

An increase in the multiple source contract caps could improve NMDOT's access to firms that provide survey and environmental services in addition to engineering services. The current cap limits the contract capacity for multiple discipline firms and therefore limits NMDOT's access to survey and mapping services when those services are provided by a firm that also provides general engineering or specialized engineering services. Engineering services include work associated with unforeseen maintenance activities resulting from flooding, vehicle crashes or other weather related damage that cannot be addressed by internal design staff without causing significant delays to existing projects. Unexpected specialized tasks include structural, drainage and pavement designs, geotechnical explorations and testing, or traffic analysis for projects being designed by internal design squads.

When multiple source contracts are unavailable because the caps have been reached, NMDOT has two alternatives, both of which are time consuming and push back project timelines. One method is the small purchase of professional services not exceeding \$50,000 under Section 13-1-

125B, which may take three to six weeks to accomplish. Another method is to issue a RFP based on Section 13-1-111(D), which may take three to six months from initiation to notice to proceed. Under a multiple source contract with an expanded cap, NMDOT could have a contractor on the job within a week.

The SCORC substitute would allow AOC to have architects and engineers (A&E) available and ready with minimal administrative delay should the need arise and provide AOC the ability to have services available on call should an emergency arise such as structural damage, mechanical failure, major water damage. Although the state Procurement Code does have language in case of an emergency, this bill would allow another way to deal with emergencies.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB20 Public Works Prevailing Wage & Penalties, HB25 and SB18 Resident Business Set-Aside Act, HB198 Historically Underutilized Businesses, HB278 Notice & Review of Exempt Procurements, HB217 Increase Cap for Veteran Contractor Bidding.

OTHER SUBSTANTIVE ISSUES

The Department of Finance and Administration (DFA) states this bill would assist agencies in using A&E contractors for larger projects or for a greater number of projects based upon a single procurement. Although this bill might seem to limit competition, any procurement using these new limits would set, up-front, the potential number of projects and amount of money encompassed by such an award, thus providing all offerors a level playing field from which to submit their proposals. Conversely, the bill could possibly have an unforeseen consequence of eliminating smaller firms from competing for awards where a smaller firm might not be capable of handling such workloads.

ABS/al/jle