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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/09
 LAST UPDATED 03/12/09 HB 889/aHBIC

SPONSOR Trujillo

SHORT TITLE Limit Cooperative Procurement Agreements SB _____

ANALYST Archuleta

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Finance and Administration (DFA)
 General Services Department (GSD)

SUMMARY

Synopsis of HBIC Amendment

The HBIC amendment adds that procurement conducted by or on behalf of more than one local public body or by a local public body with an external procurement unit “each acting in its capacity as a central purchasing office, in accordance with the provisions of Sections 13-1-135 NMSA 1978”. Lastly, the amendment adds a new subsection related to state agencies that identifies “for the state purchasing agent, one, simultaneous procurement jointly conducted by the state purchasing agent and one or more external procurement units or local public bodies, each acting in its capacity as a central purchasing office, in accordance with the provisions of Section 13-1-135 NMSA1978”.

Synopsis of Original Bill

House Bill 889 limits the ability of state agencies to enter into contracts through cooperative purchasing procurements specifically, those defined as jointly conducted by two or more state agencies. The bill allows state agencies to conduct cooperative procurements with other state agencies and eliminates conflicting requirements between cooperative procurements and procurement under existing contracts.

FISCAL IMPLICATIONS

There are no readily apparent fiscal implications associated with House Bill 889.

SIGNIFICANT ISSUES

According to GSD, the intent of HB 889 is to prevent state agencies from violating Section 13-1-129, NMSA 1978, by using contracts that are not procured by a state agency or the State Purchasing Agent, but by other governmental entities or private procurement companies with no participation by the state agency or the State Purchasing Agent and with no knowledge of whether the original procurement was done in accordance with law or consistent with the NM Procurement Code. This would also prevent state agencies from circumventing the statutory requirement of central purchasing through the State Purchasing Division.

DFA indicates that HB 889 is an effort to allow two or more state agencies (and local public bodies) to cooperate on a procurement that will benefit all of them together or separately. Currently, the only vehicle to accomplish this is Section 13-1-129, which allows a state agency or a public body to purchase from a price agreement or contract negotiated by another agency or political entity, so long as that entity used a procurement process equivalent to the Procurement Code to negotiate the price agreement or the contract. The problem with allowing another agency to purchase off of your contract is that the contracting agency is saddled with the procurement costs and allowing another agency to use the price agreement, for example, uses up the purchasing limits early.

OTHER SUBSTANTIVE ISSUES

GSD suggests that this bill would improve competition among vendors since it should increase the number of actual procurements conducted by state agencies and the State Purchasing Agent.

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