F I S C A L   I M P A C T   R E P O R T

SPONSOR: HGUAC   DATE TYPED: 03/12/03   HB CS/338/aHJC/aSCORC

SHORT TITLE: Contract Management Act   SB

ANALYST: Patel

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	**FY04**	**FY03**	**FY04**		
			(See Narrative)		

(Parenthesis ( ) Indicate Expenditure Decreases)

Responses Received From
Various Agencies

SUMMARY

Synopsis of SCORC Amendment

The Senate Corporation and Transportation Committee amendment added "construction, construction contract management" to clarify that both construction contracts and construction management contracts are subject to requirements of the contract management act. Hence, the SCORC amended bill defines contract as an agreement for professional and consulting services, including contract management, construction, construction contract management and information technology.

Synopsis of HJC Amendment

The House Judiciary Committee amendment added construction contract management subject to the contract management act.

Synopsis of Original Bill

The House Government and Urban Affairs Committee Substitute for House Bill 338 adds a new section of law to require the Department of Finance and Administration to implement a comprehensive system of managing the development and oversight of professional services contracts that are entered into by state agencies. The proposal would require agencies that enter into professional services contracts to improve the decision-making process they use when determining whether to contract out government services and to prepare cost-benefit analyses. The bill de fines contract as an agreement for professional and consulting services, including contract management and information technology.

The bill would require agencies to review professional services contracts for legal sufficiency and would require that professional services contracts be “performance contracts” which means that they must include elements designed to improve accountability. This includes performance measures, provisions to give incentives or penalize contractors who do not meet performance standards, and provisions to monitor the contractor’s performance. The bill will apply to all state, legislative and judicial agencies and to post-secondary institutions. Legislative and judicial agencies and post-secondary institutions would formulate their own policies to meet the goals of the bill. This legislation states that the agency is to develop the actual measures for each contract and considers duplication of service by geographic location or type of service.

This bill applies to contracts of $100,000 or more. This legislation gives the Department of Finance and Administration, by rule, the authority to exempt small dollar contracts to better focus on oversight of fewer contracts that encompass a higher percentage of total contract dollars spent.

For contracts greater than $1 million, this bill requires agencies to develop guidelines for administration and execution of the contract. Additionally, agencies shall develop management rules for performance contracting.

Significant Issues

Fiscal implications for agencies are indeterminate. Some agencies may argue that the cost of professional service contracts will increase due to the additional reporting and monitoring required by the legislation. However, on-going oversight of contracts is likely to have a significant positive fiscal impact. Performance contracts should ensure that deliverables are of high quality and are related to overall performance goals of the contracting agency.

February 2001 Governing Magazine gave New Mexico a grade of C+ for financial management and stated that “… the state’s pensions are fully funded and its bond rating is healthy, but it could use better analysis of debt capacity. Financial reporting continues to be weakness here as well. Contracting is very decentralized, leaving problems with the potential to fester unnoticed.” Recently Governor Bill Richardson ordered a halt to most state contracts due to questionable spending and management practices. As examples of waste, the Governor cited a $4 million telephone and data improvements contract by the State Highway and Transportation Department; a $16 million no-bid contract to a vendor that handles the Medicaid claim system and another sole source contract for the State System – Application Links to Services (SSALSA) entered into by the Human Services Department.

FISCAL IMPLICATIONS

In order for the Department of Finance and Administration to adequately carry out the functions of the bill, additional FTE may be required.

MP/prr