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FISCAL IMPACT REPORT

SPONSOR: Carraro DATE TYPED: 02/22/03 HB _____

SHORT TITLE: Competitive Proposal Contracting SB 736

ANALYST: Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Indeterminate	Recurring	General Fund/OSF/Federal

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 575

SOURCES OF INFORMATION

General Services Department (GSD)
State Department of Education (SDE)

SUMMARY

Synopsis of Bill

SB 736 amends a section of the procurement code to expand the applicability of competitive proposal contracting for construction associated with assured environmental performance service projects (heating & cooling systems). SB 736 applies to those school districts having fewer than 15,000 students.

Significant Issues

The State Department of Education provided the following comments:

1. The provisions of this bill exclude the Albuquerque and Las Cruces public schools.
2. By allowing for the submission of sealed proposals rather than sealed bids, a fundamental change in construction and maintenance procurement is intended. As noted in Section 13-1-115 NMSA 1978, offerors submitting proposals may be afforded the opportunity for discus-

sion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining the best and final offers. Negotiations may be conducted with responsible offerors who submit proposals found to be reasonably likely to be selected for the award. Bids are generally more finite in that a specific dollar amount is indicated. There are instances where this amount is changed, but generally this occurs in response to construction issues that arise after the fact.

3. Currently Section 13-1-111 NMSA 1978 allows for these actions only after a determination is made by the state purchasing agent or a central office purchasing office that competitive sealed bids are not practical or in the best interests of the affected agency. SB 736 directs that competitive proposals be used in all instances where assured environmental performance service projects are involved, including maintenance activities.
4. As defined in SB 736, “assured environmental performance service projects” means design, construction, control and warranty of heating and cooling systems. However, this bill includes additional systems that may or may not be related to heating and cooling, due to the language being too broad in scope. The language should be more specific in the associated systems relating to the heating and cooling systems. The provisions of this bill may encompass added work that is unintended.

FISCAL IMPLICATIONS

SB 736 may change the overall cost of construction or maintenance projects. The number of projects that may be affected by this legislation is considerable given the large number of school projects that are undertaken each year.

RELATIONSHIP

SB 736 relates to HB 573 in that both bills change Section 13-1-111 NMSA 1978 to provide for sealed competitive proposals rather than sealed bids for various types of work in school districts. HB 573 allows the use of competitive, sealed proposals for contracts for construction and facility maintenance, service and repairs.

TECHNICAL ISSUES

GSD proposes a technical correction to the bill:

On page 2, lines 11 and 12, delete “for school districts having fewer than fifteen thousand students”. On page 2, line 19, after the word “systems” insert “for school districts having fewer than fifteen thousand students”.

GG/njw