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FISCAL IMPACT REPORT

SPONSOR Stefanics ORIGINAL DATE 01/26/21
LAST UPDATED _____ HB _____
SHORT TITLE Youth Conservation Corps & Procurement Act SB 120
ANALYST Wan

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|----------|----------|----------------------|------------------------------|-------------------------------------|
| Total | | (\$60.0) | (\$60.0) | (\$120.0) | Recurring | Youth Conservation Corps Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

General Services Department (GSD)

Youth Conservation Corps (YCC)

SUMMARY

Synopsis of Bill

Senate Bill 120 would amend Section 13-1-98 NMSA 1978 to exempt contracts and the procurement of services for projects entered into by the Youth Conservation Corps (YCC) Commission from the Procurement Code.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

Both YCC and the General Services Department (GSD) expect SB120 to result in agency cost savings. GSD did not provide an estimate, but stated savings are expected because staff will no longer need to oversee the procurements for YCC contracts. YCC reports SB120 will save the agency approximately \$60 thousand annually, roughly the cost of hiring a program manager, by reducing its administrative burden and increasing operating efficiency.

SIGNIFICANT ISSUES

Currently, the YCC Commission has been required to issue requests for proposals (RFP) for its projects through GSD's State Purchasing Division to comply with the Procurement Code. RFPs issued through the State Purchasing Division are designed to procure well-defined items of tangible personal property, services, or construction and, according to both YCC and GSD, are not well-suited to YCC's statutory responsibility to fund projects that employ young persons in public projects that conserve the state's natural resources.

YCC states the agency does not determine the property, services, or construction needed to carry out a project; rather, these are provided in the project sponsor's proposal. Another issue YCC identified with the current practice is that RFPs issued through the State Purchasing Division are generally intended to select one or a few of the best proposals, whereas YCC's intent is to fund all projects that conform to the RFP, subject to available funding. YCC reports that some applicants are disqualified each year due to small errors on their applications, resulting in fewer projects and fewer youth hired in rural, tribal, and urban areas. GSD states that efforts to accommodate the YCC's authority has historically resulted in protests that have diverted State Purchasing resources to protest investigations and responding with protest determination letters.

YCC believes SB120 will have the following effects:

- YCC will be able to easily reallocate reverted funds to another applicant within the same fiscal year;
- YCC will issue the request for projects on its website instead of directing applicants to apply through the State Purchasing Division, thereby reducing confusion about how to apply;
- YCC will be able to provide guidelines and FAQs about how to apply for projects on its website; and
- YCC will be able to purchase or develop grant management software that will provide an easier application process, reduce errors that result in disqualifications, encourage more applications, and track projects.

In its analysis, YCC notes that an exemption from the Procurement Code does not eliminate the YCC Commission's due diligence in disbursing funds. Service agreements issued by the YCC Commission will go through the Contracts Review Bureau of the State Purchasing Division.

YCC provided the attached table comparing the current procurement process under the State Purchasing Division to the process that can be expected if the agency is exempted from the Procurement Code.

ADMINISTRATIVE IMPLICATIONS

YCC reports that SB120 will reduce the agency's administrative burden by reducing the amount of time that is needed to prepare, issue, and process an RFP through the State Purchasing Division. YCC will also be able to adopt processes currently not available to them, such as grant application software, that will reportedly increase capacity and transparency.

GSD states SB120 will reduce the administrative burden on the State Purchasing Division, negating the need for creating procurements for administering grants. GSD further states, "this

exemption will streamline the grant administration process while greatly increasing YCC's operational capacity and helping more youth to be hired and invested in New Mexico. “

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

GSD and YCC assert that continued application of the Procurement Code to YCC contracts will likely result in the rejection of many proposals, protests to the State Purchasing Division, lost opportunities for grants, and an inability to spend available funds resulting in a buildup of YCC fund balance.

CW/al

Comparison and Benefits of Exemption to the Procurement Code for YCCC

| State Purchasing RFP | YCCC |
|--|---|
| 1. Process Differences | |
| Procure well-defined items of tangible personal property, services or construction. | Provides a process to employ young persons in public projects that conserve New Mexico's natural resources and provide community benefits of lasting value. |
| Items of tangible personal property, services and construction are defined in the RFP | Items of tangible personal property, services and construction are largely defined by the applicant. |
| Make an award to one or two best offerors that are in the best interests of the State of New Mexico | Award funds to as many proposals as funding allows that conform to the conditions of the YCC program, about 40 per funding cycle. |
| Frequently available to private sector and for-profit entities. | Private sector or for-profit entities are not eligible to apply for and receive grants. |
| 2. Benefit: Increased Accessibility to the YCC Program | |
| All RFP materials must be posted on SPD website. | Application, webinar, FAQs and answers to specific questions posted on YCC website. |
| Proposals may be considered 'non-responsive' for small details, such as not checking a box in the Letter of Transmittal Form | All proposals would be entered into a single application with prompts to prevent rejection errors. |
| RFPs follow a pre-determined format that can be difficult for potential small entities to understand. | YCCC can create a custom application suited to the YCC program. |
| Complex and lengthy process allows for only one RFP per year | Returned funds could be made available through a second application within one year. |
| 3. Benefit: Increased Capacity and Transparency of the YCC Program | |
| Applications may not be entered into 3rd party software. | YCCC could obtain 3rd party grant management software for proposal entries and subsequent grant management. |
| No grant management resources available. | Increased capacity and efficiency through smooth information transfer between approved proposals and grant tracking software. |
| | Increased transparency through finer-grained tracking and reporting available with grant management software. |