



**Colorado
Legislative
Council
Staff**

HB16-1134

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0460
Prime Sponsor(s): Rep. Carver
Sen. Todd

Date: February 4, 2016
Bill Status: House Business Affairs and Labor
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BILL TOPIC: SERVICE-DISABLED VETERAN-OWNED BUSINESS IN PROCUREMENT

| Fiscal Impact Summary | FY 2016-2017 | FY 2017-2018 |
|---|---------------------------------|---------------------------------|
| State Revenue | | |
| State Expenditures | <u>at least \$90,633</u> | <u>at least \$40,464</u> |
| General Fund | 32,800 | 33,526 |
| Cash Fund | 51,500 | 0 |
| Centrally Appropriated Costs | 6,333 | 6,938 |
| FTE Position Change | 0.5 FTE | 0.5 FTE |
| Appropriation Required: \$84,300 — Multiple agencies (FY 2016-17). | | |
| Future Year Impacts: Ongoing state expenditure increases. | | |

Summary of Legislation

For FY 2016-17, the bill requires 1 percent of all state contracts, by dollar value, to be awarded to service-disabled veteran-owned (SDVO) businesses. This requirement increases to 2 percent in FY 2017-18 and to 3 percent in FY 2018-19 and beyond. Under current law, there is a goal, rather than a requirement, to award 3 percent of all state contracts to SDVO businesses.

The bill expands qualifying SDVO businesses to include subcontractors. The bill also extends eligibility to SDVO business owners that have applied, but have not yet been registered, for certification to the Center for Veterans Enterprise within the U.S. Department of Veterans Affairs. Finally, the bill directs the Secretary of State (SOS) to create and maintain a list on its website of such applicants after they submit certain specified documentation.

Background

House Bill 14-1224. In 2014, the General Assembly established a goal in the state procurement code to award 3 percent of all contracts, by dollar value, to SDVO businesses. HB 14-1224 allows a state agency to grant a preference to SDVO businesses to satisfy the procurement goal. It also requires the Department of Personnel and Administration (DPA) to submit a report regarding the state's compliance with the goal.

Number of qualifying SDVO businesses. According to the SOS, there are currently 157 verified SDVO businesses in Colorado. This is the same number reported by DPA in 2014.

DPA reports that in FY 2014-15, only .002 percent of respondents to solicitations were SDVO businesses and the state awarded less than 1 percent of all state contracts by dollar value to SDVO businesses.

State procurement code. The state procurement code applies to Executive Branch agencies; higher education institutions may opt out of the rules. Legislative and Judicial Branch agencies may opt into the rules. Procurement policy and rulemaking for participating state agencies is overseen by DPA.

In Colorado, most contracts are awarded to the bidder that offers the lowest price bid or, in some cases, to the bidder that offers the best value. Colorado law also provides for procurement preferences in limited circumstances, such as for certain types of products, a set-aside program for persons with severe disabilities, and, in the case of a tie bid, the award is made to the resident bidder.

State Expenditures

This bill increases state expenditures by at least \$90,633 and 0.5 FTE in FY 2016-17 and \$40,464 and 0.5 FTE in FY 2017-18 and future years, as shown in Table 1.

| Cost Components | FY 2016-17 | FY 2017-18 |
|---|-------------------|-------------------|
| Personal Services | \$27,147 | \$32,576 |
| FTE | 0.5 | 0.5 |
| Operating Expenses and Capital Outlay Costs | 5,653 | 950 |
| Computer Programming | 51,500 | 0 |
| Centrally Appropriated Costs* | 6,333 | 6,938 |
| TOTAL | \$90,633 | \$40,464 |

* Centrally appropriated costs are not included in the bill's appropriation.

Secretary of State. The SOS will incur one-time costs to hire a contractor to develop an online filing system and to make modifications to its website. The bill directs the SOS to add information to its website about SDVO business owners that have applied, but have not yet been registered, for certification to the Center for Veterans Enterprise within the U.S. Department of Veterans Affairs if such businesses have submitted required documentation to the SOS. This fiscal note estimates it will take up to 500 hours at a cost of \$103 per hour, or \$51,500, to build and test an online system. The system will accept applications, allow applicants to upload the required documents to the SOS website, and create a public listing of qualifying SDVO businesses.

Department of Personnel and Administration. DPA is charged with working with state agencies to meet the requirements of the bill. Following the passage of HB 14-1224, DPA established best practices and technical guidance for state agencies, in addition to reporting on progress towards the goal. The addition of SDVO business qualifying criteria, SDVO

subcontractors, and the change from a preference goal to a requirement will increase workload within DPA. This fiscal note assumes that the change from a preference goal to a requirement will require a different level of DPA staff involvement throughout the year. DPA requires \$32,800 and 0.5 FTE at the General Professional III level in FY 2016-17 and beyond to address the requirements of the bill. The department will increase its outreach to SDVO businesses; develop and maintain procedures to be used in bids and solicitations on the use of preference points for SDVO businesses; and improve and expand existing tracking mechanisms for reporting purposes. The costs in Table 1 reflect the General Fund pay date shift and one-time capital outlay costs.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

| Table 2. Centrally Appropriated Costs Under HB 16-1134 | | |
|--|-------------------|-------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$4,010 | \$4,019 |
| Supplemental Employee Retirement Payments | 2,323 | 2,919 |
| TOTAL | \$6,333 | \$6,938 |

All state agencies. Under current law, DPA allows agencies to offer a 5 percent preference on contracts submitted by SDVO businesses. In order to comply with the requirements of HB 16-1134, DPA plans to mandate the 5 percent preference, which equates to \$25,000 per \$500,000 expended. Since agencies may grant a preference to SDVO businesses under current law, any changes to the procurement process, including reporting about SDVO subcontractors, is anticipated to be minor and accomplished within existing appropriations. However, there may be an increase in the cost for procuring goods and services, if the following conditions are met: (1) the preference was not previously offered by an agency; or (2) the requirement leads to an increase in awards to SDVO businesses, in part because of qualifying SDVO subcontractors. This amount has not been estimated.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2016-17, DPA requires a General Fund appropriation of \$32,800 and an allocation of 0.5 FTE. The SOS requires a Department of State Cash Fund appropriation of \$51,500 for FY 2016-17.

Departmental Difference

DPA is requesting a total of \$109,034 and 1.5 FTE at the General Professional III level to implement the requirements of the bill. The department explains that despite extensive outreach to SDVO businesses, it has not been able to meet the 3 percent goal and that the bill will require it to increase its outreach and training, particularly regarding qualifying SDVO subcontractors. Additionally, DPA believes it will need to report manually on the estimated total dollar amount of work performed by subcontractors. The workload estimate in this fiscal note differs from that of the department because much of the work required under the bill was commenced under HB 14-1224. The additional work driven by the change from a procurement goal to a requirement is estimated to require 0.5 FTE.

The SOS is requesting \$73,049 and 1.2 FTE in FY 2016-17 to implement the requirements of the bill. It has also identified a total cost of \$61,800 for website design (600 hours x \$103 per hour). The personnel costs include 0.1 FTE for a business analyst to develop requirements for the new system; 1.0 FTE for a program manager to train employees on the system, review incoming applications, and coordinate outreach with SDVO stakeholder groups; and 0.1 FTE for a legal analyst to assist in reviewing applications that are flagged by program staff for potential deficiencies. The workload estimate in the fiscal note differs from that of the department because the bill does not direct the SOS to review SDVO business applications or documents, nor does it require the SOS to provide outreach or training to SDVO businesses. Additionally, based on the cost of comparable website projects, this fiscal note estimates that website design development will not require the full number of contract hours requested by the SOS.

State and Local Government Contacts

All State Departments

Information Technology

Secretary of State