



**Colorado
Legislative
Council
Staff**

HB16-1001

FISCAL NOTE

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

Drafting Number: LLS 16-0096 **Date:** February 25, 2016
Prime Sponsor(s): Rep. Danielson; Buckner **Bill Status:** House Business Affairs and Labor
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: STATE CONTROLLER CERTIFY COMPLIANCE WITH EQUAL PAY LAWS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures	Workload increase and potential cost increases.	
Appropriation Required: None.		
Future Year Impacts: Ongoing workload increase and potential cost increases.		

Summary of Legislation

This bill requires the Department of Personnel and Administration (DPA) to develop and make available on its website a form that allows individual bidders to self-certify that:

- the business does not pay any of its employees at wage rates less than the rates paid to other employees on the basis of gender, race, ethnicity, or national origin (stated criteria) for substantially equal work, except in certain circumstances such as to reflect seniority, merit, or production and quality goals;
- employees of the business cannot be disciplined for sharing information regarding employee compensation with coworkers;
- the business publishes the salary range for available positions;
- the business does not restrict employees with stated criteria to certain job classifications and makes retention and promotion decisions without respect to these criteria;
- wages and benefit disparities are corrected when identified; and
- wages and benefits are periodically evaluated to ensure compliance with equal pay standards and laws, including how often such evaluation occurs.

Bidders that are awarded contracts or subcontracts under the state procurement code are required to retain certain information related to employees for the duration of the contract. Bidders with fewer than 50 employees are exempt from these requirements.

The bill authorizes the state to audit the records of any contractor or subcontractor under any negotiated contract to determine whether that entity is in compliance with equal pay laws and the requirements of HB16-1001. If a governmental entity subject to the state's procurement code discovers that a bidder knowingly submitted false information, the contract must be terminated.

Background

The state procurement code applies to Executive Branch agencies; higher education institutions may opt out of the rules, while 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

Overall, this bill will increase workload and may increase costs for DPA and other state agencies beginning in FY 2016-17. The DPA is required to create and post a form for businesses to self-certify compliance with the requirements of HB16-1001. DPA and other state agencies that are subject to the state's procurement code will need to ensure receipt of the certification form prior to awarding new state contractors. These workload impacts are minimal and do not require an adjustment in appropriations for any state agency.

The bill specifies that if it is determined that a bidder knowingly submitted false information, the contract is to be terminated. This analysis assumes that the termination of such contracts could cause the state to find replacement vendors at a higher cost; the increased costs of which have not been estimated. The fiscal note assumes that any affected agency would request an adjustment in appropriations through the annual budget process.

Technical Note

The bill authorizes, but does not require, auditing of contractors and subcontractors, and does not identify which agency, if any, would perform this work. If auditing is required, costs will increase for each agency; these costs have not been estimated. In addition, the bill requires that contracts involving bidders who are determined to have knowingly submitted false information are to be terminated. The bill does not specify how determinations to terminate a contract are to be made or how soon that action must be taken.

Effective Date

The bill takes effect and applies to contracts entered into on or after August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

All Departments

Counties

Municipalities

Special Districts