
**State Government Operations &
Accountability Committee**

HB 3055

Brief Description: Placing restrictions and obligations on agency personal service contracts.

Sponsors: Representatives Williams and Hunt.

Brief Summary of Bill

- Modifies existing documentation requirements for the purchase of personal services by an agency such that an agency must also document that: (a) procedures are in place to monitor, audit, and enforce the terms of the contract; and (b) the agency can report on the status and results of the contract upon request.
- Requires all agencies to establish a contract review committee to assist in preparing the proposal or personal service contract, and to ensure compliance with all procurement of personal services requirements.

Hearing Date: 1/31/06

Staff: Kathryn Leathers (786-7114).

Background:

A personal services contract is an agreement with a consultant to provide professional or technical expertise to accomplish a specific study, project, task, or other work statement. An agency may enter into a personal services contract only to resolve a particular agency problem or to expedite a specific temporary project. Effective July 1, 2005, the state may contract for services historically and traditionally provided by state employees, so long as the state complies with the contracting out provisions of the Civil Service Reform Act of 2002.

In order to procure such services, the agency must document that the service is critical to agency responsibilities or is mandated or authorized by the Legislature; that sufficient staffing or expertise is not available within the agency to perform the service; and that other qualified public resources are not available to perform the service.

In general, personal service contracts must go through a competitive solicitation process. Exceptions to this requirement include emergency contracts, sole source contracts, and contract amendments. The competitive solicitation process requires an agency to conduct a documented formal process providing an equal and open opportunity for qualified parties to participate.

The Office of Financial Management (OFM) must adopt uniform guidelines for the effective and efficient management of personal service contracts, and all state agencies entering into or renewing personal service contracts must follow those guidelines. The OFM must provide a training course for agency personnel responsible for executing and managing personal service contracts, and no employee may execute or manage personal services contracts unless he or she has completed the training course. The OFM must also conduct risk-based audits of the contracting practices associated with individual personal service contracts from multiple state agencies to ensure compliance with its guidelines. The results of those audits must be forwarded to the Joint Legislative Audit and Review Committee.

Copies of personal service contracts which are subject to competitive solicitation must be (a) filed with the OFM and made available for public inspection; and (b) reviewed and approved by the OFM when those contracts provide services related to management consulting, organizational development, marketing, communications, employee training, or employee recruiting.

Summary of Bill:

In order to procure personal services, an agency must, in addition to existing documentation requirements, document that: (a) procedures are in place to monitor, audit, and enforce the terms of the contract; and (b) the agency can report on the status and results of the contract upon request.

An agency must establish a contract review committee to assist in preparing the proposal or personal service contract and to ensure compliance with all procurement of personal services requirements, including the guidelines established by the OFM and applicable state civil service laws. The committee must have representation from all staffing levels.

An agency must notify the contract review committee, the exclusive bargaining unit representative, and the appropriate committees of the Legislature as to:

- who the contractors are;
- the work the contractors are doing;
- where the work will be performed, and whether any work will be performed outside the state or offshore;
- any problems that may have occurred under prior contracts, including but not limited to breach of contract, cost overruns, failure to perform in a timely manner, or failure to complete the contract; and
- other contracts the contractors have entered into with this or any other state agency.

Through the contract review committee, the agency must establish and include in any proposal and subsequent contract written criteria for which cancellation of the contract, and procurement of a new contract, is required due to a breach in performance.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.