OLR Bill Analysis
sSB 1041

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS.

SUMMARY

This bill limits the conditions under which state agencies may apply for, and receive waivers from, competitive solicitation requirements when using a personal service agreement (PSA) to contract for certain products or services. It limits PSA waivers to those conditions that are specifically prescribed in statute and eliminates the discretionary authority of the OPM Secretary to grant waivers under additional conditions (see BACKGROUND). Current law prescribes, and the bill limits, PSA waiver for sole source procurements to the following services:

1. those for which the cost of a competitive selection outweighs the benefits, as documented by the agency;

2. proprietary services (i.e., patent rights);

3. services to be provided by a contractor mandated by the general statutes or a public or special act; and

4. emergency services (CGS § 4–215).

The bill also explicitly prohibits state agencies from denying the state auditors access to their records or accounts. By law, unchanged by the bill, state agencies must make all records and accounts available to the auditors or their agents upon demand.

The bill requires state contractors possessing or controlling any relevant information concerning the department, commission, board or court of state government being audited to similarly provide such information upon demand to the auditors in a format they prescribe, at
no additional cost to the state. The bill also requires that state contracts include a provision requiring state contractors to provide such information.

Finally, the bill makes a technical change.

EFFECTIVE DATE: October 1, 2019

BACKGROUND

Waivers From Competitive Solicitation

PSAs are typically used by state agencies to purchase infrequent and non-routine services or end products, such as certain consulting services, technical assistance, and training. Most PSAs have competitive solicitation requirements, unless the purchasing agency applies to the OPM secretary for a waiver and the secretary grants the waiver.

The law requires the OPM secretary to adopt guidelines for determining the type of services that may qualify for a waiver in addition to those listed in the law. OPM has used this discretionary authority to extend waiver eligibility to services that require a contractor with special capabilities or unique experience.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable
Yea 16 Nay 0 (03/20/2019)