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Fiscal Note

Drafting Number:	LLS 22-0374	Date:	April 13, 2022
Prime Sponsors:	Sen. Coleman Rep. Ricks	Bill Status:	Senate Business
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Bill Topic: ESTABLISH STATE PROCUREMENT EQUITY PROGRAM

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill creates the State Procurement Equity Program in the Department of Personnel and Administration, a bond assistance program, and stakeholder group. It increases state and local expenditures beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$3,814,831 to the Department of Personnel and Administration.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 22-163

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$3,814,831	\$1,467,605
	Cash Funds	\$199,609	\$1,164,971
	Centrally Appropriated	\$162,219	\$278,309
	Total Expenditures	\$4,176,659	\$2,910,885
	Total FTE	10.1 FTE	18.0 FTE
Transfers	General Fund	(\$2.0 million)	-
	Cash Funds	\$2.0 million	-
	Net Transfer	\$0	-
Other Budget Impacts	General Fund Reserve	\$572,225	\$220,141

Summary of Legislation

The bill establishes the State Procurement Equity Program in the Department of Personnel and Administration (DPA). The program is required to work with stakeholders towards the goal of eliminating disparities between the availability of historically underutilized businesses and the utilization of such businesses in state procurement. Other duties of the program include:

- working with the Procurement Technical Assistance Center (PTAC) to increase the number of historically underutilized businesses that are eligible to apply for state procurement contracts;
- providing solicitation assistance through a help desk;
- creating a bond assistance program to offset a small business' cost in obtaining a surety bond;
- implementing or pursuing such other recommendations in the state disparity study report commissioned by Senate Bill 19-135 that can be accomplished within existing appropriations; and
- reporting on the program's preliminary implementation at DPA's 2023 SMART Act hearing.

The bill transfers \$2.0 million to the new Bond Assistance Program Cash Fund, which is continuously appropriated to the department to administer the bond assistance program.

DPA must convene a stakeholder group including representatives from state government, historically underutilized businesses, and nongovernmental entities to make recommendations for practices, priorities, and funding for the program based on the findings of the state disparity study report by November 1, 2022.

State Transfers

On July 1, 2022, the bill requires a transfer of \$2.0 million from the General Fund to the Bond Assistance Program Cash Fund.

State Expenditures

The bill increases state expenditures, primarily in DPA, by \$4.2 million in FY 2022-23 and \$2.9 million in FY 2023-24, mainly from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
 Expenditures Under SB 22-163**

	FY 2022-23	FY 2023-24
Department of Personnel and Administration		
Personal Services	\$680,581	\$1,092,914
Operating Expenses	\$14,850	\$24,300
Capital Outlay Costs	\$68,200	-
Procurement Equity System	\$2,089,824	\$450,000
Risk Management Liability	\$961,362	\$961,362
Broker Partner Services	\$100,000	\$104,000
Equity Consultant	\$99,623	-
Centrally Appropriated Costs ¹	\$162,219	\$278,309
Total Cost	\$4,176,659	\$2,910,885
Total FTE	10.1 FTE	18.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Personnel and Administration. Costs will increase to develop a procurement equity system, a credential program, the help desk, the bond assistance program, and to offset risk management. Standard operating and capital outlay costs are included throughout, and all positions reflect a July 1, 2022 start date and the General Fund pay date shift, as applicable.

- **Procurement equity system.** DPA will contract with a vendor to develop a software system to support the equity office in tracking procurements and measuring the program's effectiveness. Costs in FY 2022-23 also include 1,038 hours of a project manager from the Office of Information Technology to oversee the acquisition. In addition, establishing a preference for historically underutilized businesses requires the creation of a certification program. DPA requires additional staff to create the program and work with vendors pursuing certification. This staff ramps up from 2.0 FTE analysts in FY 2022-23 to 18.0 FTE in FY 2023-24. Additional staff may be required in future years depending on program participation and other factors.
- **Equity Help Desk.** The new help desk requires 7.0 FTE beginning in FY 2022-23 to provide solicitation assistance.
- **Bond Assistance Program.** DPA requires 1.0 FTE to administer the program, and approximately \$100,000 annually to contract for broker partner services. Additional expenditures will include providing bond assistance to vendors; because the amount of assistance will depend on demand for the program, it has not been estimated in the fiscal note.
- **Risk Management.** Identification and classification of vendors creates the potential for discrimination claims against the state. Based on assumptions about the number of solicitations published, the Office of Risk Management in DPA estimates the fiscal impact on the state's risk management process to resolve such claims. These costs are identified and paid by state agencies

through the annual budget process, and impacts from this bill will be addressed this way beginning in FY 2023-24. The fiscal note assumes that this requires a General Fund appropriation to cover any costs in FY 2022-23 only, and that future year costs will be paid from the Risk Management Fund using assessments charged to state agencies based on actual risk management experience.

- **Other costs.** DPA requires 1.0 FTE to coordinate with PTAC and an equity consultant to facilitate the stakeholder group.

Other state agencies. Workload will increase in the Department of Transportation and the Office of Economic Development and International Trade to participate in the stakeholder group. This workload is expected to be minimal, and no change in appropriations is required.

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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve as shown in Table 1, which will decrease the amount of General Fund available for other purposes.

Local Government

The bill increases workload in the City and County of Denver to participate in the stakeholder group. This workload is expected to be minimal.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$3,814,831 to the Department of Personnel and Administration, and 10.1 FTE. Of this, \$114,824 is reappropriated to the Office of Information Technology.

Additional expenditures are paid from the Bond Assistance Program Cash Fund, which is continuously appropriated to the Department of Personnel and Administration.

State and Local Government Contacts

Information Technology
Office of Economic Development and International Trade
Transportation

Legislative Council Staff
Personnel
Treasury