

Department of Planning and Budget 2011 Fiscal Impact Statement

1. Bill Number: SB1049

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Barker, G.

3. Committee: General Laws and Technology

4. Title: Public Procurement Act; verification of legal presence

5. Summary: Provides that any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the federal E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. This bill incorporates SB1288.

6. Budget Amendment Necessary: Yes

7. Fiscal Impact Estimates: Preliminary. See Item 8

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2011			
2012			
2013			
2014	\$90,000.00	1	General Fund
2015	\$90,000.00	1	General Fund
2016	\$90,000.00	1	General Fund
2017	\$90,000.00	1	General Fund

8. Fiscal Implications: The bill mandates that contractors with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth shall register and utilize the E-Verify system. Requires that agencies of the Commonwealth debar for a period up to one year any contractor who fails to register and participate in E-Verify. The debarment is to cease upon the contractor's registration and participation in the E-Verify program.

As a result, the Department of General Services (DGS) will require an additional resource. At a minimum, one FTE position will be needed to implement and administer the requirements and debarments associated with this bill.

Since the E-Verify program is relatively new, the Virginia vendor community (currently estimated at 54,000 vendors) will need to be notified and trained on how to comply with the system and the consequences of non-compliance. Otherwise procurements and agencies could be disrupted and impacted. Approximately 171 agencies, institutions of higher education, and other public bodies will need to be notified and trained on implementation of these requirements. The DGS Division of Purchases and Supply and Division of Engineering and Buildings will be required to provide notification and training for their areas of responsibility.

Within DGS is the debarment authority for procurements made by state agencies, institutions, and other public bodies. DGS will need to work closely with agencies to process debarments as well as work with the Office of the Attorney General (OAG) and agency OAG representatives. DGS will need to support the OAG pending any possible lawsuits as a result of a debarment.

In addition, the bill requires debarments to remain in place for one-year; such debarments shall cease upon the employer's registration and participation in the E-Verify program. Such debarments must be tracked, updated and posted on a website available to buyers as employers are added and removed from the website and other changes in debarment status occurs. DGS will be taking on the administration of this website.

All non-compliance will require investigation, verification and ultimately contracting actions taken against non-conforming vendors. Debarment actions will have to be initiated and coordinated with the OAG. Since DGS is the central procurement authority for other than information technology procurements, agencies and institutions will seek DGS's Division of Purchases and Supply and Division of Engineering and Buildings for advice and assistance in processing these actions, requiring additional resources.

The Department of Homeland Security does not currently provide a searchable database of employers that are registered and actively utilizing the e-Verify system.

The agency estimates the fiscal implications to be \$90,000 annually. Since DGS cannot absorb this cost or process the work without an additional resource as a minimum, a budget amendment is needed.

The provisions of this bill will not become effective until December 1, 2013.

- 9. Specific Agency or Political Subdivisions Affected:** All public bodies of the Commonwealth, except Level III (VT, UVA, W&M, and VCU) and Level II (RU, VMI, JMU, GMU, LU, and ODU) institutions operating under Management Agreements and

Memorandums of Understanding. These institutions are not subject to the Virginia Public Procurement Act.

10. Technical Amendment Necessary: No

11. Other Comments: None

Date: 2/15/11

c: Secretary of Administration