

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE

House Bill 1184 (Delegate Poole)
Commerce and Government Matters

Procurement - Service Contracts - Standards for Privatization

This bill establishes standards and procedures for the procurement of services that are currently provided by a unit of State government. Any such procurement must be based on competitive sealed bids.

An individual who has management responsibilities within a unit of State government may not, for a period of one year from the termination of State employment, accept employment from a person who is awarded a contract for services formerly performed by the unit that employed the individual.

Fiscal Summary

State Effect: Increase in administrative costs of \$72,800 for FY 1997, with an indeterminate effect on other expenditures. Revenues would not be affected.

Local Effect: None.

Fiscal Analysis

Bill Summary: An invitation for bids must state the wages to be paid under the contract and require the contractor to:

- ° provide health insurance for employees who work more than 20 hours per week;
- ° state the contractor's neutrality concerning an employee's right to collective bargaining;
- ° offer jobs to qualified employees of the unit who will be terminated as a result of the contract; and
- ° comply with State and federal law regarding employee rights, equal employment opportunity, and nondiscrimination.

Wages paid will be the lesser of (1) the average private sector wage for comparable work as determined by the Department of Fiscal Services; and (2) the base wage within the grade at which the position would be classified under the standard pay plan if the job was performed by a public employee.

If a contract for the privatization of services is proposed, the affected unit of State government must prepare a statement of its internal costs to provide the service utilizing public employees. Before awarding any such contract, the Board of Public Works must certify that:

- the quality of service to be provided by the contractor will be at least equal to the quality of services provided by the unit;
- the contractor does not have a record of noncompliance with any federal or State law or regulation; and
- award of the contract is in the public interest.

State Expenditures:

Contract Costs

The legislation's specifications regarding the private contractor's employee salary levels and benefits could eliminate most savings from replacing employees with contractors, unless the contractor could provide the same services with fewer employees.

Due to this potential decrease in cost savings, the preference that is given under current law to State employees in most situations could preclude the awarding of any private contracts for services currently provided by State employees. This preference includes the provision that a cost comparison of a service contract with the cost of using State employees must show savings to the State for the duration of the contract of 20% of the contract amount or \$200,000, whichever is less.

In addition, since the Board of Public Works must certify that the quality of the service will be at least equal to the service provided by the unit of State government, in certain circumstances contracts are unlikely to be awarded. Due to this legislation's provision that a manager for State government cannot work for a contractor that takes over the work of the unit that employed the manager for a period of one year, a contractor could not immediately hire employees who could oversee the process without training.

The Department of Fiscal Services

The Department of Fiscal Services (DFS) advises that it is provided with information on average private sector salaries by the Department of Business and Economic Development (DBED). Therefore, DFS can provide this information for wage determination purposes with existing resources.

The Board of Public Works

The bill requires that the Board of Public Works (BPW) must certify that the contractor chosen is reliable, and that the contract is in the public interest. General fund expenditures could increase by an estimated \$72,797 in fiscal 1997, which reflects the bill's October 1, 1996 effective date. This estimate reflects the cost of hiring one Administrator V and one Office Secretary III to approve the affected contracts. It includes salaries of \$46,620, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$62,302
Equipment Purchase	9,220
Other Operating Expenses	<u>1,275</u>
BPW FY 1997 Expenditures	\$72,797

Future year expenditures below reflect (1) full salaries with 3.5% annual increases and 3% employee turnover; and (2) 2% annual increases in ongoing operating expenses.

FY 1998	\$85,319
FY 1999	\$88,479
FY 2000	\$91,759
FY 2001	\$95,165

Information Source(s): Department of General Services, Board of Public Works, Department of Budget and Fiscal Planning, Department of Public Safety and Correctional Services (Division of Correction), Department of Fiscal Services

Fiscal Note History: First Reader - March 11, 1996

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