

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 1045

(Senator Kagan)

Education, Health, and Environmental Affairs

Health and Government Operations

State Government - Grants and Contracts - Reimbursement of Indirect Costs

This bill requires that the terms of a grant or contract for the provision of services by a nonprofit organization that is funded either wholly with State funds or with a combination of State and other nonfederal funds allow for reimbursement of indirect costs.

Fiscal Summary

State Effect: No effect on the total *value* of State contracts and grants to nonprofit organizations. However, to the extent that indirect costs are not currently reimbursed, *either* fewer State funds are available for direct costs and services under grants and contracts *or* State expenditures (all funds) increase, potentially significantly, to maintain current levels of services. No effect on revenues.

Local Effect: Local governments that serve as pass-through entities for State grants must incorporate the reimbursement of indirect costs into their grants and contracts with nonprofit organizations, which they can do with existing resources. To the extent that local funds are commingled with State funds on some grants and contracts, fewer local funds are available for direct costs and services under grants and contracts to nonprofit organizations.

Small Business Effect: Meaningful for nonprofit organizations.

Analysis

Bill Summary: Indirect costs must be reimbursed at the rate that the nonprofit organization has negotiated and received either (1) under a direct federal award or (2) from a nonfederal entity based on specified federal cost principles. If the nonprofit organization has not negotiated and received an indirect cost rate under a direct federal award, it must

be reimbursed at a rate of at least 10% of specified costs. The bill applies if State funds are transferred to the nonprofit organization either directly by the State or through a third party.

Current Law: The Code of Maryland Regulations (COMAR) establishes cost principles for State procurement contracts awarded by competitive sealed proposals, which is the preferred method for human and social service contracts. COMAR defines an “indirect cost” as one identified with no final cost objective or with more than one final cost objective. Indirect costs are those remaining to be allocated to several final cost objectives after direct costs have been determined and charged directly to the contract or other work as appropriate. Under COMAR, the total allowable cost of a contract is the sum of the *allowable direct costs* actually incurred in the performance of a contract, plus the properly allocable portion of the *allowable indirect costs*, subject to any specific contract limitations. There is no separate definition of indirect costs with respect to State grants.

Background: Federal regulations allow nonfederal entities that receive federal grants to be reimbursed for indirect costs in accordance with cost principles specified in the regulations. Indirect costs are defined as costs that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. In general, federal indirect reimbursement rates are negotiated between the organization and federal agencies, subject to guidelines in the regulations.

Federal regulations acknowledge that, because of the diversity of nonprofit organizations, it is not possible to specify the types of indirect costs in all situations. However, typical examples include depreciation for buildings and equipment and general expenses such as salaries and expenses of executive officers, personnel administration, and accounting.

Small Business Effect: Small nonprofit organizations that receive State grants or contracts, either directly or through pass-through entities, may be reimbursed for indirect costs. To the extent that grant or contract funds are used for reimbursements that currently are not paid, fewer funds are available for direct services.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Aging; Baltimore City; Anne Arundel, Dorchester, Montgomery, and Prince George’s counties; Maryland Association of Counties; Maryland Association of Nonprofit Organizations; U.S. Office of Management

and Budget; Department of Budget and Management; Maryland Department of Disabilities; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Department of Natural Resources; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2018
mm/ljm Third Reader - March 27, 2018
Revised - Amendment(s) - March 27, 2018

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