

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1234 (Delegate Ivey, *et al.*)
 Health and Government Operations

Procurement - Correctional Facilities - Ex-Offenders

This bill requires that, beginning January 1, 2020, each solicitation by the Department of Public Safety and Correctional Services (DPSCS) for goods or services at a correctional facility require each contractor to provide documentation showing that, at the time of bid or proposal submission, at least 30% of its employees are ex-offenders. It also requires that DPSCS and the Department of Labor, Licensing, and Regulation (DLLR) develop a secure portal on the Maryland Workforce Exchange (MWE) website that is accessible only by ex-offenders.

Fiscal Summary

State Effect: Procurement costs (all funds) for DPSCS likely increase significantly, but any such increase cannot be reliably estimated. General fund expenditures by DLLR increase by \$87,800 in FY 2020 to establish and maintain the secure portal. Out-year costs reflect annualization, termination of one-time costs, and ongoing operating expenses. To the extent that authentication processes for the portal can be automated, costs are less, as discussed below.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	87,800	70,600	73,000	75,500	78,000
GF/SF/FF Exp.	-	-	-	-	-
Net Effect	(-)	(-)	(-)	(-)	(-)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Secure Workforce Exchange Portal

DLLR and DPSCS must jointly develop and maintain a secure portal on the MWE website for (1) job listings that may be viewed only by ex-offenders and (2) resumes and related information submitted by ex-offenders who have completed a prerelease employment readiness program or a job readiness program that may be viewed by prospective employers.

Ex-offender Contract Clause

Beginning January 1, 2020, each procurement contract must include an ex-offender employment clause that requires contractors to give a hiring preference to ex-offenders by:

- requiring the contractor to list all job vacancies exclusively on the MWE secure portal for either 30 or 45 days (depending on the type of job); and
- allowing the contractor to advertise the job vacancy elsewhere only if the contractor is unable to fill the position during the specified time periods.

If the ex-offender clause is omitted from a contract, the contract is null and void, subject to specified compensation for the contractor.

The bill includes specified reporting requirements for contractors, establishes a fine for failure to report, and authorizes DPSCS to adopt regulations to implement the bill.

Current Law/Background: There are no provisions in State procurement law related to hiring or contracting preferences for ex-offenders or firms that employ ex-offenders. However, as described below, Maryland Correctional Enterprises (MCE) is a preferred provider under State procurement law.

State procurement law defines a “preferred provider” to be a provider of supplies or services that is given preference in specified provisions of current State procurement law. Only if none of the specified preferred providers produces or provides the desired supplies or services may a State agency issue a competitive procurement. Chapter 313 of 2016 consolidated certain procurement preferences such that, currently, the State or a State-aided or -controlled entity must buy supplies and services from MCE first, then from Blind Industries and Services of Maryland (BISM), and finally the Employment Works Program. The Employment Works preference applies only if a community service provider or a business owned by an individual with a disability provides the supplies or services, neither

MCE nor BISM can do so, and the State or a State-aided or -controlled entity is not required by law to buy the supplies or services from any other unit of State government.

Formerly known as State Use Industries, MCE provides work and job training for inmates incarcerated in correctional facilities. As noted in the Governor's budget books, MCE produces goods and supplies services at a cost that does not exceed the prevailing average market price. These goods and services are used by local, State, and federal agencies; they are also available for use by charitable, civic, educational, fraternal, or religious organizations.

MWE is an online job seeker/workforce services system that provides a complete set of employment tools and is administered by DLLR. It is accessed as a website and was specifically designed for job seekers, students, case managers, employers, training providers, and workforce professionals. Users can, among other things, use professional templates to create and send resumes and cover letters to employers, review and apply for available jobs online, and research labor market information.

State Expenditures:

Procurement Costs

The bill severely limits the number of businesses from whom DPSCS can purchase services and supplies for correctional facilities. Among other issues, DPSCS advises that, for safety reasons, its current rules prohibit most ex-offenders from entering correctional facilities, so that even firms that meet the bill's 30% threshold may have difficulty in delivering the necessary goods and services to the correctional institutions (accordingly, this analysis assumes that employees who are not ex-offenders handle such deliveries). Reduced competition for goods and services generally results in higher prices, so it is assumed that procurement costs for DPSCS increase substantially for the affected contracts, but any such increase cannot be reliably estimated.

DPSCS can otherwise require contractors to submit the required documentation with their bids or proposals and include the required clause in their contracts for goods and services at correctional facilities with existing resources.

Secure Maryland Workforce Exchange Portal

DLLR advises that the bill requires it to use MWE in a manner for which it was not designed. MWE does not have any secure portals accessible only to specified individuals, and DLLR does not have any mechanism to ensure that such a portal can be accessed only by ex-offenders. DLLR estimates that the one-time cost of establishing a portal is \$30,000. In the absence of a valid authentication process, DLLR requires an additional staff person

to screen potential users before granting access to the portal. Therefore, general fund expenditures increase by \$87,818 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. This estimate reflects the cost of hiring one screening agent to authenticate the ex-offender status of individuals seeking access to the portal. It includes a salary, fringe benefits, one-time start-up costs, including \$30,000 to establish the portal, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$52,459
One-time Information Technology Costs	30,000
Other Operating Expenses	<u>5,359</u>
Total FY 2020 State Expenditures	\$87,818

Future year expenditures reflect full salaries with annual increases and employee turnover, termination of one-time costs, and ongoing operating expenses.

To the extent that the authentication process for ex-offenders can be automated in some manner, expenditures for the screening agent are not necessary, but DLLR is not aware of a mechanism to automate that process.

Small Business Effect: Small businesses must meet the 30% ex-offender employee threshold in order to sell goods and services to correctional institutions in the State. Hiring to fill vacant positions may be hampered by the requirement to post job openings for 30 or 45 days on the ex-offender secure portal before advertising the positions elsewhere.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services; Department of Labor, Licensing, and Regulation; Department of Public Safety and Correctional Services; Board of Public Works; Department of Legislative Services

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