

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1151 (Delegate Phillips)
Health and Government Operations and
Appropriations

State Procurement - Preferred Providers - Removal of Maryland Correctional Enterprises

This bill repeals Maryland Correctional Enterprise’s (MCE) status as a preferred provider under State procurement law, and further repeals the Pricing and Selection Committee for Preferred Providers’ oversight over MCE’s pricing and sales.

Fiscal Summary

State Effect: Nonbudgeted revenues and expenditures decrease significantly, potentially by millions of dollars and resulting in the dissolution of MCE. The fiscal repercussions of MCE’s dissolution cannot be reliably estimated but may be significant, as discussed below.

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Current 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. Chapter 313 of 2016 consolidated certain procurement preferences such that, currently, a State or State-aided or -controlled entity must buy supplies and services from MCE first, then from Blind Industries and Services of Maryland, then from the Employment Works Program if a community service provider or an individual with a disability-owned business provides the supplies or services, in that order of preference. Only if none of those entities produces or provides the desired supplies or services may a

State agency issue a competitive procurement.

Except in limited circumstances, MCE may not sell goods or services on the open market.

The Pricing and Selection Committee for Preferred Providers must review and verify the prevailing average market prices, as proposed by MCE, when changes are made to the pricing of existing goods and services provided by MCE and for new goods or services that MCE intends to make available. State agencies must purchase goods and services from MCE only if the sale price does not exceed the prevailing average market price determined by the committee. If MCE is unable to provide any of the goods or services under the contract, MCE must notify the contracting unit so that appropriate alternative action may be taken.

State Fiscal Effect: MCE provides employment opportunities to incarcerated individuals in State prisons. It is a self-funded entity that relies on sales of goods and services to fund its operations. It operates in 11 State correctional institutions in the State and provides furniture restoration, printing/signage services, textiles, meat products, laundry services, license plates, and graphics. In fiscal 2023, a total of 1,115 incarcerated individuals participated and total gross sales exceeded \$51 million. Participants received nontaxable compensation averaging about \$180 per month, for a total of about \$2.2 million in compensation.

MCE advises that approximately 74% of its sales are to State or State-aided entities other than the Department of Public Safety and Correctional Services. The bill does not prevent MCE from continuing to sell to those entities, but removing its designation as a preferred provider means that it would have to bid on competitive procurements instead of selling directly to those same entities. This likely results in a significant decline in MCE's sales; as MCE is restricted in being able to sell its goods and services on the open market, its viability may be threatened.

If MCE substantially reduces or ceases its operation, it is unable to provide work experience and skills training to up to 1,100 incarcerated individuals. This may affect morale within correctional institutions as well as future recidivism rates, but any such effect is secondary and cannot be reliably estimated.

Repealing MCE's preferred provider status means that State agencies will be required to conduct competitive procurements for a larger volume of goods and services (instead of buying directly from MCE), which may have countervailing effects. On one hand, it may require agencies to hire more procurement officers to handle the increased volume of competitive procurements. At the same time, it may result in more competitive contract pricing for goods and services. The net effect of these changes cannot be reliably estimated.

Small Business Effect: Small businesses likely have more opportunities to bid on competitive procurements for State contracts in the absence of MCE's direct sales to State agencies.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 420 (Senators Hayes and M. Washington) - Budget and Taxation.

Information Source(s): Department of General Services; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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