

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

House Bill 588 (Delegate Poole)
(Governor's Task Force on Procurement)
Commerce and Government Matters Referred to Economic & Environmental Affairs

State Procurement Law - Intergovernmental Cooperative Purchasing Agreements

This amended bill adds intergovernmental cooperative purchasing as a procurement method that State procurement units may use, if specifically authorized. The bill specifies that procurement under an intergovernmental cooperative purchasing agreement is appropriate in situations where the State is expected to achieve a better price as the result of economies of scale or to otherwise benefit by purchasing in cooperation with another governmental entity. An intergovernmental cooperative purchasing agreement is defined as a contract (1) entered into by at least one governmental entity and a person selected in a manner consistent with the purposes of the State procurement laws that is available for use by an additional governmental entity; or (2) between a primary procurement unit and a person who has a contract with the federal government and who agrees to provide the unit with identical prices, terms, and conditions as stipulated in the federal contract. A primary procurement unit may not participate under a federal contract if the State's participation is valued at less than \$250,000. The bill also authorizes a political subdivision of the State to participate in an intergovernmental cooperative purchasing agreement sponsored by a State procurement unit.

The bill takes effect July 1, 1997.

Fiscal Summary

State Effect: Indeterminate decrease in expenditures. Revenues would not be affected.

Local Effect: Indeterminate decrease in expenditures. Revenues would not be affected.

Small Business Effect: Potential meaningful impact on small businesses as discussed below.

Fiscal Analysis

Background: In 1993, the National Performance Review (NPR) reported that consolidating

government purchasing actions would benefit the taxpayers through greater volume discounts and simplified administration. In 1994, Congress established a cooperative purchasing program that authorized the U.S. General Services Administration (GSA) to permit state and local governments access to its supply schedules program. Based on concerns after the cooperative purchasing program was enacted, in 1996 Congress suspended GSA's authority for the program and mandated that the U.S. General Accounting Office (GAO) assess the potential effects of cooperative purchasing. The report was issued in February.

The GAO report on cooperative purchasing found that although state and local governments may experience benefits such as cost savings and a reduction in the time to procure services, certain factors may limit the extent of the benefits. Factors include state and local procurement laws, such as preference programs, the unavailability of certain heavily used items or products through the program, and the availability of lower prices for some items from current or other sources. It is noted that the applicability of GAO's findings are limited somewhat for the purposes of this bill because the bill (1) limits the State's participation under federal contracts to instances when the State's participation is valued at \$250,000 or greater; (2) authorizes the State to participate in cooperative purchasing agreements with various other governmental entities, including another state, a subdivision of Maryland or another state, or a bicounty or multicounty agency; and (3) authorizes cooperative purchasing agreements by the State directly with vendors who have contracts with the federal government. Thus, in some cases it may be possible for the State to procure items that are not available through the formal federal cooperative purchasing program.

State Expenditures: To the extent that the State makes purchases based on existing federal or other governmental contracts, administrative costs for contracting could decrease. In addition, cooperative purchasing may result in lower prices based on volume discounts. If only contracts with better terms than the State could find independently are used, expenditures due to contract prices would decrease. Any decreases in expenditures cannot be reliably estimated at this time.

As a point of reference, the State spent about \$510 million on supplies and equipment in fiscal 1995, the latest year for which such information is available.

Local Expenditures: To the extent that local governments participate in intergovernmental cooperative purchasing agreements sponsored by State procurement units, local expenditures would be affected as discussed above.

Small Business Effect: The potential effect on small businesses in Maryland is indeterminate. According to the GAO report on cooperative purchasing, some businesses, particularly GSA vendors, expect to benefit from cooperative purchasing arrangements from increased sales or reduced administrative costs, while other businesses expect to lose sales or have lower profits, and still other businesses believe they will not be affected. It is noted that federal contracting is a significant part of the Maryland economy. The federal government spent \$8.9 billion on contracts with Maryland companies in fiscal 1995.

Information Source(s): Department of General Services; Department of Public Safety and Correctional Services (Division of Capital Construction and Facilities Maintenance); February 1997 U.S. General Accounting Office Report: Cooperative Purchasing; October 27, 1996 *Baltimore Sun* (U.S. General Services Administration's Federal Procurement Data Center); Department of Fiscal Services

Fiscal Note History: First Reader - February 24, 1997
ncs Revised - House Third Reader - March 17, 1997

Analysis by: Sarah Dickerson

Reviewed by: John Rixey

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 841-3710

(301) 858-3710