

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 641 (Delegate Brinklev. *et al.*)

Commerce and Government Matters

State Procurement Process - Source Selection - Competitive Sealed Proposals

This bill specifies that in awarding a State procurement contract for any services or supplies where primary emphasis on price is unlikely to assure that the State obtains the best value, the preferred method is by competitive sealed proposals. Under current law, competitive sealed proposals is the preferred method to award contracts for human, social, cultural, or educational services. The bill repeals provisions that restrict the use of competitive sealed proposals unless specifically authorized. Under current law, competitive sealed proposals may be used only if the head of a procurement unit determines that the need to use a method other than competitive sealed bids is sufficiently compelling and the use of competitive sealed bidding for that procurement is not practicable or not advantageous to the State.

Fiscal Summary

State Effect: Indeterminate effect on expenditures. Revenues would not be affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Fiscal Analysis

State Expenditures: In general, the use of competitive sealed proposals is a more complex and time consuming process than the use of competitive sealed bidding. Thus, expenditures could increase due to increased personnel time and less timely awards. In addition, if the procurement is not conducted correctly, protests and appeals could increase. As a result, the Department of General Services advises that its procurement personnel would need additional training. In addition, expenditures could increase to the extent that awards are not made solely on the basis of lowest price. However, emphasis on value over lowest price

could lead to lower overall costs in the long run. Thus, the net effect on State expenditures cannot be reliably estimated at this time.

Further, the Department of Budget and Management advises that there would be little fiscal impact from the bill since the ability under current law to permit competitive sealed proposals when a determination is made that the use of competitive sealed bidding is not practical or advantageous to the State is already liberally applied for information technology procurements or complex service procurements. The Department of Health and Mental Hygiene also advises that competitive sealed proposals is used when it is in the State's best interest.

As a point of reference, while the percentage of State procurements awarded by competitive sealed proposals is not readily available, it is known that competitive sealed bidding, competitive sealed proposals, and noncompetitive negotiation collectively accounted for more than 90% of State procurement by dollar value in fiscal 1996, the most recent year for which such information is available. The State spent a total of about \$2.85 billion on procurement in that year.

Small Business Effect: To the extent that the competitive sealed proposals method is used more often, small businesses could be affected. The more complicated, more time consuming process could increase costs for small businesses to compete for State contracts. At the same time, the ability of small businesses to compete could be enhanced by an increased emphasis on value over price.

Information Source(s): Department of General Services, Department of Budget and Management, Department of Transportation, University System of Maryland, Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 1998

ncs

Analysis by: Sarah Dickerson

Reviewed by: John Rixey

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 841-3710

(301) 858-3710