

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

House Bill 642 (Delegate Brinklev. *et al.*)

Commerce and Government Matters

State Procurement Process - Competitive Sealed Proposals - Evaluation of Past Performance

This bill requires a request for proposals (RFP) for a State contract to provide that the past performance of an offeror will be given substantial weight in relation to other evaluation factors. If relevant past performance is not available, the offeror may not be evaluated favorably or unfavorably on that basis. The bill authorizes a State procurement officer to modify the use of past performance as an evaluation factor when appropriate. Past performance means performance under contracts involving similar services or supplies to those required under a proposal in terms of business practices, cost control, timeliness, and other factors.

The bill also requires the Board of Public Works (BPW) to establish a process for evaluation of past performance in the consideration of competitive sealed proposals. Procurement units must complete a performance review following the completion of a contract awarded by competitive sealed proposals. BPW must provide for the development of a central tracking system for such reviews. The bill specifies that the evaluation of past performance and performance reviews are confidential, except to the person that was subject to the review.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Fiscal Analysis

State Expenditures: To the extent that requiring past performance as a major factor in

evaluating proposals results in more qualified contractors being awarded contracts, the State could realize savings by obtaining a better value. Any savings would be offset to some extent by any increases in time and effort by agencies in order to comply with the requirements of the bill.

The costs of evaluating and tracking past performance include: (1) costs to BPW to develop the program; (2) costs to BPW to update and maintain the data; and (3) costs to each procurement unit of submitting the required data to BPW. BPW advises that it would be necessary to hire one Data Processing Program Analyst Specialist III and one Management Associate at a cost of about \$70,000 annually, including salaries and fringe benefits. In addition, one-time costs would include \$35,000 for contractual services for the development of a customized computer program and up to \$150,000 for computer equipment, including a secured database server, a firewall, a proxy server, other peripherals, and updated PC equipment and LAN.

Costs to procurement units to complete the performance reviews could vary. The University System of Maryland advises that it would need to hire additional staff to complete the required performance reviews following the completion of a contract. The Maryland Department of Transportation (MDOT) advises it would require four additional positions, at a cost of about \$120,000 annually including salaries, fringe benefits, and operating costs, to monitor MDOT's contracts, aggregate/format the past performance data, and report to the responsible agency. The Department of Budget and Management advises that the bill's requirements would likely be handled with existing resources. The Department of General Services (DGS) advises that its experience indicates that consideration of past performance does not increase the overall evaluation effort. DGS has performed numerous evaluations with existing personnel resources.

Legislative Services advises that the cost of evaluating and tracking past performance depends on the quality and extent of the program. For illustrative purposes only, it is noted that there were about 267,000 State procurement contracts in fiscal 1996, the latest year for which such information is available. It is not known how many of those were awarded using the competitive sealed proposals procurement method or how many contractors were involved in those contracts. The State spent about \$2.85 billion on procurements in that year.

Information Source(s): Board of Public Works, Department of General Services, Department of Budget and Management, University System of Maryland, Maryland Department of Transportation, Department of Legislative Services

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Analysis by: Sarah Dickerson

Reviewed by: John Rixey

Direct Inquiries to:

John Rixey, Coordinating Analyst

(410) 841-3710

(301) 858-3710