

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE

Senate Bill 354 (Senator Kellev. *et al.*)

Economic and Environmental Affairs

State Finance and Procurement - Sanctions Against Nigeria

This bill prohibits the State Treasurer from using a financial institution as a depository unless the financial institution certifies in writing that it has no direct loans and no foreknowledge of any indirect loans outstanding to a governmental unit or national corporation of Nigeria. This does not apply to loans outstanding on September 30, 1998.

The bill also prohibits a State unit from knowingly buying finished supplies that are produced in Nigeria unless it is determined that the procurement is essential and the unit does not know of any other available source that will provide the supplies at a reasonable cost. For a procurement solicited on or after October 1, 1998 and costing more than \$10,000, the bidder or offeror must certify that the bidder or offeror is not doing business with Nigeria or knowingly subcontracting with an entity that does so. The Board of Public Works may waive these requirements if it finds the procurement is essential or in the best interests of the State and there is no other known source for the procurement at a reasonable cost. A bidder or offeror who willfully misrepresents any information contained in the required certification is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding three months.

Fiscal Summary

State Effect: Potential indeterminate increase in expenditures. Revenues would not be affected.

Local Effect: Potential indeterminate increase in expenditures. Revenues would not be affected.

Small Business Effect: Potential meaningful effect on small businesses.

Fiscal Analysis

Background: According to the Corporate Council on Africa, Nigeria is America's largest trading partner in Africa. Based on U.S. Department of Commerce statistics, total two-way trade in 1996 was over \$6.6 billion, with over \$5.8 billion representing Nigerian exports. Nigeria is the fifth largest supplier of petroleum to the U.S., accounting for about 9% of U.S. oil imports. Over 300 U.S. manufacturers and other businesses have local distribution arrangements to sell and service heavy equipment, automobiles and auto parts, telecommunications and electronics equipment, foodstuffs, and other items.

State Effect:

Financial Institutions

The State Treasurer's Office relies on financial institutions to provide customized computer financial files that update the State's accounting system. Generally, only large institutions can provide customized informational and financial files. The State has one main depository and 28 other institutions that are approved for State accounts. While it is not known at this time whether all the financial institutions would be able to make the required certification, it is anticipated that the main depository would be able to do so. Costs could increase by an indeterminate amount if it became necessary to seek alternative institutions. It is noted that the bill specifies that these provisions do not apply to loans outstanding on September 30, 1998.

Procurement

Based on Maryland's experience with similar sanctions against South Africa, it is not likely that sanctions against doing business with Nigeria will be a major impediment to conducting procurements in the State. According to Department of Budget and Management (DBM), there were no cases when a contractor responded that it did business with South Africa. However, world-wide sanctions were largely in place against South Africa at that time so many firms had already divested themselves of South African dealings. Further, it is unknown how many, if any, businesses chose not to bid on projects knowing they would be ineligible. Nevertheless, many firms bidding on Maryland procurements are local to Maryland and have no international presence.

It is important to note that the applicability of the experience with sanctions against South Africa to Nigeria may be limited. If firms currently doing business with Nigeria do not have time to divest before October 1, 1998 or choose not to divest, there could be an effect on the State in the form of higher bid costs due to reduced competition. Any effect on Maryland depends in part on the extent to which other governments also impose sanctions.

As a point of reference only, it is noted that the State spent about \$2.85 billion on: architectural and engineering services; construction and construction-related services; maintenance; services; supplies and equipment; and human, cultural, and educational

services in fiscal 1996, the latest year for which such information is available. About \$411 million of the total was spent on supplies and equipment.

Certification could be handled by procurement units with existing resources.

Penalty Provisions

The criminal penalty provisions of this bill are not expected to significantly affect State revenues or expenditures.

Local Effect: To the extent that local jurisdictions follow State procurement guidelines, expenditures could be affected as discussed above.

The criminal penalty provisions of this bill are not expected to significantly affect local revenues or expenditures.

Small Business Effect: Small businesses that currently do business with both the State of Maryland and Nigeria, if any, could be negatively affected by having to choose one or the other. To the extent that any businesses are ineligible to bid on State contracts because they do business with Nigeria, eligible small businesses could benefit from the increased opportunity to be awarded State contracts.

Information Source(s): State Treasurer's Office, Department of Budget and Management, U.S. Department of Commerce, U.S. Energy Information Administration, Department of General Services, University System of Maryland, Department of Transportation, Department of Public Safety and Correctional Services, Department of Health and Mental Hygiene, Corporate Council on Africa, Department of Legislative Services

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