

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 1180 (Delegate McHale)
Health and Government Operations

Procurement - Architectural and Engineering Services - Selection Process

This bill requires the General Professional Services Selection Board, also known as the General Services Board (GSB), and the Transportation Professional Services Selection Board (TPSSB) to take into account in the following order of importance: (1) the professional competence of offerors; (2) the technical merits of proposals; and (3) the price proposed for the services to be provided when evaluating procurement contracts for architectural and engineering (A&E) services, GSB, and TPSSB are also required to establish an overall technical ranking for each offeror of A&E services and develop an order of priority list based on their evaluations.

Fiscal Summary

State Effect: Federal fund revenues would decrease significantly for the Maryland Department of Transportation (MDOT) due to federal regulations regarding price as an evaluation factor. A concurrent reduction in federal fund expenditures for highway projects would also be required. General fund expenditures in the Department of General Services (DGS) and general and special fund expenditures in MDOT could increase minimally due to additional administrative costs in the evaluation of A&E services contract proposals.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: GSB and TPSSP are required to negotiate with at least two of the most qualified persons based on the evaluation criteria. If DGS or MDOT are unable to negotiate a procurement contract with any of the selected offerors, they are required to establish a new order of priority list and continue negotiations based on that new priority list.

Current Law: GSB is required to ensure that a recommendation to the Board of Public Works (BPW) for the award of a procurement contract for A&E services costing over \$200,000 is made on a competitive basis and includes an evaluation of the technical proposals and qualifications of at least two persons. The inclusion of specific criteria is not required in the recommendation to BPW. GSB is only required to negotiate with the most qualified offeror. GSB is permitted to negotiate with the second, and if necessary third-most qualified offeror only if the department is unable to negotiate a satisfactory procurement contract with the most qualified offeror.

MDOT is required to establish a selection process based on a competitive procedure to: (1) promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing A&E services; (2) evaluate technical proposals and the qualifications of the persons submitting the proposals; and (3) determine an order of priority based on these evaluations.

Background: Chapter 205 of 2002 raised the threshold from \$100,000 to \$200,000 for when a recommendation must be made to BPW for the award of a contract for architectural and engineering services from GSB or TPSSB. It also increased to \$200,000 the amount below which a transportation unit must competitively negotiate for contracts for architectural and engineering services at a price the unit determines to be fair and reasonable, and provided that a procurement unit may not award a contract to a person for architectural or engineering services of more than \$200,000 unless the person has executed a truth-in-negotiation certificate.

State Fiscal Effect: This bill would change the current selection process and require the proposed price for services to be taken into account when making the award selection for A&E services. MDOT advises that federal regulations prohibit the use of price as a factor in the analysis and selection process. Of the 159 A&E awards made by MDOT in fiscal 2002 (valued at approximately \$294 million), 122 were for the State Highway Administration (SHA). According to SHA, 99% of those awards included the use of federal funds. The ability to award these contracts may have been jeopardized under the provisions of this bill because the Federal Highway Administration prohibits the inclusion of price in the selection process.

Small Business Effect: The inclusion of more than one offeror in negotiations for A&E contracts may enhance the ability of small business A&E firms to successfully bid for contracts.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 18, 2003
ncs/jr

Analysis by: Daniel P. Tompkins

Direct Inquiries to:
(410) 946-5510
(301) 970-5510