

**Department of Legislative Services**  
Maryland General Assembly  
2003 Session

**FISCAL AND POLICY NOTE**

House Bill 488 (Prince George's County Delegation)  
Health and Government Operations

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**Prince George's County - Education - Procurement - School Construction  
Contracts - Construction Quality Assurance Act  
PG 407-03**

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This bill authorizes the use of competitive best value contracting for the procurement of school construction projects by the New Prince George's County Board of Education and notes that it is the policy of the county to use this form of contracting for public school construction to the greatest extent possible. Competitive best value contracting requires contractors to submit separate price proposals and technical proposals. Technical proposals must contain management and staffing plans and information about past performance and subcontractors. Proposals are scored using a weighted system that incorporates both the technical and price proposals. As designated in the bill, price accounts for 70% of the score, and specified components of the technical proposal account for the remaining 30%. The county board's procurement officer may alter the assigned "weights," although price must account for at least 50% of the total score. Any alterations to the scoring system must be clearly listed in the county's request for proposal. The proposal with the highest overall score is awarded the contract. Upon request, the county board's procurement officer must debrief unsuccessful bidders on their scores and the score of the successful bidder.

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**Fiscal Summary**

**State Effect:** Per project funding for public school construction in Prince George's County could increase due to higher initial construction costs. Total State funding for public school construction would not be affected.

**Local Effect:** To the extent that competitive best value contracting increases the cost of school construction projects in Prince George's County, county expenditures could increase. Over time, cost savings may be realized due to the potential for higher quality

school facilities, fewer change orders, and fewer problems maintaining construction timetables.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Current Law:** School construction projects are awarded to the lowest responsible bidders who conform to the specifications drafted by the local boards of education. Through the State and local shared cost formula, the State pays 75% of the eligible construction costs in Prince George's County for the first \$35 million in State funding allocated to the county and 65% of any State funding in excess of \$35 million.

**Background:** The Bridge to Excellence in Public Schools Act of 2002 (Chapter 288) established a Task Force to Study Public School Facilities to examine the adequacy and equity of the State's school construction program. The task force submitted its 2002 Interim Report in December and will continue to examine a number of issues relating to public school construction in 2003.

After providing a total of \$951 million for public school construction projects from fiscal 2000 to 2003, an average of \$238 million per year, the proposed fiscal 2004 State budget includes \$102 million.

**State Expenditures:** The State shares in the eligible costs of school construction in Prince George's County at 75% (or 65% for State funds in excess of \$35 million). Prince George's County reports that the high bid for a school construction project is usually around 10% higher than the low bid. Therefore, overall costs per project could increase by up to 10% with competitive best value contracting. Assuming the State shares in the additional project costs, State funding per project in Prince George's County could increase.

Assuming the legislation does result in higher construction costs in Prince George's County, it is possible that a greater share of State school construction funding would support projects in the county. From fiscal 1988 to 2003, the State spent \$2.1 billion on public school construction, and Prince George's County received \$256 million (or 12%) of this funding. It is also possible, however, that the amount of State funding Prince George's County receives for school construction would not be affected by this legislation. In this case, the legislation could result in fewer county projects approved for State funding, because the cost per project would increase.

Regardless of the impact on the distribution of State funding, it is unlikely that the legislation would affect overall State funding for public school construction.

**Local Expenditures:** In fiscal 2003, Prince George's County spent \$95.2 million on school construction. If the county spends more in order to fund the same number of "best value" projects, expenditures could increase by up to 10%. The county could instead opt to continue funding at the same level but reduce the number of projects funded each year due to higher initial construction costs.

The objective of competitive best value contracting is to achieve long-term reductions in the expenditures resulting from construction change orders, the failure of contractors to complete work on schedule, and high maintenance costs in poorly constructed facilities. To the extent that this effort is successful under competitive best value contracting, the increase in initial school construction costs would be offset by reduced costs in future years.

**Small Business Effect:** Implementing competitive best value contracting would allow the procurement officer for the New Prince George's County Board of Education to consider the quality of the bid in a systematic way when awarding school construction contracts. If larger contracting businesses are more able to exhibit a consistent record of high quality work, they may have an advantage under this form of contracting. However, small contracting and subcontracting businesses that can effectively demonstrate their ability to provide high quality construction work may also benefit from the legislation. In effect, any contracting or subcontracting businesses, large or small, that can articulate a competent management plan and provide evidence of the quality of their work will have an advantage.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Prince George's County, Department of Legislative Services

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Analysis by: Mark W. Collins

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

