# Department of Legislative Services

Maryland General Assembly
2004 Session

## FISCAL AND POLICY NOTE
**Revised**

House Bill 718 (Delegate Morhaim, *et al.*)
Health and Government Operations Education, Health, and Environmental Affairs

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**Procurement - Reciprocal Preference for Resident Offerors**

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This bill expands the authorization of State units to provide preferences to resident offerors under specified circumstances to include all procurements that use the competitive sealed proposal method.

## Fiscal Summary

**State Effect:** Potential significant increase in State procurement costs due to resident offerors being awarded contracts for which they were not the lowest priced respondent.

**Local Effect:** None.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** The bill authorizes State units to give a preference, identical to the preference that another state would give to its residents, to a Maryland resident business if:

- a responsible offeror whose principal office or principal base of operations is in another state submits an offer;
- the state in which the nonresident's principal office is located or the state in which the nonresident has its principal operation through which it would provide the goods or services provides a resident business preference; and

- the preference does not conflict with a federal law or grant affecting the procurement contract.

**Current Law:** The State Finance and Procurement Article, authorizes reciprocal preferences for (1) resident bidders in competitive sealed bid procurements; or (2) resident offerors in competitive sealed proposals for architectural services, construction-related services, engineering services, or energy performance contracts. These preferences are also found in the Code of Maryland Regulations (COMAR).

**Background:** According to the Virginia Department of Administration, 31 states currently offer a reciprocal preference to resident vendors. Virginia, Pennsylvania, and West Virginia provide reciprocal preferences for resident vendors. Virginia's reciprocal preference extends to bidders and offerors; Pennsylvania's reciprocal preference applies to the origin of supplies and the residence of bidders for the procurement of supplies and construction; and West Virginia's reciprocal preference extends to commodities and printing. Virginia and West Virginia state statute indicates that the preference for vendors from their state shall be the same as the preference given to resident vendors in any other state. Delaware does not offer reciprocal preferences.

**State Fiscal Effect:** The Department of Budget and Management (DBM) indicates that the ability to grant preferences to offerors in competitive sealed proposals that might not be the lowest responsible proposal could increase procurement costs for State agencies. The Department of Legislative Services concurs with DBM's estimate and notes that a reliable estimate of the impact is not possible.

**Small Business Effect:** To the extent that Maryland small businesses would not have been selected as the lowest price responsible offeror, this bill could improve the ability of Maryland small businesses to receive awards for State contracts.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 22, 2004
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