

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE

House Bill 1448 (Delegate Murray, *et al.*)
 Health and Government Operations

Procurement - Primary Procurement Units - Consolidation of Authority

This bill removes the designation of primary procurement unit from the State Treasurer, the Department of Budget and Management (DBM), and the Department of Public Safety and Correctional Services (DPSCS) and transfers their primary procurement unit responsibilities to the Department of General Services (DGS). The bill also removes the designation of primary procurement unit from the Maryland Port Commission and transfers its primary procurement responsibilities to the Maryland Department of Transportation (MDOT). The bill authorizes St. Mary’s College of Maryland to execute contracts for capital expenditures without the approval of the Board of Public Works (BPW).

Fiscal Summary

State Effect: General fund expenditures could increase by \$100,000 in FY 2005 to begin evaluation of restructured procurement functions in DGS. As staff is restructured, DGS would be able to reduce personnel devoted to procurement activities beginning in FY 2007.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	100,000	300,000	-	-	-
Net Effect	(\$100,000)	(\$300,000)	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill requires the Secretary of General Services, in relation to procurements that qualify for the small business procurement process, to encourage in a strong and direct manner that small businesses bid on procurement contracts. Units are required to include a summary of any findings that contractors did not comply with in good faith with Minority Business Enterprise (MBE) goals in annual reports to the Governor's Office of Minority Affairs.

Current Law: Primary procurement units, and the statutory responsibilities specifically associated with each primary procurement unit, are described below. The responsibilities for the Treasurer, DBM, and DPSCS are transferred by this bill to DGS. The responsibilities of the Port Commission are transferred by this bill to MDOT.

- State Treasurer – for banking and financial services, insurance, and insurance services.
- DBM – for information processing equipment and associated services, services by a unit, and leases of motor vehicles.
- Maryland Port Commission – for (1) supplies for port-related activities, including motor vehicles and information processing supplies, but excluding supplies funded by the proceeds from State general obligation bonds, and insurance; (2) services for port-related activities, including information processing services, but excluding banking and financial services under the authority of the Treasurer; (3) construction and construction-related services for a port facility; (4) port-related architectural and engineering services; and (5) leases of real property for port related activities.
- DPSCS – for procurement of construction and construction-related services for State correctional facilities.

The Treasurer derives authority over banking and banking services from Article VI, Section 3 of the Maryland Constitution which states that the Treasurer shall receive monies of the State, and deposit them in such bank or banks as the Treasurer may, from time to time select. The Treasurer's authority to engage in and control financial services is found in part, in State Finance and Procurement (SFP) Titles 6 and 8. SFP 8-121(c) provides authority over the sale of State bonds; SFP 6-222 provides authority for banking service agreements; and SFP 8-403 provides the authority to enter into capital leases. SFP Title 9 provides for the Treasurer's authority to engage in and control insurance and insurance services.

In addition to primary procurement unit responsibilities over information technology procurements, DBM has policy setting authority over the State's planning and use of information technology. The position and responsibilities of the State Chief of Information Technology (CIT) are provided in State Finance and Procurement Title 3, Subtitle 4. The CIT is responsible for all information technology projects except those of the Maryland Port Commission, public institutions of higher education for academic or research purposes, or the University System of Maryland.

Background: The Task Force to Study Efficiency in Procurement (created by Chapter 386 of 2003) reviewed the level of decentralization in the State procurement system and how that decentralization had evolved since the last substantive reorganization of procurement law in 1986. The task force recommended that the Executive Branch study the efficiencies that could be gained from a greater level of centralization of authority in the procurement process and that the General Assembly create a joint committee to propose substantive changes that would update, clarify, and reorganize State procurement.

State Expenditures: DBM advises that there are 12 positions in its procurement unit. The Department of Legislative Service (DLS) estimates that eight of those positions would be transferred to DGS, leaving DBM with a four person procurement office to handle department procurements delegated from remaining primary procurement units and control agencies. DLS further advises that the loss of procurement personnel from DBM will also hinder the State CIT's ability to coordinate the State and individual agency Information Technology Master Plans (ITMPs) with procurements of information technology processing equipment and services. DLS advises that technical and policy staff in the Office of Information Technology in DBM will be able to assist procurement staff transferred to DGS for information processing equipment and information technology services procurements.

DPSCS advises that it would transfer 15 regular positions and five contractual positions from its procurement unit to DGS, leaving DPSCS with a six person procurement office to handle departmental procurements delegated from remaining primary procurement units and control agencies. The State Treasurer has one dedicated procurement officer. That position would not be transferred. DLS advises that DGS could retrain one or more positions from DPSCS, as needed and with existing resources, to handle banking services and insurance-related primary procurement activities. DLS also advises that these responsibilities continue to be under the purview of the Treasurer as provided in the Constitution and Division I of SFP.

General fund expenditures could increase by an estimated \$100,000 in fiscal 2005, which accounts for the bill's October 1, 2004 effective date. This estimate reflects the cost of

\$100,000 in contractual services to begin an outside business process review of the procurement functions transferred by this bill. DLS assumes that assets (office equipment, computers, records, etc.) are transferred along with personnel. DLS also assumes that fixed charges for office space will not increase net expenditures, and that DGS will reimburse DBM and DPSCS for current office space for transferred personnel until DGS is able to provide appropriate office space for those employees. Consulting expenditures for continuation of the business process review could be \$300,000 in fiscal 2006.

Future year expenditures reflect removal of consulting services costs and reduction of personnel expenses as operational efficiencies are recognized.

Small Business Effect: To the extent that the Secretary of General Services is successful in encouraging small businesses to participate in State procurements, small businesses could recognize additional success in acquiring State contracts. Additionally, the reporting requirements places additional onus on State units to be aware of instances in which small minority businesses are not used and to make the Governor and the General Assembly aware of the occurrences of subcontractor swapping after the award of contracts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Board of Public Works, Morgan State University, State Treasurer's Office, University System of Maryland, Maryland Department of Transportation, Department of Budget and Management, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 21, 2004
ncs/hlb

Analysis by: Daniel P. Tompkins

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