

**Department of Legislative Services**  
Maryland General Assembly  
2005 Session

**FISCAL AND POLICY NOTE**

House Bill 364 (Delegate McIntosh)  
Health and Government Operations

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**Procurement - Competitive Sealed Proposals - Use**

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This bill repeals the requirement that a head of a unit of State government determine that the need to use a method of procurement other than competitive sealed bids is sufficiently compelling to override the general public policy that favors awarding procurement contracts on the basis of competitive sealed bids.

Heads of State government units will still be required to make a determination that the use of competitive sealed bidding for that procurement contract is not practicable or not advantageous to the State.

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**Fiscal Summary**

**State Effect:** None. This bill could be handled with existing resources.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Statute states that competitive sealed bids are the preferred method of procurement for all State contracts except architectural and engineering services and information technology services. A procurement officer must specifically authorize the use of another available method for a procurement to use any other method. Other methods permitted by statute include competitive sealed proposals, noncompetitive

negotiation, sole source procurement, emergency or expedited procurement, small procurement, or an intergovernmental cooperative purchasing agreement.

Competitive sealed proposals are the preferred method for human, social, cultural, or educational services, or for the lease of real property. Competitive sealed proposals permit the State to review both technical responses and the price; however, the technical and price components of a proposal must be evaluated separately from each other. The relative weight of each evaluation factor must be provided with the Request for Proposals (RFP). There are no statutory specifications for the contents of an RFP or the criteria to be used to evaluate a proposal.

**State Fiscal Effect:** The Department of General Services indicates that additional training and personnel would be required to conform to this bill. The Department of Legislative Services disagrees with this assessment. The bill requires no additional action by the agency; rather it removes an obstacle for the use of an additional method of procurement. The Secretary no longer must weigh certain factors before using the competitive sealed proposal method of procurement. Additionally, the agency is not required to use this method any more frequently; rather, it now has more discretion and authority to choose this method.

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### **Additional Information**

**Prior Introductions:** An identical bill, HB 280 of 2004, passed the House, but no action was taken by the Senate Education, Health, and Environmental Affairs Committee.

**Cross File:** SB 485 (Senator Stone) – Education, Health, and Environmental Affairs.

**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 Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2005  
mam/hlb

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