

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

**FISCAL AND POLICY NOTE**

House Bill 1088 (Chairman, Health and Government Operations Committee)  
(By Request – Departmental – Environmental Service, Maryland)

Health and Government Operations Education, Health, and Environmental  
Affairs

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**Maryland Environmental Service - Procurement**

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This departmental bill defines methods of procurement available to the Maryland Environmental Service (MES). The bill also allows MES to adopt a dispute resolution process for disputes between MES and contractors. The bill provides that MES may use the following methods to procure materials, equipment, services, or supplies: (1) competitive sealed bids; (2) competitive sealed proposals; (3) sole source procurement; (4) intergovernmental cooperative purchasing agreements; and (5) a small procurement process, when the amount in question is less than \$25,000.

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**Fiscal Summary**

**State Effect:** The bill will not materially affect State finances. The additional procurement methods available to MES under the bill will provide flexibility to both procure goods and services of contractors, and bid on service contracts as a contractor.

**Local Effect:** None.

**Small Business Effect:** MES has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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**Analysis**

**Current Law:** MES is exempt from procurement statutes addressing State leasing of real property, public improvements, land acquisitions, excess and surplus property, maintenance and operation of grounds, and provisions addressing the State Board of

Architectural Review. However, MES is required to use some form of competitive bidding or public design competition to procure materials, equipment, and supplies in amounts over \$10,000.

**Background:** MES is an independent State agency established to provide water supply, wastewater treatment, and waste management services to State agencies, local governments, and private entities. MES is almost entirely self-funded, through contracts with local governments, the federal government, and the private sector. In fiscal 2004, 43% of MES business was related to local governments.

MES initially received their exemption from the procurement laws with Chapter 840 of 1986, legislation that exempted multiple State agencies from the procurement laws. *The Review of Maryland Procurement Law Exemptions* noted that of the 28 executive units identified as exempt from Division II (General Procurement Law) of the State Finance and Procurement Article, 10 had formal written procurement policies and procedures and 10 maintained informal principles or guidelines for procurement activities. MES had no formal policies, but indicated that it followed general State regulations relating to procurement.

**State Fiscal Effect:** The bill will not materially affect State finances. The increase in the small procurement threshold to \$25,000 will bring MES in line with other executive agencies, in terms of freedom from certain procurement processes. In that MES acts as both a consumer and a supplier for contract purposes, its operations do not fit within the standard procurement rules (with the State as the consumer of contractors' services). The additional procurement methods available to MES under the bill will provide flexibility to both procure goods and services of contractors, and bid on service contracts as a contractor.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of General Services, Board of Public Works, Department of Natural Resources, Maryland Environmental Service, Maryland Department of the Environment, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2005  
ncs/hlb

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Analysis by: Martin L. Levine

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