

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 794

(Senator Hogan)

Education, Health, and Environmental Affairs

Health and Government Operations

Procurement - eMaryland Marketplace

This bill eliminates all user fees for vendors who access eMaryland Marketplace (eMM) to obtain notices of State procurements and submit contract bids. It also bars the Department of Budget and Management (DBM) from charging fees to State agencies for posting notices of procurements or conducting procurements on eMM. However, it allows DBM to charge fees to other entities that publish procurement notices and related information on eMM.

The bill takes effect July 1, 2007.

Fiscal Summary

State Effect: No net effect on State revenues or expenditures. General fund expenditures by the Department of General Services (DGS) to operate eMM are offset by the costs currently borne by other State agencies in the form of higher contract prices for agency procurements.

Local Effect: Local expenditures could increase if DBM chooses to charge local governments a fee to use eMM, which the bill allows.

Small Business Effect: None. The vendor fees eliminated by this bill are already passed on to the State in the form of higher contract prices so there will be no savings to small businesses.

Analysis

Current Law: State agencies may not charge a fee to vendors and potential vendors who access eMM, but they may deduct from each contract award an amount specified by DBM that is sufficient to pay the costs of operating eMM. Currently, that fee is assessed on a sliding scale, ranging from a low of \$100 for contracts whose value is between \$25,000 and \$50,000 to a high of \$15,000 for contracts whose value exceeds \$50 million. There is no fee for:

- contracts valued at less than \$25,000;
- revenue-producing contracts; or
- statewide DGS contracts posted on eMM as online catalogs.

Background: eMM is a web-based portal that allows State agencies to post procurement notices and announce contract awards. Local governments may also post procurement notices on the web site. Prospective vendors may access the web site to read procurement notices and submit online bids for State contracts. Typically, vendors increase the size of their bid by the amount of the fee that the agency will deduct if their bid is accepted. Therefore, the cost of operating eMM is passed on to the State in the form of higher contract prices.

The current fee structure for eMM was established by Chapter 515 of 2004, but had not been implemented by the time the General Assembly met for the 2005 session. It replaced a system that required vendors to pay annual subscription fees of \$150 for a regular subscription or \$225 for premium service in order to gain access to eMM. During the 2005 session, HB 498 sought to eliminate all vendor and agency fees for eMM, just as this bill proposes to do. HB 498 passed both houses, but was vetoed by the Governor on the grounds that the fee structure created by Chapter 55 would, once implemented, serve eMM well into the future. Whereas the subscription fees collected prior to 2004 only covered about one-third of eMM's operating cost, Chapter 515 required the current fee structure implemented by DBM to cover the full cost of eMM's operation.

State Fiscal Effect: The bill blocks the State's ability to collect fees from vendors who use eMM and from State agencies that use it to post procurement notices. DGS and DBM cannot provide a reliable estimate of the cost of operating eMM. Moreover, since the current fee structure is newly implemented in fiscal 2006, there is no information on the total revenue it has generated. However, the Governor's fiscal 2007 allowance for DGS includes \$1.5 million to cover the cost of operating eMM. Without a fee-based revenue stream, operating costs for eMM will have to be paid out of general funds beginning in fiscal 2008. However, the costs of operating eMM are already being borne

by agencies in the form of higher contract prices to pay for vendor fees for using the current system. Therefore, the expense of operating a new system will merely offset existing costs borne by other agencies.

Local Expenditures: The bill allows DBM to charge entities other than State agencies a fee for publishing procurement notices, conducting procurements, or publishing contract awards on eMM. If DBM chooses to charge local governments a fee for using eMM, local expenditures could increase by an amount equal to the fee determined by DBM.

Additional Information

Prior Introductions: HB 498 of 2005 passed both houses of the General Assembly, but was vetoed by the Governor.

Cross File: HB 819 (Delegate Morhaim) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Budget and Management, Department of General Services, Department of Legislative Services

Fiscal Note History: First Reader - March 2, 2006
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