

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 466 (Delegates Tarrant and Kipke)
Health and Government Operations Education, Health, and Environmental Affairs

Procurement - Service Contracts for Janitorial Services

This bill requires the Board of Public Works (BPW), in consultation with the Department of General Services (DGS) to adopt regulations requiring bidders or offerors on service contracts for janitorial services to delineate their costs by (1) labor; (2) cleaning supplies; and (3) projected man-hours to satisfactorily complete the service. Service contracts for janitorial services awarded to (1) Maryland Correctional Enterprises (MCE); (2) Blind Industries and Services of Maryland (BISM); (3) the Employment Works Program; or (4) a business owned by an individual with a disability are exempt from the bill's requirements.

Fiscal Summary

State Effect: None. BPW and DGS can carry out the bill's requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Current Law: Under State procurement law, State agencies and State-aided or -controlled entities must procure services and supplies from MCE, BISM, the Employment Works Program, or a business owned by an individual with a disability, in that order of preference. Only if none of those entities produces or provides the desired supplies or services may a State agency issue a competitive procurement.

With the exception of capital expenditures by the Maryland Department of Transportation and the Maryland Transportation Authority related to State bridges, roads, and highways, BPW controls procurement by all State agencies. Under that authority, BPW may set policy, adopt regulations, and establish internal operational procedures consistent with State procurement law. BPW is authorized to delegate its authority to other State entities, and it has delegated primary authority for the procurement of service contracts related to the maintenance of State facilities to DGS.

The University System of Maryland (USM), Morgan State University (MSU), and St. Mary's College of Maryland (SMCM) are exempt from most provisions of State procurement law. However, service contracts by USM, MSU, and SMCM with a value that exceeds \$500,000 require approval from BPW. In addition, the following agencies are exempted in-whole or in-part from most State procurement law:

- BISM;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;
- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority; and
- State Retirement and Pension System.

Procurements by these entities that are exempt from procurement law must nonetheless be made under procedures that promote the purposes underlying State procurement law.

A service contract is defined as a procurement contract for services (1) provided to an Executive Branch agency; (2) performed in a State-operated facility; and (3) exceeding an annual cost of \$100,000. Bids for service contracts are required only to provide a total cost for the requested service or a per-unit cost if the total amount of work is open-ended in the solicitation.

Background: MCE is the prison industry component of the State Division of Correction. MCE is solely supported with special funds, maintaining a self-supporting status by providing an array of services and manufacturing a variety of products through the use of inmate labor. MCE's customer base includes the State, local governments, and nonprofit organizations.

BISM was established in 1908 as a nonprofit organization with a stated purpose of positively changing people's attitudes about blindness. BISM maintains 11 facilities, 4 of which are in Maryland, that employ 400 associates to manufacture and provide a wide array of products and services. Its clients include the federal government, state governments, and commercial customers.

The Secretary of General Services must designate Maryland Works, Inc., or another appropriate entity, to facilitate the distribution of procurement contracts to community service providers that participate in Employment Works. Maryland Works is a statewide membership association of at least 19 community service organizations that specialize in creating employment opportunities for individuals with disabilities. It serves over 17,000 Marylanders with disabilities, more than 11,000 of whom are in employment settings. As the manager of the State's current purchasing preference program for sheltered workshops, it administers \$41 million in State contracts for supplies and services.

Chapter 284 of 2007 made Maryland the first state to require State service contractors to pay their employees a "living wage," subject to specified exemptions. For fiscal 2008, the living wage was set at \$11.30 in Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore counties and Baltimore City (Tier 1). It was set at \$8.50 for all other areas of the State (Tier 2). The living wage rates are adjusted annually for inflation by the Commissioner of Labor and Industry within the Department of Labor, Licensing, and Regulation. A study mandated by Chapter 284 and conducted by the Department of Legislative Services found that janitorial contracts were among the types of service contracts most likely to be affected by the living wage requirement.

The commissioner approved inflation-based increases to both the Tier 1 and Tier 2 living wage rates for fiscal 2011. Effective September 27, 2010, the Tier 1 living wage is \$12.28, and the Tier 2 wage is \$9.23.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

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