

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1224 (Chair, Health and Government Operations
Committee)(By Request - Departmental - Transportation)
Health and Government Operations Education, Health, and Environmental Affairs

Procurement - Contracts for Pretreatment and Removal of Snow and Ice

This departmental bill authorizes the State Highway Administration (SHA) to conduct an emergency procurement for any contract related to the pretreatment and removal of snow and ice as required or authorized by current law. SHA must report annually to the Board of Public Works (BPW) on the operation and effectiveness of any emergency procurements, as specified by the bill. BPW, in consultation with SHA, may adopt regulations to carry out the bill's requirements.

The bill takes effect June 1, 2015.

Fiscal Summary

State Effect: The bill has no material effect on State finances but may provide operational efficiencies in the procurement of goods and services related to the removal of snow and ice from State roadways.

Local Effect: None.

Small Business Effect: SHA has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law: A procurement officer, with the approval of the head of the unit, may conduct an emergency procurement to avoid or mitigate serious damage to public health, safety, or welfare. The procurement officer may use any procurement method that the

officer considers appropriate but must (1) obtain as much competition as possible under the circumstances and (2) limit the emergency procurement only to those items necessary to avoid or mitigate damage to public health, safety, or welfare. After awarding the contract, the procurement officer must notify BPW of the justification for the use of an emergency procedure. Emergency procurements are not exempt from current requirements in procurement law related to collusion, approval by BPW, nondiscrimination, disclosures to the Secretary of State, and suspension or debarment of contractors.

SHA is responsible for constructing, reconstructing, and repairing State highways, and for maintaining them in good condition. It is also required to reasonably clear brush, snow, and other debris.

Background: SHA's current system for procuring snow removal services has been in place since the 1980s. To supplement the State workforce, SHA enters into contracts with private firms each year using pre-established hourly rates as well as retainer fees and minimum payment guarantees. Private contractors account for 70% of snow removal efforts in the State. However, SHA does not use competitive procurement processes for these services. Given the recent severity of winter conditions in the State, SHA seeks additional flexibility to respond to prolonged storms by contracting with additional private service providers without using competitive procurement.

In fiscal 2013, the most recent data available, State agencies conducted 57 emergency or expedited procurements.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Public Works, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - March 13, 2015
mar/ljm Revised - House Third Reader - March 27, 2015

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Procurement Contracts – Emergency Procurement – Winter Operations

BILL NUMBER: HB 1224

PREPARED BY: Maryland Department of Transportation/ Maryland State Highway Administration

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation continues the current system that SHA uses to supplement the State workforce for snow removal. Through this process, contractors currently account for roughly 70 percent of the overall snow removal workforce. Since the 1980s, annual agreements with local independent contractors using pre-established hourly rates as well as payment of retainer fees and minimum payment guarantees have allowed these small businesses to an opportunity to supplement the SHA workforce during winter operations. These rates are set using Blue Book and competitive industry rates for each piece of equipment. Over the years, SHA has raised the hourly rates as it competes with other agencies and the private sector for hired equipment contractors. Given the continued high demand for such workforce, if the contractor meets the equipment specifications, SHA typically enters into agreements with all who respond. This approach is consistent with much or the surrounding local governments and many neighboring state governments.