

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 649

(Chair, Health and Government Operations
Committee)(By Request - Departmental - General
Services)

Health and Government Operations

Rules

**State Finance and Procurement – Procedures and Pricing and Selection
Committee for Preferred Providers**

This departmental bill makes procedural, conforming, and technical changes to State procurement law, including to provisions regarding primary and designated procurement units and the Pricing and Selection Committee (PSC) for certain preferred providers. It also repeals a \$1 million floor on authorization for auction bids, allows auction bids to be used for services in addition to supplies, and exempts emergency procurements from specified notification requirements in current law.

Fiscal Summary

State Effect: The bill’s provisions are procedural, conforming, and/or technical and, therefore, have no material effect on State finances.

Local Effect: None.

Small Business Effect: The Department of General Services (DGS) 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

Bill Summary:

Primary and Designated Procurement Units

Consistent with the provisions of Chapter 590 of 2017, the bill repeals provisions that authorize the Department of Information Technology (DoIT) to manage or oversee the procurement of information technology (IT) and telecommunications equipment and services. It also repeals the status of DoIT and the Department of Budget and Management (DBM) as “designated procurement units” with authority to engage in master contracting.

Pricing and Selection Committee

The bill changes the name of PSC to be the Pricing and Selection Committee for Preferred Providers, adds the chief executive officer of Maryland Correctional Enterprises (MCE) or a designee to the committee, and expands its jurisdiction to include MCE. PSC must review and verify the prevailing average market prices proposed by MCE when changes are made to the pricing of existing supplies and services and when MCE intends to provide new supplies or services. Correspondingly, and consistent with current practice, the bill repeals a requirement that DGS determine the prevailing market prices for MCE’s supplies and services. Finally, it makes technical and conforming changes related to the purchase of goods, services, and other sales from the Employment Works Program and other preferred providers.

eMaryland Marketplace

The bill renames eMaryland Marketplace, the State’s online procurement portal, as eMaryland Marketplace Advantage (eMMA), reflecting the rebranding of the system. It also requires specified State and local procurement units to publish on eMMA *both* a notice of procurement *and* a notice of the award of a procurement, instead of just one or the other. It exempts emergency procurements by the State from the notification requirement.

Current Law:

Procurement Reform

Chapter 590 of 2017 repealed the status of DBM and DoIT as control and primary procurement units and transferred their authority to oversee procurements for IT, telecommunications, and services to DGS. However, DGS has identified several provisions in the State Finance and Procurement Article that continue to reflect the prior status of

DBM and DoIT as control or primary procurement units. The bill repeals those references to be consistent with the intent of Chapter 590.

Pricing and Selection Committee

State procurement law defines a “preferred provider” to be a provider of supplies or services that is given preference in specified provisions of current State procurement law. Chapter 313 of 2016 consolidated certain procurement preferences such that, currently, a State or State-aided or -controlled entity must buy supplies and services from MCE first, then from Blind Industries and Services of Maryland (BISM) and finally from the Employment Works Program, 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.

The preference for MCE applies only if MCE can provide a good or service at a price that is at or below the prevailing average market price, as determined by DGS.

Chapter 415 of 2015 merged the Pricing Committee for BISM with the Pricing and Selection Committee for the Employment Works Program to create PSC. The committee is charged with 13 tasks and responsibilities in statute, including determining the fair market prices of the items sold by BISM and Employment Works (but not MCE).

Statute requires BISM and Employment Works to provide staff for PSC.

Auction Bids

For procurements of supplies with an estimated value of \$1 million or more, if a primary procurement unit determines that it is in the best interest of the State to use auction bidding, a procurement officer must seek bids by issuing an invitation for auction bids. The bidding process must follow specified procedures.

Background: DGS advises that it does not currently develop pricing lists for MCE’s goods and services but that MCE develops its own pricing list. Thus, repealing the provision requiring DGS to determine the fair prices for MCE’s goods and services is consistent with current practice. In setting its prices, MCE already conducts analyses of market prices to ensure that its prices are consistent with them. MCE advises that the bill’s provisions are consistent with its current practices, so it can provide the necessary assistance and pricing information to PSC to enable it to carry out its responsibilities.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Information Technology; Maryland State Department of Education; Department of Budget and Management; Department of General Services; Department of Public Safety and Correctional Services; Board of Public Works; Maryland Department of Transportation; Blind Industries and Services; Department of Legislative Services

Fiscal Note History: First Reader - February 23, 2020
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Finance and Procurement - Procedures

BILL NUMBER: HB 649

PREPARED BY: Ellen Robertson, Legislative Liaison

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVED MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL SUBINESSES

PART B. ECONOMIC IMPACT ANALYSIS