

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 871

(Delegate Charles)

Health and Government Operations

Education, Health, and Environmental Affairs

Consolidation of the Procurement Improvement Council and the Council for the
Procurement of Health, Educational, and Social Services

This bill merges the Council for the Procurement of Health, Educational, and Social Services (CHES) with the Procurement Improvement Council (PIC) and modifies PIC membership. It also expands PIC's authority to include providing a forum for the discussion of the use of eMaryland Marketplace (eMM) and compliance with a requirement that State and local entities publish notices of procurements or notices of procurement awards on eMM, and it requires PIC to report on these topics. The bill expresses legislative intent that a business, or representative of a business, that participates in PIC will not be favored in, disfavored in, or disqualified from State procurement based on participation with PIC. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: The bill is generally procedural in nature and does not directly affect governmental finances, but it may create some operational efficiencies. The Department of General Services (DGS), as the staffing agency for PIC, can complete the required report with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: By December 31, 2022, PIC must submit a report to specified committees of the General Assembly that provides:

- guidelines on identifying entities required to publish notices of procurement solicitations and awards on eMM;
- guidelines on how to identify entities that do not publish the required notices and the reasons why they do not; and
- recommendations on strategies and enforcement mechanisms to improve compliance with the notice requirements, including any necessary legislation to authorize or implement the strategies and enforcement mechanisms.

Current Law:

Procurement Councils

Chapter 590 of 2017 renamed the Procurement Advisory Council as PIC and designated the State's Chief Procurement Officer as the chair of PIC. PIC's responsibilities generally mirror those of the former Procurement Advisory Council, including ensuring that the State's procurement system uses the most advanced procurement methods and providing a forum for the discussion of specific procurement issues and problems that arise. Its responsibilities were expanded to include advising the General Assembly on proposed legislation to enhance the efficiency and transparency of State procurement.

CHES was created by Chapters 212 and 213 of 2012 based on the recommendations of the Task Force to Study the Procurement of Health, Education, and Social Services by State Agencies. The council's primary purposes are to (1) advise the Board of Public Works (BPW) on specific steps necessary to implement the task force's recommendations and (2) monitor and report to BPW on progress in implementing the recommendations. Chapter 590 of 2017 made the State's Chief Procurement Office the chair of the council (it had previously been BPW's Procurement Advisor).

eMaryland Marketplace

eMM is the Internet-based procurement system managed by DGS. For State procurements expected to be valued at more than \$50,000, procurement officers must publish notice of invitations for bids and requests for proposals on eMM at least 20 days before bid or proposal opening; for a contract award of more than \$50,000, they must also publish notice of the award on eMM.

In addition to State agencies, statute requires other entities to use eMM to publish notices of procurements or notices of contract awards valued at more than \$50,000. These other entities include counties, municipalities, bicounty or multicounty governmental agencies, special tax and utility districts, public institutions of higher education, public schools, and other entities otherwise exempt from State procurement law. For these entities, failure to publish a solicitation or contract award on eMM is not grounds to challenge or appeal the procurement award or the process through which a procurement was conducted.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 564 (Senator Griffith) - Education, Health, and Environmental Affairs.

Information Source(s): Department of General Services; Department of Legislative Services

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