

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 723

(Delegate Charles)

Health and Government Operations

Budget and Taxation

State Finance and Procurement - Procedures and Pricing and Selection
Committee for Preferred Providers

This bill authorizes the Department of General Services (DGS), in consultation with the Department of Budget and Management (DBM) and with the approval of the Board of Public Works, to establish fees for training, strategic sourcing, and administrative costs related to the use of eMaryland Marketplace (eMM). It also transfers authority for reviewing the pricing of commodities sold by Maryland Correctional Enterprises (MCE) from DGS to the Pricing and Selection Committee (PSC). Finally, the bill makes additional technical, procedural, and conforming changes to State procurement law. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Special fund revenues increase due to the expanded authority to assess fees related to eMM. Special fund expenditures increase and general fund expenditures decrease commensurately as special funds supplant general funds for Office of State Procurement operating expenses. A reliable estimate of the net effect is not feasible, but it may be substantial.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law:

Electronic Transaction Fees

Under current law, DGS is authorized to assess administrative fees for electronic transactions on eMM. Proceeds from the fees are deposited in the Electronic Transaction Fund to cover actual documented costs of administering contracts through eMM. The bill renames the fund to be the Operations Revenue Fund and expands its authorized use to include all operating expenses of the Office of State Procurement.

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. Only if none of the specified preferred providers produces or provides the desired supplies or services may a State agency issue a competitive procurement. Chapter 313 of 2016 consolidated certain procurement preferences such that, currently, the State or a State-aided or -controlled entity must buy supplies and services from MCE first, then from Blind Industries and Services of Maryland, and finally the Employment Works Program, in that order of preference.

Formerly known as State Use Industries, MCE provides work and job training for inmates incarcerated in correctional facilities.

The bill renames the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program to be the Pricing and Selection Committee for Preferred Providers. PSC, instead of DGS, must review and verify the prevailing average market prices proposed by MCE (1) when MCE makes changes to the pricing of existing goods that it sells and (2) for new goods or services that MCE intends to make available. PSC must also maintain a current list of supplies and services provided by MCE.

Conforming Statute to Procurement Reform

Chapter 590 of 2017 (Reorganization of State Procurement) established the position of Chief Procurement Officer within DGS to coordinate procurement by Executive Branch agencies. To accomplish its intent, Chapter 590 transferred various procurement-related responsibilities from other agencies to the Chief Procurement Officer. However, various provisions of State procurement law were not updated to reflect the role and authority of the Chief Procurement Officer; the bill makes substantial conforming changes to bring statute in line with Chapter 590.

Procedural Changes to Procurement Law

Under current law, auction bids are allowed only for procurements with a value of at least \$1.0 million; the bill repeals the threshold, thereby allowing auction bids to be used for contracts of any value.

Under current law, only bids are authorized to be submitted electronically. The bill authorizes proposals to also be submitted electronically, reflecting the modernization and expansion of the capabilities of eMM. This also enables DGS to assess fees related to the electronic submission and execution of proposals in addition to bids.

Under current law, agencies are required to publish notice of a solicitation *or* notice of contract award on eMM. The bill requires agencies to post notices of both solicitations *and* contract awards.

Under current law, four agencies are “designated procurement units” with authority to engage in master contracting: DGS; the Department of Information Technology (DoIT); DBM; and the Maryland Department of Transportation (MDOT). Under the bill, only DGS and MDOT retain permanent designated procurement unit status; DoIT retains authority to conduct master contracting only with respect to an information technology (IT) master contract executed before July 1, 2022, until the earlier of the expiration of all IT master contracts or June 30, 2027.

State Fiscal Effect: Expanding DGS’s authority to assess fees on training, strategic sourcing, and a wider variety of electronic contract and purchasing activities likely increases special fund revenues and expenditures for the renamed Operations Revenue Fund. As the fund is used to cover operating expenses of the Office of State Procurement, much of which are currently paid with general funds, general fund expenditures also decrease commensurately. General fund revenues are not affected because fees currently assessed already go to the Electronic Transaction Fund. A reliable estimate of the net effect on both the special and general fund is not possible as it depends on the fees set by DGS and the volume of transactions on which those fees are assessed. The overall effect may be substantial over time.

Other provisions in the bill have no direct fiscal effect on State agencies. DGS currently staffs PSC, so the transfer of authority related to MCE has no practical effect on DGS or PSC.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 461 (Senator Griffith) - Budget and Taxation.

Information Source(s): Department of General Services; Department of Public Safety and Correctional Services; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2022
km/ljm Third Reader - March 29, 2022
Enrolled - May 2, 2022
Revised - Amendment(s) - May 2, 2022

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