

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 261 (Chair, Government, Labor, and Elections
Committee)(By Request - Departmental - General
Services)

Government, Labor, and Elections

State Procurement - Competitive Proof of Concept Procurement

This departmental bill establishes competitive proof of concept procurements as a method of source selection and expands the scope of competitive proof of concept procurements to include all phases, including full implementation or deployment. It further makes clarifying and procedural changes to current law governing proof of concept procurements. **The bill takes effect June 1, 2026.**

Fiscal Summary

State Effect: None. The bill may create operational efficiencies for some State agencies that elect to use competitive proof of concept procurements, but does not materially affect State finances.

Local Effect: None. The bill does not materially affect local government finances or operations.

Small Business Effect: The Department of General Services (DGS) has determined that this bill has a meaningful impact on small business (attached). The Department of Legislative Services (DLS) disagrees with this assessment as discussed below.

Analysis

Bill Summary: A proof of concept procurement may be used when the head of a unit determines the process to be in the best interest of the unit. A competitive proof of concept procurement must be approved by the Chief Procurement Officer or designee, and, for

procurements for information technology, by the Secretary of Information Technology or designee. All proof of concept solicitations and contract awards above the small procurement threshold must be posted to eMaryland Marketplace Advantage (eMMA). DGS, in consultation with the Department of Information Technology (DoIT), must adopt regulations (in addition to policies and procedures required under current law) for the development and implementation of competitive proof of concept procurements.

In addition to the elements already required under current law, a competitive proof of concept procurement solicitation must include a statement of need and the factors that will be used at each phase of the procurement to evaluate proposals. The Minority Business Enterprise and Veteran-owned Small Business Enterprise participation goals, if any, must be established at a phase specified in the solicitation documents. A proof of concept procurement with a value of \$1,000,000 or less may be exempt from designation for the Small Business Reserve program if the Governor's Office of Small, Minority, and Women Business Affairs determines that the designation is not practicable.

After receipt of proposals but before award of a procurement contract, a unit may receive clarifications from an offeror. The unit may allow any offeror reasonably susceptible of being selected for award to participate in all subsequent phases of the procurement, including submission of best and final offers. For those offerors that are reasonably susceptible of being selected for award, a unit may issue a contract to deliver product samples for testing or provide a demonstration. Any such contract does not preclude a vendor from continuing to participate in subsequent phases of the procurement. If a unit finds it is in the best interest of the State, it may award one or more contracts for full implementation or deployment of the good, service, or technology evaluated during the proof of concept.

Current Law: "Proof of concept" is a test, evaluation, demonstration, or pilot project of a good, service, or technology in a real-world environment to evaluate whether the good, service, or technology can be successfully deployed and is beneficial to the State. A competitive proof of concept procurement is a formal competitive procurement method that may be used to solicit proposals for the conduct of a proof of concept *prior to full implementation*. A competitive proof of concept procurement may be conducted using any method of procurement authorized in State law.

Competitive proof of concept procurements may be used when the head of a unit determines the process to be appropriate and in the best interests of the unit, and has received the approval of the Secretary of Information Technology or designee. The Secretary of Information Technology may grant approval for a competitive proof of concept procurement if the unit (1) has sufficient internal resources to manage the proof of concept, including human capital, subject matter expertise, and technological infrastructure, or has the means to obtain these resources, and (2) enters into a

memorandum of understanding with DoIT that requires regular status updates, vendor capacity, and any other information necessary for DoIT to evaluate whether the proof of concept can be successfully deployed and is beneficial to the State.

A competitive proof of concept procurement solicitation must include a statement that lists (1) the scope of work or project description, including the intended use, quantity, estimated time frame for the proof of concept, and anticipated number of proof of concept awards that will be made and (2) the factors, including price, that will be used in evaluating proposals, and the relative importance of each. A solicitation may be distributed to vendors known to offer goods or services within the scope of the proof of concept and, except for procurements under \$15,000 not otherwise required by law to be posted, must be posted on eMMA.

After receipt of proposals, a unit may conduct discussions with an offeror to ensure full understanding of the requirements of the procurement and the proposal submitted by the offeror. The procurement unit may also request product samples for testing or a demonstration of a product or service, which may be used in the evaluation process. A request for product samples or demonstrations must be issued to all offerors deemed reasonable at the time of request, and the unit may award one or more of the proposals a contract for the proof of concept. Vendors awarded a proof of concept procurement are eligible to bid on a procurement to fully implement a proposal related to the proof of concept.

Background: The State's authority to use competitive proof-of-concept procurements was first established under Chapter 496 of 2024, the Artificial Intelligence Governance Act. Since its implementation, the Office of the Attorney General (OAG) has advised DGS that current law limits these procurements to tests, evaluations, demonstrations, or pilot projects, and does not permit full implementation. Furthermore, OAG has clarified that a proof of concept is not its own method of source selection, and instead must follow existing processes such as small procurement procedures or competitive sealed proposals. As a result, procurement units cannot move directly from samples and demonstrations of a proof of concept to full implementation. Instead, the unit must conduct a separate procurement. DGS has proposed this legislation to streamline the competitive proof of concept procurement method, creating a more efficient procurement pathway that spans from initial testing through final deployment.

Small Business Effect: Although DGS indicates this bill has a meaningful positive impact on small businesses, DLS advises that the bill is primarily procedural, making adjustments to existing processes rather than creating new opportunities for vendors. Accordingly, DLS does not anticipate a meaningful impact on small businesses.

Additional Comments: The bill references the Governor’s Office of Small, Minority, and Women Business Affairs, which was transferred to the Department of Social and Economic Mobility in 2025, and renamed the Office of Small, Minority, and Women Business Affairs.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 157 (Chair, Budget and Taxation Committee)(By Request - Departmental - General Services) - Budget and Taxation.

Information Source(s): Department of Information Technology; Department of Commerce; University System of Maryland; Department of General Services; Department of Housing and Community Development; Maryland Department of Labor; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

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sj/mcr

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: State Procurement - Competitive Proof of Concept Procurement

BILL NUMBER: HB 261

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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

This legislation will have a positive impact on small businesses. By awarding multiple proof of concept contracts to different businesses, it will allow more small businesses to showcase their abilities to the State. Even if not selected for a final award, the small business community has expressed that even being able to demonstrate a proof of concept would benefit them and could be useful in their own marketing efforts.