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SB 829 - Emergency and Expedited Procurement - Reform

Senate Education, Health, and Environmental Affairs Committee

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Emergency and Expedited Procurement

- The Department of General Services (DGS) Office of State Procurement (OSP) is the primary unit of procurement for the State of Maryland and is headed by a Chief Procurement Officer (CPO).
- State procurement agencies can circumvent approval requirements to secure contracts during unforeseen circumstances that pose risks to public health, safety, and welfare.
 - Emergency procurements exceeding \$50,000 must be reported to DGS OSP and the Board of Public Works (BPW) within 45 days.
- Expedited procurement methods are reserved for only the Maryland Port Commission and Maryland Aviation Administration. This method is similar to emergency procurement but requires BPW approval.

Need for Emergency Procurement Reform

- Few requirements exist in emergency procurement methods that lend risk to questionable uses of state resources and do not promote agency preparedness that mitigate the need for expedited methods.
 - Currently there are no requirements for the number of bids needed to solicit before a contract can be awarded, no codified statutes that mandate the vetting of potential vendors, and no measures that promote partnerships with Minority Business Enterprises (MBE) in emergency procurement methods.
- Emergency procurement occurring during the COVID-19 pandemic highlighted many of these vulnerabilities in Maryland's procurement policy.

- Blue Flame Medical, a politically connected company in operation for mere weeks, was awarded a \$12.5 million contract that they were unable to fulfill.
- Lab Genomics of South Korea was awarded a \$9.5 million contract for COVID-19 test kits that were never utilized for the emergency use as advertised.

SB 829 - Reforms to Emergency and Expedited Procurement Methods

- Strengthens the definition of *emergency* to better reflect its purpose in state procurement
- Emergency procurements must be approved by the Chief Procurement Officer within 48 hours of a request. If the CPO does not form a decision, the request is considered approved.
 - BPW approval is required for emergency procurement contracts exceeding \$1 million.
 - Procurement officers must make reasonable efforts to solicit at least 3 oral bids.
 - Before awarding an emergency contract, the contracting business must be reviewed for its operation history and capacity to fulfil the contract.
 - Within 15 days, submit a justification report to BPW.
 - Publish the emergency contract award on the eMaryland Marketplace website within 30 days or as soon as possible.
- Within 60 days after the end of a fiscal year, each primary procurement unit shall submit a full procurement report to the Chief Procurement Officer detailing the fiscal year's expenditures regardless if a contract was awarded through emergency procurement.
 - Within 90 days after the fiscal year, the CPO will provide a consolidated report to the General Assembly.
- Grant all state procurement units the ability to utilize expedited procurement methods, not just the MPC and MAA.

Proposed Sponsor Amendment

- Amendment proposed to address feasibility concerns with the original bill text that would make it difficult for BPW to conduct frequent hearings.
- Emergency procurement contracts exceeding \$1 million require notification to the Secretary of BPW.
 - If an emergency contract is set to disburse more than \$1 million before services are rendered, a BPW hearing is required unless otherwise waived by the Secretary.
 - If an emergency contract is *not* set to disburse more than \$1 million before services are rendered, no hearing is required unless otherwise requested by the BPW Secretary.
 - BPW Secretary shall have the capacity to halt proposed emergency contracts contingent on a Board hearing.