

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 865

(Delegate Morhaim, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

Procurement - eMaryland Marketplace - Use

This bill requires units of State government, including those otherwise exempt from State procurement law – except for the Maryland Health and Higher Education Facilities Authority – and all local governmental entities to publish notices of procurements and procurement awards on eMaryland Marketplace (eMM). The requirement extends only to contracts procured through competitive sealed bidding, competitive sealed proposals, and noncompetitive negotiations, and to procurements whose value equals or exceeds that for State contracts that must be published on eMM. The requirement does not prohibit State or local governments from publishing notices of procurements or procurement awards according to other laws or policies. The bill specifies that unintentional violation of the bill’s requirements is not grounds for challenging or appealing a contract award or procurement process.

The bill takes effect June 1, 2008.

Fiscal Summary

State Effect: One-time general fund expenditure increase of \$10,000 in FY 2009 by the Department of General Services to upgrade its server capacity. Continued operation and maintenance of eMM could be carried out with existing budgeted resources or new fee revenues charged to local governmental entities. Most State procurement units, including many of those exempted from State procurement law, already use eMM. State agencies that do not currently use eMM may not be charged a fee for doing so under the current law.

Local Effect: Local governments currently are not charged any fees to use eMM, although State law authorizes such fees. To the extent that increased participation by

local governments increases the cost of operating and maintaining eMM beyond existing budgeted resources, the State could charge fees to cover that cost. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful. Small businesses would be able to access all State and local government procurement notices on a single web site, facilitating their participation in State and local procurements.

Analysis

Current Law: As of July 1, 2006, when *Contract Weekly* ceased publication, virtually all State procurements whose value exceed \$25,000 must be posted on eMM, and notice of contract awards must also be posted on eMM.

For the purpose of State procurement law, State procurement units include any Executive Branch agency authorized to enter into a procurement contract. They do not include bistate, multistate, bicounty, or multicounty governmental agencies, nor special taxing districts, sanitary districts, drainage districts, soil conservation districts, water supply districts, or other political subdivisions.

The University System of Maryland, Morgan State University, and St. Mary's College of Maryland are exempt from most provisions of State procurement law. State law also exempts other agencies, in whole or in part, from State procurement law, including:

- Blind Industries and Services of Maryland;
- Maryland State Arts Council;
- Maryland Health and Higher Educational Facilities Authority;
- Department of Business and Economic Development;
- Maryland Food Center Authority;
- Maryland Public Broadcasting Commission;
- Maryland State Planning Council on Developmental Disabilities;
- Maryland Automobile Insurance Fund;
- Maryland Historical Trust;
- Rural Maryland Council;
- Maryland State Lottery Agency;
- Maryland Health Insurance Plan;
- Maryland Energy Administration;

- Maryland Developmental Disabilities Administration;
- Maryland Stadium Authority; and
- State Retirement and Pension System.

Background: eMM is a web-based portal that allows State agencies to post procurement notices, receive bids electronically, and announce contract awards. Local governments may also post procurement and award notices on the web site. Prospective vendors may access the web site to read procurement notices and submit online bids for State contracts. Fiscal 2008 operating costs for eMM are projected to be \$418,000.

Chapters 273 and 274 of 2006 eliminated all user fees beginning in fiscal 2008 for vendors who access eMM to obtain notices of State procurements and submit contract bids. They also barred the Department of Budget and Management from charging fees to State agencies for posting notices of procurements or conducting procurements on eMM. However, they allowed DBM to charge fees to other entities, including local governments, that publish procurement notices and related information or conduct procurements on eMM.

State Fiscal Effect: DGS advises that, to accommodate the increased use of eMM, it would need to upgrade and expand its application server, requiring a one-time expenditure of \$10,000 in fiscal 2009. Any additional operating costs related to expanded use of eMM could be covered by new fees on local government entities.

Local Fiscal Effect: Although the State currently does not charge local governments a fee to post procurement and award announcements on eMM, it has the authority to do so. If the expanded use of eMM increases the cost of operating and maintaining the web site, or the cost of providing technical assistance to local procurement officials, the State could impose modest fees to cover the increased costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Baltimore City, Department of General Services, Maryland State Department of Education, Morgan State University, University System of Maryland, Maryland Department of Transportation, Maryland Higher

Education Commission, Department of Budget and Management, Department of
Legislative Services

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