

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1483 (Calvert County Delegation)
Health and Government Operations

Calvert County - Procurement Contracts - Reciprocal Preference for Resident Bidders

This bill authorizes Calvert County to give a reciprocal preference to a resident bidder over a nonresident bidder when (1) it uses formal bidding procedures to award a contract and (2) the county or state in which the nonresident bidder is located gives a preference to resident bidders. The preference must be equal to the preference that is given to the nonresident bidder by its host county or state. Any increase in the cost of the contract resulting from the preference given by Calvert County cannot exceed \$25,000.

Fiscal Summary

State Effect: None. The bill pertains only to procurements by Calvert County.

Local Effect: To the extent that the bill results in Calvert County instituting a resident preference for competitively bid contracts, the cost of contracts awarded by the county may increase by up to \$25,000 for each contract.

Small Business Effect: Meaningful.

Analysis

Current Law: For the purchase of supplies or services valued at \$15,000 or more, Calvert County must use formal bidding procedures. Such contracts must be awarded at a regularly scheduled meeting of the Calvert County Commissioners or by the official authorized to contract for the county to the lowest responsible bidder meeting specifications. A contract may not be subdivided to avoid the \$15,000 threshold. The county code lists the factors

that must be considered in awarding the contract, and it exempts the following contracts from formal bidding:

- purchases or contracts involving less than \$15,000;
- purchases of supplies or services that are available only through one source;
- contracts for professional services, under specified circumstances;
- purchases or contracts made when the Calvert County Commissioners determine that an emergency exists, under specified conditions;
- purchases based on federal, State, county, or municipal contracts that are established by a legal competitive process; and
- purchases or contracts for less than \$250,000 where the county is acting as the general contractor.

State agencies may give a preference to a bidder or offeror from the State only if (1) the resident bidder or offeror is a responsible bidder; (2) the lowest bid is by a bidder or offeror from another state; and (3) the state in which the nonresident bidder or offeror is located gives a preference to its residents. Several surrounding states have similar reciprocal preference language in their statutes, so any preference given by a State agency to a resident bidder over an out-of-state bidder would likely trigger reciprocal preferences in neighboring states.

A “responsible bidder or offeror” is a person who (1) has the capability in all respects to perform fully the requirements for a procurement contract and (2) possesses the integrity and reliability that will ensure good faith performance.

Small Business Effect: Small businesses in Calvert County who participate in procurement with the county may benefit from the use of resident preferences by the county. Similarly, small businesses in other counties that use resident preferences may be disadvantaged in obtaining contracts from Calvert County.

The bill potentially has an even larger effect on small businesses in the State. If a county in another state has a resident preference, Calvert County is authorized to apply a resident preference against bidders or offerors from that *county*. However, the county’s home state may view that as triggering its *statewide* reciprocal preference, depending on how its reciprocal preference is worded, which could be detrimental to all Maryland vendors seeking to do business in that state.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

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min/ljm

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