

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 645 (Senator Kagan, *et al.*)
Education, Health, and Environmental Affairs

9-1-1 Board – Procurement Reform

This bill requires each county to ensure, to the extent practicable, that any procurement contract with a value of at least \$500,000 and for which reimbursement will be requested from the 9-1-1 Trust Fund be awarded through a transparent and competitive process consistent with specified provisions of State procurement law. It also requires, to the extent practicable, that such procurements strive to meet State goals for participation by minority business enterprises (MBEs), small businesses, and veteran-owned small businesses (VSBs). Requests for reimbursement for contracts with a value of at least \$500,000 are subject to review by specified procurement officers prior to consideration by the Maryland 9-1-1 Board.

Fiscal Summary

State Effect: The Maryland 9-1-1 Board and the Department of General Services (DGS) can carry out the bill's requirements with existing budgeted resources. No effect on revenues.

Local Effect: The bill's requirements may delay the implementation of 9-1-1 enhancements, which may in turn increase the costs of those enhancements, as discussed below. No effect on local revenues.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Requirements for County Procurements

Procurement of the affected county contracts must, to the extent practicable, be consistent with Title 13 of the State Finance and Procurement Article, which addresses source selection options for State procurements.

To the extent practicable, the procurements must also strive to meet the following participation goals applicable to State contracts:

- **MBE Participation Goal:** The current MBE participation goal, established by the Governor's Office of Small, Minority, and Women Business Affairs, is 29%;
- **Small Business Reserve Goal:** Most State agencies are required to structure their procurements so that at least 15% of the total dollar value of their procurements is made directly to small businesses; and
- **Veteran-owned Small Business Goal:** State agencies must structure their procurement procedures to try to achieve an overall minimum of 1% of their total procurement spending to be made directly or indirectly to VSBs.

Review of Reimbursement Requests

When the Maryland 9-1-1 Board receives a request for reimbursement for a county contract with a value of at least \$500,000, it must (subject to a contingent provision described below) submit a copy of the contract to a procurement officer of DGS. The procurement officer must (1) review the contract and certify whether it was awarded using a transparent and competitive process, as required by the bill; (2) assess the county's progress in meeting the three participation goals; and (3) make a recommendation to the board within 60 days regarding whether the request for reimbursement should be approved or disapproved.

The board must consider the recommendation of the procurement officer when reviewing specified requests for reimbursement and when considering whether to authorize expenditures from the 9-1-1- Trust Fund.

If Senate Bill 658 of 2021 is enacted, which creates the Department of Emergency Management (DEM) and transfers the Maryland 9-1-1 Board from the Department of Public Safety and Correctional Services to DEM, the bill requires DEM to employ a

procurement officer tasked with reviewing the procurement contracts submitted by counties, instead of DGS.

Current Law: The Maryland 9-1-1 Board is the agency responsible for administering the 9-1-1 Trust Fund and overseeing the State's 9-1-1 system. Its responsibilities include, among other things, (1) authorizing the disbursement of funds to local governments from the 9-1-1 Trust Fund; (2) reviewing and approving or disapproving requests for reimbursement of the costs of enhancing 9-1-1 systems; (3) ensuring the inspection of public safety answering points (PSAPs); (4) auditing counties to ensure that 9-1-1 trust funds are being used for authorized purposes; and (5) establishing training standards for PSAP personnel based on national best practices. If an audit performed by the Maryland 9-1-1 Board determines that a county has utilized 9-1-1 trust funds for any unauthorized purpose, the governing board of the county must submit a report to the board explaining the diversion of funds and detailing the steps taken to ensure that the diversion of funds does not occur in the future and restore the diverted funds to the county's 9-1-1 budget within that fiscal year.

The 9-1-1 Trust Fund includes revenue from a State fee, local fee, and fee on prepaid wireless services (as well as investment earnings on the fund). Telephone companies, wireless carriers, and other 9-1-1 accessible service providers collect and remit monthly the State 9-1-1 fee and the county 9-1-1 fee to the Comptroller for deposit into the fund. The State 9-1-1 fee is distributed to counties at the discretion of the board in response to county 9-1-1 system enhancement requests.

Although the Maryland 9-1-1 Board oversees 9-1-1 services, county governments operate 9-1-1 systems and are responsible for making system enhancements required by the board. They may request reimbursement from the 9-1-1 Trust Fund for any costs related to 9-1-1 enhancements required by the board. County procurements for 9-1-1 enhancements must follow local procurement rules.

Local Expenditures: Applying the State's procurement preference goals for MBEs, small businesses, and VSBs adds additional requirements to local procurements that may delay their completion. Contract delays can increase the costs of the goods or services being purchased.

Some counties advise that the bill may preclude the use of intergovernmental cooperative purchasing (ICP), which allows them to "piggy back" on existing contracts without having to initiate a new procurement for some purchases. ICP is used to expedite procurements and take advantage of bulk pricing; as 9-1-1 operators in the counties often need to purchase the same goods and services to implement enhancements, they sometimes make use of ICP. However, the bill requires that county procurements be consistent with Title 13 of the State Finance and Procurement Article, which explicitly authorizes the use of ICP,

subject to procedural requirements to maximize transparency. Thus, it is not clear if the bill precludes the use of ICP for future 9-1-1 procurements.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Governor's Office of Small, Minority, and Women Business Affairs; Anne Arundel and Montgomery counties; Department of General Services; Department of Public Safety and Correctional Services; Board of Public Works; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2021
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