

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 767

(Delegate Rosenberg, *et al.*)

Health and Government Operations

Budget and Taxation

Emergency Procurement - Contracts - Term Length and Renewal

This emergency bill limits the contract term for an emergency procurement to 12 months and allows an emergency contract to be renewed after the 12-month term expires only with the approval of the Board of Public Works (BPW). If BPW does not approve a renewal and there are any unmet needs after the 12-month term, a procurement officer must use a procurement method other than emergency procurement to award a new contract.

Fiscal Summary

State Effect: The bill is largely procedural in nature and has no material effect on State finances, but it may have an operational effect, as discussed below.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: An “emergency” is defined as an occurrence or condition that creates an immediate and serious need for services, materials, or supplies that (1) cannot be met through normal procurement methods and (2) are required to avoid or mitigate serious damage to public health, safety, or welfare.

With the approval of the head of a State agency, a procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate. Except when delaying a procurement for up to 48 hours would likely result in imminent harm, the procurement officer must obtain the approval of the use of emergency

procurement procedures from the Chief Procurement Officer (CPO) or designee. CPO must approve or disapprove the request within 48 hours; if no decision is made, the use of the emergency procurement method is considered approved. A procurement officer must obtain as much competition as possible and limit the emergency procurement only to those items necessary to avoid or mitigate serious damage to public health, safety, or welfare.

There is no statutory limit on the duration of emergency procurement contracts, and emergency procurements do not require advance approval by BPW, but statute includes various notification and reporting requirements related to the use of emergency procurements.

State Fiscal Effect: The Maryland Department of Transportation advises that the bill limits the flexibility of procurement officers to respond to emergencies and may, in some instances, affect contract pricing to the extent that long-term contracts may provide more favorable pricing. However, given that most emergencies are short lived, any such effects or limitations are likely infrequent.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Commerce; Maryland Department of Emergency Management; Maryland Department of Agriculture; Maryland Department of the Environment; Department of General Services; Department of Housing and Community Development; Department of Human Services; Department of Juvenile Services; Department of Natural Resources; Maryland Department of Planning; Department of Public Safety and Correctional Services; Board of Public Works; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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