

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 662

(Delegate Tomlinson, *et al.*)

Health and Government Operations

Budget and Taxation

Procurement - Indefinite Quantity Contracts - Authorization

This bill authorizes procurement officers to award indefinite quantity (IDQ) contracts using any procurement method that results in multiple contract awards, except in cases of emergency or expedited procurements. Each IDQ contract must specify (1) the scope of services to be performed; (2) the maximum hours or fees authorized for each work assignment; and (3) any other relevant terms. Work orders issued under an IDQ contract must be executed in accordance with the terms of the contract and be incorporated into the contract upon execution. The Board of Public Works (BPW) must adopt regulations establishing methods of assigning work under an IDQ contract, including assignment by right of first refusal in the order of ranking of contract awards and rotation among contractors. If a method of assigning work conflicts with a federal funding requirement, the federal method for assigning work must be used.

Fiscal Summary

State Effect: BPW can promulgate regulations with existing resources. Assuming that the regulations adopted by BPW for IDQ contracts mirror those for architectural and engineering (A&E) services, the bill likely has little or no operational or fiscal effect on procurement units. However, any differences may result in operational challenges for procurement units, as discussed below. Revenues are not affected.

Local Effect: None. This bill does not materially affect local governmental finances or operations.

Small Business Effect: Minimal.

Analysis

Current Law: State law procurement law generally does not address the procurement or awarding of IDQ contracts. However, the Code of Maryland Regulations specifies procedures for the procurement and award of indefinite delivery contracts for A&E services. The Maryland Department of Transportation (MDOT) oversees A&E contracts for roads, bridges, highways, and other transportation-related functions; the Department of General Services (DGS) oversees similar A&E contracts for all other public improvements.

Procurement of A&E contracts generally uses a two-stage process: (1) selection of qualified candidates; and (2) awarding of work assignments. For contracts expected to exceed \$200,000, an agency must certify to DGS or MDOT, as appropriate, that services cannot be performed in-house. If DGS or MDOT certifies the agency's request, the agency must finalize a description and scope of the project. The solicitation must then be posted on eMaryland Marketplace, as specified. The procuring agency must then establish a list of respondents, evaluate the list, and establish a reduced candidate list of two or more qualified candidates.

After BPW has approved qualified vendors under an IDQ contract, work may be assigned to selected consultants. The procuring agency and the consultant must agree on the scope of services to be performed, the maximum hours or fees approved for the work assignment, and other matters pertinent to the work assignment. The procurement unit and the consultant must execute a work order subject to the terms and conditions of the original IDQ and the unit must obtain all other approvals required by law. The terms of the work order are incorporated into the contract upon execution.

Work assignments may be rotated among firms receiving awards under an IDQ contract starting in the order of the ranking of the firms during selection, unless the unit finds that (1) the firm is unable to perform the assignment, lacks the capability in all respects to fully perform the contract requirements, or lacks the integrity or reliability that will assure good faith performance; (2) the hours or fees proposed by the firm for the services needed cannot successfully be negotiated to an amount the unit considers fair and reasonable; (3) another firm has special experience or qualifications, including geographic proximity to the site for which services are needed, that make it in the State's best interest to give the assignment to the other firm; or (4) assignment to another firm would tend to balance to a greater extent, among firms on the IDQ contract list being used, the fees paid or payable for work assignments previously issued. If a method of assigning work conflicts with a federal funding requirement, the federal method for assigning work must be used. Regulations specify the conditions under which work assignments may be reassigned to other qualified vendors.

State Expenditures: The bill’s provisions regarding IDQ contracts and the authority of State procurement units to issue them largely mirror existing language in State regulations related to A&E contracts. However, current regulations specify that MDOT and DGS oversee the procurement of A&E contracts; the bill requires BPW to establish procedures for IDQ procurements through regulation.

If BPW adopts a regulatory framework that parallels the procedures for A&E contracts, the bill likely has little or no operational or fiscal effect. However, any deviation from current procedures for A&E contracts could have operational impacts, depending on the nature and extent of the differences. Without knowing the specific regulations BPW may promulgate, it is difficult to assess the full impact on agencies that currently use IDQ contracts. However, for units that make frequent use of IDQ contracts, such as MDOT, differences between the A&E and IDQ procedures could potentially affect the efficiency and cost-effectiveness of IDQ contracts.

Additional Comment: The State uses IDQs for a variety of purposes, including supplies and services. However, the bill addresses only IDQs for services. Thus, it is unclear what effect, if any, the bill has on the State’s authority to procure IDQs for supplies and other purposes.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Information Technology; Maryland Institute for Emergency Medical Services Systems; Maryland Department of Aging; Department of Commerce; Maryland Department of Emergency Management; Alcohol, Tobacco, and Cannabis Commission; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Maryland Higher Education Commission; University System of Maryland; Morgan State University; Interagency Commission on School Construction; Maryland Department of Agriculture; Department of Budget and Management; Maryland Department of Disabilities; Department of General Services; Maryland Department of Health; Department of Housing and Community Development; Department of Human Services; Department of Juvenile Services; Maryland Department of Labor; 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 Veterans and Military Families; Maryland State Board of Elections; Maryland Insurance Administration; Maryland State Lottery and

Gaming Control Agency; Military Department; Maryland Stadium Authority; Department of Legislative Services

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