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Health and Government Operations
Committee

Chair
Government Operations and
Health Facilities Subcommittee

House Chair
Joint Committee on Administrative,
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Testimony of Delegate Samuel I. Rosenberg
Before the Senate Budget and Taxation Committee
In Support of House Bill 767

Emergency Procurement - Contracts - Term Length and Renewal

Mister Chairman and Members of the Committee:

Extraordinary times call for extraordinary measures, but should an emergency mean that State agencies have unfettered purchasing power without accountability?

The Covid-19 pandemic demonstrates why State agencies need flexibility to obtain essential supplies rapidly. Fortunately, the law already allows procurement officers to streamline purchasing during emergencies.

Emergency procurement is not unique to Covid-19. On average, Maryland spends \$50,000,000 annually through emergency procurement contracts. The vast majority of these emergency contracts receive only one bid. These emergency contracts fall far short of the state's Minority Business Enterprise goals.¹

Since time is of the essence when negotiating emergency contracts, much of the traditional bidding and evaluation process is skipped or scaled down. Emergency contracts do not undergo as much internal or public review as standard contracts that are done with the luxury of time.

While the flexibility to move quickly during an emergency is important, some recent procurement contracts have come under scrutiny. The public perception, accurate or not, is that some emergency contracts are based on a bidder's connections to decision makers, and not on the company's ability to rapidly provide the best supplies at the best price. The Blue Flame

¹ Evaluation of Emergency Procurement, Office of Program Evaluation and Government Accountability, Maryland Department of Legislative Services, January 2021.

Medical contract² and the purchase of Korean Covid-19 tests³ were made in the confusion of the crisis, and hindsight has demonstrated they were deeply flawed.

House Bill 767 seeks to prevent the future use of an emergency to sidestep the reasonable procedures that are in place to ensure taxpayer money is not misappropriated. This bill would limit the length of emergency procurement contracts to one year in length and require extensions or additional contracts to be procured using a method other than emergency procurement.

As introduced, HB 767 would have established a six-month maximum on emergency procurement contracts and prohibited any extension. However, the bill was amended as a result of discussions with the Departments of Transportation and General Services. The bill now limits contracts to 12 months, requires affirmative approval by the Board of Public Works to extend an emergency contract, and allows for expedited contract procurement after the initial emergency contract has expired. The revised HB 767 ensures oversight while still enabling State agencies to respond to an emergency.

The purpose of the emergency exception is to allow procurement officers to act quickly in response to an emergency. This is important, and this bill would not curtail such procurements during emergencies. It would create guardrails on the procurement contracting process to prevent wasted taxpayer funds.

I urge a favorable report on HB 767.

March 30, 2022

² Maryland cancels \$12.5 million PPE contract with firm started by GOP operatives, Tom Hamburger and Juliet Eilperin, https://www.washingtonpost.com/politics/maryland-cancels-125-million-ppe-contract-with-firm-started-by-gop-operatives/2020/05/02/b54a14f0-8cbe-11ea-8ac1-bfb250876b7a_story.html, May 2, 2020.

³ Audit: Hogan Administration Spent \$11.9 Million on South Korean COVID Tests, Danielle E. Gaines, <https://www.marylandmatters.org/2021/04/02/audit-hogan-administration-spent-11-9-million-on-south-korean-covid-tests/>, April 2, 2021.