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Health and Government Operations
Committee

Chair
Government Operations and
Health Facilities Subcommittee

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House Chair
Joint Committee on Administrative,
Executive, and Legislative Review

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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Testimony of Delegate Samuel I. Rosenberg

Before the House Health and Government Operations Committee

In Support of House Bill 767

Emergency Procurement - Contracts - Term Length and Renewal

Madame Chairperson and Members of the Committee,

Extraordinary times call for extraordinary measures.

But should an emergency mean that State agencies have unfettered purchasing power without belated 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.

On average, Maryland spends $50,000,000 every year 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. Often, the reality — or at least the public perception — is that some emergency contracts are based on a bidder's connections to decision

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

makers, and not on the company's ability to rapidly provide the best supplies at the best price. The Blue Flame Medical contract[2] and the purchase of Korean COVID tests[3] 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 a six-month term. It would also preclude renewals of emergency contracts after the original six-month term.

Further, HB 767 mandates that if the needs of an agency are not met by the initial six-month contract, the procurement officer is to acquire the materials through a contract obtained by one of the nine non-emergency methods. This last change prevents the procurement officer from entering into the same six-month contract again.

The purpose of the emergency exception is to allow procurement officers to act quickly to meet the needs of their agency. This is important, and this bill would not curtail quick procurement during emergencies. It would simply reinstate the guardrails on the procurement contracting process to prevent wasted taxpayer funds.

I urge a favorable report on HB 767.

March 1, 2022

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[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.