



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

January 23, 2024

BILL NUMBER: House Bill 235 – First Reader

SHORT TITLE: Pay-for-Success Contracts - Procurement Exemption

DEPARTMENT’S POSITION: SUPPORT

EXPLANATION OF DEPARTMENT’S POSITION

The legislation would allow the Department to efficiently and competitively execute pay-for-success contracts, as outlined in the Conservation Finance Act of 2022, by exempting certain businesses from the procurement process when delivering environmental outcomes. Specifically, the exemption only applies to nonpoint source projects funded by the Chesapeake & Atlantic Coastal Bays Trust Fund. This exemption aligns with the intent of the Conservation Finance Act - the goal of which is to incentivize private investment in restoration projects.

Standard procurement requirements for pay for success proposals negatively impact the state’s ability to compete proposals across the full portfolio of submissions to ensure best outcomes. Without this legislation, pay-for-success contracts will undergo procurement procedures resulting in longer timelines for issuing and awarding contracts to private entities. The additional steps this legislation would eliminate will reduce staff workload and better serve our stakeholders.

With an exemption, these proposals will be accepted through DNR’s competitive grant program through the Chesapeake and Coastal Grants Gateway (gateway). The gateway is a one-stop financial assistance resource for partners which allows for all proposed projects submitted on an annual basis to be competed, ensuring the best, most-efficient projects are awarded, a requirement of the Chesapeake and Atlantic Coastal Bays Trust Fund guiding legislation.

BACKGROUND INFORMATION

Pay-for- success contracts are designed to encourage private businesses to invest in restoration projects that will enhance statewide efforts to improve water quality, habitat, reduce carbon and provide other social and economic benefits. With the passage of the Conservation Finance Act in 2022 these types of contracts are now allowed, however, current procurement processes do not allow for an efficient and competitive execution of contracts to private entities.

Under current procedures, a private business will be required to apply for competitive funding through a request for proposal process which is awarded July 1 of the following fiscal year. Exempt contracts may begin work and start to receive funding immediately. A private entity, however, would then have to enter into eMaryland

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Marketplace and begin a second process which could take anywhere from 3 to 6 months therefore delaying project start dates from 6 months to a year.

Requiring private entities to register and respond to a request for proposal on eMaryland Marketplace places an unnecessary burden to these businesses and has discouraged at least two private entities from applying. The requirement is highly redundant to the Grants Gateway request for proposal process and will add significant time to the overall project timeframe, delaying construction activities. This legislation will provide the Department the opportunity to enter into contracts and reduce this lengthy procurement timeline.

BILL EXPLANATION

This bill would eliminate a burdensome step for small business and private entities wishing to enter into pay-for-success contracts by allowing the state to issue contracts under grant agreement procedures.