

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 852 (Delegate Alston)
Health and Government Operations

State Procurement - Leases and Construction Contracts - Performance
Suspension Pending Audit

This bill requires State agencies, including those otherwise exempt from most State procurement law, to suspend performance of a construction contract or a contract to lease real property if the contract is the subject of a fraud investigation by the Office of Legislative Audits (OLA). The suspension must end 60 days after the completion of the OLA investigation. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: Due to statutory provisions regarding the confidentiality of OLA fraud investigations, the bill likely cannot be implemented as drafted and, therefore, has no material effect on State operations or finances, as discussed below.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: OLA has the authority to conduct investigations of acts or allegations of fraud, waste, or abuse in the obligation, expenditure, receipt, or use of State resources. OLA must determine whether to conduct the investigation in conjunction with an ongoing audit or separately.

Except under specified circumstances, information that an OLA employee or authorized representative obtains during an examination or in relation to an act or allegation of fraud,

waste, or abuse is confidential and may not be disclosed except to another employee or authorized representative of OLA. In addition to final published reports, the Legislative Auditor may authorize the disclosure of confidential information only to:

- another employee of the Department of Legislative Services, with the approval of the Executive Director;
- federal, State, or local officials, or their auditors, who provide evidence that they are performing investigations, studies, or audits related to the OLA investigation; or
- the Joint Audit and Evaluation Committee, if necessary to assist the committee in reviewing an OLA report.

Additional Comments: OLA advises that subjects of fraud investigations are not notified that they are targets of an investigation until very late or at the conclusion of the investigation. Therefore, making the investigation public (for the purpose of halting the construction project) likely is disruptive to the investigation and may prompt the target(s) of the investigation to destroy or tamper with relevant documents.

Additional Information

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

Designated Cross File: None.

Information Source(s): Governor's Office of Small, Minority, and Women Business Affairs; Morgan State University; University System of Maryland; Department of General Services; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2024
km/ljm

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