

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 556

(Senator Salling)

Budget and Taxation

Appropriations

Procurement – Construction Contingency Fund

This bill authorizes payments from the Construction Contingency Fund (CCF), under specified conditions in current law, for construction contracts that include price adjustments for material price fluctuations of identified eligible project-specific materials.

Fiscal Summary

State Effect: No material effect on State operations or finances, as discussed below.

Local Effect: None. The bill applies only to State contracts.

Small Business Effect: Meaningful.

Analysis

Current Law:

Mandated Study

Chapter 516 of 2022 required the Secretary of Transportation and the Secretary of General Services, by December 1, 2022, to each report to the General Assembly on (1) the number and percentage of State construction procurements using a fixed-price contract with price adjustment and (2) for price adjustments executed under those contracts, the material types affected and the average price adjustment for each material type. The reports were required to include data from fiscal 2019 through 2021.

In response to Chapter 516, the Department of General Services advised that it had no fixed-price construction contracts with price adjustments for the reporting period. For the Maryland Department of Transportation, **Exhibit 1** summarizes the data on construction contracts for the reporting period.

Exhibit 1
Maryland Department of Transportation Fixed-price Construction Contracts
Fiscal 2019-2021

	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>
Total Construction Contracts	144	99	71
Fixed-price Contracts with Price Adjustment	83	54	37
Number of Contracts with Adjustments Made	83	54	37

Source: Maryland Department of Transportation

Construction Contingency Fund

CCF is a continuing, nonlapsing, revolving fund that consists of (1) money appropriated to the fund, as specified; (2) unspent proceeds of an enabling act allocated to the fund by the Governor; or (3) amounts appropriated in an annual General Construction Loan Act or in the Maryland Consolidated Capital Bond Loan Act that are in excess of the amount needed for a project in the Act and that are allocated to CCF by the Governor.

With the approval of the Governor, the Secretaries of Budget and Management and of General Services may request that the Board of Public Works authorize an expenditure from CCF to supplement any capital appropriation or to conduct value engineering on a project. The appropriation must be (1) for a project to be owned by the State and contained in a capital appropriation of an annual budget or similar vehicle and (2) insufficient to permit the initial award of a contract for a project in accordance with applicable State law, or to cover specified change orders.

State Expenditures: CCF ended calendar 2023 with a balance of \$14.7 million. In addition to receiving allocations of recycled funds from capital projects that were completed under budget, CCF also receives periodic appropriations from the capital budget, including \$8.0 million in the fiscal 2024 capital budget and \$2.5 million in the fiscal 2025 capital budget as introduced. Therefore, it is assumed that costs identified for reimbursement under the bill are covered by CCF and that the bill has no further material effect on State finances.

Small Business Effect: Small businesses working on State construction contracts may receive compensation from CCF if the cost of materials used in their project increase.

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 Budget and Management; Department of General Services; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Board of Public Works; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2024
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