



TO: Chairman Paul G. Pinsky, Vice Chair Cheryl C. Kagan, and
Committee on Education, Health and Environmental Affairs
FROM: Danielle Dean
RE: Letter in Support of SB 832 Procurement – Major Information Technology Development Projects
DATE: February 25, 2020

Chairman Pinsky and members of the Education, Health and Environmental Affairs Committee, my name is Danielle Dean and I am the Director of Government Affairs for the Northeast for the Computing Technology Industry Association (CompTIA) the leading association for the global information technology (IT) industry. On behalf of CompTIA and the 120-plus member companies we represent, I appreciate the opportunity to share our support for SB 832, legislation relating to procurement reform for major information technology development projects in the state of Maryland.

Our member companies are dedicated to promoting investment and innovation, market access, robust cybersecurity solutions, commonsense privacy policies, streamlined procurement, and a skilled IT workforce. SB 832 enhances these goals by encouraging contractor competition and access to major IT procurement projects in the state. Prior procurement reform efforts have improved the contracting environment, however there remains significant areas that limit participation of qualified vendors in the procurement process. We are happy to see that Maryland is seeking to address some of the more significant issues, including unlimited liability and indemnification provisions.

Removing Unlimited Liability Provisions Are a Best Practice

According to the National Association of State Chief Information Officers (NASCIO), as of 2019, at least 37 states have added some limits on liability for state IT Procurement projects¹. Joint reports released by the associations of State Chief Information Officers (NASCIO) and State Procurement Officials (NASPO) have continuously stated that unlimited liability clauses for IT procurement contracts can decrease competition and do not enhance the quality of bids the state receives². Further, removing such provisions allows more flexibility in assessing and protecting the state's interests. Modeled on Virginia's procurement law, SB 832 addresses this issue by requiring reasonable indemnification and limits of liability terms and conditions and capping obligations to twice the value of the contract. Similar provisions have worked well in Virginia and will assist Maryland in having a more competitive procurement market that will benefit state projects, and Maryland taxpayers.

Current Law Increases Bid Prices and Lowers Competition

Maryland's current procurement environment impacts the diversity of companies able to participate in state contracts, often leaving market-leading qualified vendors unable to bid due to non-negotiable, commercially untenable terms and conditions. Maintaining unlimited liability for all procurement projects leaves Maryland with unhealthy business relationships where one party bears a disproportionate share of the risk, which results in greater issues during project execution. Additionally, vendors who do bid will take necessary protections against excessive risk exposure, thereby being forced to submit non-compliant bids and add extra contingency pricing to balance their risk. Such provisions inherently limit the number of qualified vendors bidding on state contracts, which results in the state, and subsequently its constituents, being underserved. By removing indemnification clauses, allowing risk assessments on major information technology projects and capping liability costs, Maryland is enhancing the quality, competition, innovation of projects in the state.

¹ NASCIO Infographic <https://www.nascio.org/resource-center/resources/limitations-on-liability-infographic-3/>

² NASPO/NASCIO IT Procurement Reform Solutions

<https://www.naspo.org/Portals/16/ITProcurementReform/NASPO%20Procurement%20Perspectives%20IT%20Procurement%20Reform.pdf>



Thank you for your thoughtful consideration of our support for SB 832. For these reasons, we respectfully urge passage of this legislation. If you have any questions, please feel free to contact me at 202.503.3641 or ddean@comptia.org.

Sincerely,

A handwritten signature in black ink that reads "Danielle Dean".

Danielle Dean
Director, State Government Affairs
CompTIA

About CompTIA

CompTIA supports policies that enable the information technology industry to thrive in the global marketplace. We work on behalf of our 120-plus member companies to promote investment and innovation, market access, robust cybersecurity solutions, commonsense privacy policies, streamlined procurement, and a skilled IT workforce. Visit www.comptia.org to learn more.