
February 24, 2021

The Honorable Guy Guzzone
Chair, Budget and Taxation Committee
251 House Office Building
Annapolis MD 21401

Re: Letter of Information – Senate Bill 843 – I-495 and I-270 Public-Private Partnership – Partnership Agreement – Requirements

Dear Chair Guzzone and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on Senate Bill 843 but offers the following information for the Committee’s consideration.

In 2017, Governor Hogan challenged MDOT to deliver an innovative solution to relieve statewide congestion. The I-495 & I-270 Public-Private Partnership (P3) Program is the largest component of the Traffic Relief Plan and is being advanced to bring transformative relief to the growing congestion that impedes economic development and diminishes quality of life in the National Capital Region (NCR).

As part of the P3 Program, MDOT is committed to incorporating many of the recommendations from local governments and the public, such as separate bicycle and pedestrian paths across the American Legion Bridge and a Community Benefits Agreement in the P3 Agreement. MDOT is actively engaged with the Disadvantaged Business Enterprise (DBE)/Minority Business Enterprise (MBE) Community through the Opportunity MDOT program, which promises to unlock significant opportunities for these Maryland businesses to participate in the project. While supporting new options for travel, continued collaboration with elected officials and community groups will remain vital to the P3 Program.

In December 2020, MDOT and the Maryland Transportation Authority (MDTA) issued the Request for Proposals (RFP) for Phase 1 of the P3 Program, and the completed proposals were due on January 8, 2021. The Department anticipates submitting the Phase 1 P3 Agreement with the selected proposer for Predevelopment Work to the Maryland Board of Public Works (BPW) for approval in April or May of 2021.

MDOT brings hundreds of procurements before the BPW each year. These procurements enable the State to provide invaluable goods and services to Marylanders utilizing MDOT’s statewide multimodal transportation system. Whether taking a bus or light rail to work, catching a flight from Baltimore/Washington International Thurgood Marshall Airport, purchasing goods imported through the Port of Baltimore, or updating your REAL ID at the MDOT Motor Vehicle Administration, citizens are benefiting from MDOT procurements. We are not aware of any instance in which the terms of a single procurement have been codified in Maryland statute in the middle of the procurement process. Taking this action would establish a concerning precedent for interfering in

future procurements which would introduce a measure of uncertainty in the private sector in conducting business with the State of Maryland. Ultimately, this would have a deleterious affect the ability of state government to procure goods and services at the greatest value to the taxpayer.

If Senate Bill 843 is enacted, the chief concern is that it will send a message to businesses and investors that the State of Maryland cannot reliably provide a stable, competitive, and predictable set of policies on which they can rely throughout the procurement process. There are several instances where Senate Bill 843 does not accurately reflect MDOT's commitments. For example, MDOT stands by its promise that "there will be no contract submitted to the Board of Public Works for the final award until the EIS is complete." We will not take any contract for the final award, which will be for the construction, to the Board of Public Works until the EIS is complete, but Senate Bill 843 does not reference final award. The earliest a contract for construction could be brought to BPW would be summer 2022. Further, there is new language in Senate Bill 843 that was not drafted in the original bill from 2020. This language states that the P3 Program "will not require any public subsidies," which is inconsistent with the no net cost policy of the State.

This legislation is concerning, as the State of Maryland does not have the billions of dollars it would take to replace the American Legion Bridge and heavily congested sections of I-270 using traditional sources. If the State of Maryland were to rely on the Transportation Trust Fund to address these bottlenecks, it would take at least another 11 years to fund these improvements without a P3, which would then require that we cancel or defer all other transportation capital projects in the State for that period.

With all these concerns in mind, we request the Committee avoid any actions this legislative session that would negatively effect, disrupt, or even derail an ongoing procurement of this magnitude. The risks and the costs are just too high. The Department remains committed to clear and transparent communication with all stakeholders and delivering a project that provides the greatest relief to Marylanders and commerce.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating Senate Bill 843.

Respectfully submitted,

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