



BILL: House Bill 533
State Government – Prevention of Genocide and Crimes Against
Humanity and the Commission on Genocide Prevention

COMMITTEE: House Health and Government Operations

DATE: February 17, 2021

POSITION: Letter of Information

House Bill 533 - State Government – Prevention of Genocide and Crimes Against Humanity and the Commission on Genocide Prevention, the Department of General Services (DGS) provides these comments for your consideration.

- It is unclear when a procurement officer would seek documentation required under this bill. If this documentation is to be included with a bid or proposal, a procurement officer would have to determine:
 - that a bid is non-responsive; or
 - a proposal is not reasonably susceptible of being selected for award if a bidder or offeror does not include the required documentation.

Therefore, many qualified bidders or offerors would be eliminated from competition and the State could be left with bids or proposals that may not offer best value to the State. However, if the documentation is required after award recommendation, then the recommended awardee would have the opportunity to put a policy in place, submit the required documentation and comply with this bill.

- It is unclear what happens if a company that is under the \$100,000,000 threshold at the time of a contract award then exceeds the \$100,000,000 during the term of that contract.
- It is unclear whether this bill applies to contracts awarded after January 1, 2023 as well as all contracts in existence on January 1, 2023. If this bill applies to contracts awarded before January 1, 2023, DGS's Office of State Procurement (OSP) would be required to modify every contract to meet this bill's requirements. **If vendors do not meet the requirements of this bill, new procurements would have to be immediately conducted to get new contracts in place before 2023.** Two years is a very narrow window and would create an enormous workload with limited procurement officer resources to re-procure contracts that are mostly on five-year schedules to balance out procurements throughout the State.



- This bill would require a great deal of effort for OSP to confirm and enforce; they would be required to confirm company policies required under this bill exist and ensure compliance after contracts are awarded. Additional staff would be required to fulfill the requirements of this bill. A more sensible option that would ensure companies doing business with the State have a policy in place is to **have the companies declare its adherence to the law through a clause included in the contract affidavit**. This would put the onus on vendors instead of procurement officers. Additionally, the contractor would be aware of compliance as the company grows throughout the life of the contract. Solicitation templates could be modified to include required language for compliance to the law without burdening procurement officers with additional documentation to review and try to legitimize or bring in others as subject matter experts to review and confirm the requirements are met.

For additional information, contact Ellen Robertson at 410-260-2908.