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OFFICE OF THE SECRETARY

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BILL: House Bill 767
Emergency Procurement – Contracts – Term Length and Renewal

COMMITTEE: House Health and Government Operations

DATE: March 1, 2022

POSITION: Letter of Information

Upon review of House Bill 767 Emergency Procurement - Contracts - Term Length and Renewal, the Maryland Department of General Services (DGS) provides these comments for your consideration.

This bill limits the term for a contract awarded through an emergency procurement to six (6) months and does not allow for any renewals and/or extensions for time delays, or any additional issues found during the execution of the contract. If more time is necessary for the contract the procurement office is able to use any procurement method, except emergency and expedited procurements for a new contract beyond the contracts six (6) month term. **Depending on what is being purchased, six (6) months is not enough time to conduct a new, competitive procurement beyond the original emergency procurement.** The emergency could outlast this new limited contract term, making another procurement impractical and potentially harmful.

The emergency procurement contract term should not be restricted but would be limited according to State Finance and Procurement Article §13-108 paragraph (3) item (ii) “to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare” which includes a recommended timeframe for the procurement contract term based on the circumstances necessary to protect the public. **This is currently addressed in State Finance and Procurement Article §13-108 paragraph (6):**

“(6) A procurement contract awarded under this subsection shall include provisions addressing the contractor’s ability to perform the requirements of the contract within the emergency time frame.”



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By limiting a procurement officer's ability to establish the term of a contract, a constricting contract term limit for emergency purchases necessary to protect the public from dire circumstances is set. **A one-time contract that lasts the duration of the emergency time frame is more efficient and effective rather than following a convoluted process at the cost to the public.**

Furthermore, emergencies are "unforeseen" meaning during the contract execution other issues may arise that require the contract to be modified or extended. This could cause unnecessary workload issues for procurement officers to conduct additional emergency or other procurements. **The emergency procurement method ought to allow some flexibility for establishing terms without being too restrictive thus inhibiting resolution of the emergency.** Additionally, this could lead to additional unnecessary procurements every six (6) months if an emergency is ongoing, which would be operationally burdensome.

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