

Michael J. Stewart Jr.

Attorney at Law



4711 Joe Foss Way
Jefferson, MD 21755
240.439.4617 (Direct)
410.596.0361 (Cell)
mste1066@gmail.com

**HOUSE BILL543 (FAV) –
State Procurement – Small Procurement – Definition**

March 1, 2023

Maryland House of Delegates
Health and Government Operations Committee

Re: Written Testimony in Support of Favorable Report for HB543

Dear Chair Pena-Melnyk. Vice Chair Kelly and Members of the Committee:

I write in support of a favorable report of HB543 which raises the small procurement dollar threshold limits from \$50,000 to \$100,000 for most State procurement units, from \$100,000 to \$200,000 for the Department of General Services and the Department of Transportation for construction contracts, from \$100,000 to \$200,000 for the Department of Natural Resources for capital projects and maintenance, and from \$50,000 to \$100,000 for the State Retirement Agency in connection with its administration of the State Personnel and Pension System.

From May 2017 to January 2023, I was a member of the Maryland State Board of Contract Appeals and heard appeals involving bid and contract disputes between the State of Maryland and contractors and or vendors doing business with the State.

From April 1995 to May 2017, I was an attorney whose practice included acting as a consultant to small and medium-sized contractors in commercial, governmental and international arenas and advised them on how to reduce procurement risks by standardizing processes, negotiating favorable terms, and streamlining supplier channels. I also provided litigation support to insurance and claims counsel regarding contractual disputes.

While I attended law school at the University of Baltimore at night, I worked as a contract representative for Westinghouse Electric Corporation, now Northrop Grumman, where I interpreted U.S. Government procurement regulations including the Federal Acquisition Regulation and U.S. Postal Service Procurement Manual, engaged in proposal preparation and contract administration on programs such as U.S. Postal Service automation products, computer systems integration, various international efforts, and prepared a claim resulting from termination of multimillion dollar subcontract.

Per State Finance & Procurement Article § 13-109(e), the Board of Public Works (BPW) is supposed to review the small procurement thresholds every three years after reviewing the prevailing costs of labor and materials, and then recommend to the General Assembly appropriate adjustments in the ceiling for small procurements.

It appears that this has not been done since 2017. Since 2017, we have suffered through the COVID-19 Pandemic that has impacted the material supply chain and the labor markets. Due to rising inflation, the cost of both material and labor has risen significantly since 2017. The U.S. dollar had an average inflation rate of 3.24% per year between 2017 and today, producing a cumulative price increase of 21.08%. This means that today's prices are 1.21 times as high as average prices since 2017, according to the Bureau of Labor Statistics Consumer Price Index.

All State agencies have authority to make awards of small procurement contracts, regardless of the method of source selection, *i.e.*, competitive, sole source, or emergency procedures. The purpose of allowing small procurement without BPW approval is to allow State agencies the ability to be nimble and flexible below the threshold while allowing competition to the extent practical considering factors such as availability of vendors, dollar value of the procurement, cost of administering the procurement, and time available to make the procurement including delivery time. HB543's doubling the threshold in the current inflationary environment is essentially a "no-brainer."

I would like to thank the Chair, Vice Chair and the Member of the Committee for consideration of this written testimony, and look forward to a favorable report regarding HB543.

Very truly yours,

M. J. Stewart Jr.

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