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March 1, 2023

The Honorable Joseline A. Pena-Melnyk  
Chair, House Health and Government Operations Committee  
Room 241, House Office Building  
Annapolis MD 21401

***RE: Letter of Opposition – House Bill 472 – Transit - Commuter Bus Service - Procurement***

Dear Chair Pena-Melnyk and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes House Bill 472, as it would have the potential to hinder competition and complicate the Maryland Transit Administration's (MTA) Commuter Bus procurement process.

House Bill 472 requires the MTA to use the competitive sealed proposals method of procurement when selecting a Commuter Bus service provider. House Bill 472 also mandates MTA to conduct a procurement for Commuter Bus service providers in accordance with the provisions and regulations adopted under State procurement law.

Currently, State procurement law identifies multiple methods available to State procurement officials depending on the nature and circumstances of the procurement. Historically, Commuter Bus procurements have been conducted using the Invitation For Bid (IFB) procurement method because MTA is clear on the scope of work and contract requirements. The MTA's Commuter Bus routes and schedules are developed based on ridership data and fixed with certainty from point A to point B. Additionally, the MTA Commuter Bus team will be utilizing an industry index to validate diesel prices on the day services are rendered before fuel reimbursement.

In the past, Commuter Bus contracts required the maintenance of MTA owned buses, however, now contractors are solely responsible for providing and mainlining their own equipment. As a result, new contracts do not require the maintenance of MTA owned equipment. Because of this scope change there are currently little to no technical elements other than the contractor's ability to provide the service upon which MTA needs to evaluate bidders.

In addition, the RFP process requires significantly more labor and time to construct and review as opposed to an IFB. It would also prolong the procurement process as an IFB typically takes 6-8 months while an RFP process takes 12 months or longer. The greater subjectivity of an RFP could also expose the State to more protest actions from vendors.

The MTA has traditionally worked with a wide variety of providers and awarded Commuter Bus contracts to businesses of all sizes. An RFP process could have the effect of limiting competition, specifically pertaining to small businesses. Depending on an RFP's requirements, small businesses may not have the resources to bid.

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Lastly, if this legislation leads to a decrease in competition, contract costs could rise. There is no way to estimate what this increase would be, but with FY23 Commuter Bus contract expenses expected to be \$56M even a 15 percent increase would lead to another \$8.4M annually, or \$42M over five years. This does not consider probable continued inflation, which has been at 9 percent over the last 12 months.

For these reasons, the Maryland Department of Transportation respectfully requests the Committee grant House Bill 472 an unfavorable report.

Respectfully submitted,

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