

**Brooke Lierman**  
*Comptroller*

**Dereck E. Davis**  
*Treasurer*

**Favorable with Amendments Testimony for Senate Bill 818**

**Information Technology - Artificial Intelligence - Policies and Procedures (Artificial Intelligence Governance Act of 2024)**

**House Health and Government Operations Committee**

March 28, 2024

As the top two fiscal officers for the State and members of the Board of Public Works (BPW), we share a commitment to the oversight provided by BPW and its work to promote minority business enterprises (MBE). At the same time, we respect the need to create a more efficient procurement process and address the growing use of artificial intelligence (AI) technology in State information technology. Bearing all of this in mind, we respectfully request two amendments to Senate Bill 818.

**Consultation on AI Technology**

As drafted, under § 3.5-805 of the new Artificial Intelligence Subtitle, beginning on January 1, 2025, a unit of State government is prohibited from procuring or deploying a new system that employs AI unless the system complies with the policies and procedures that the Department of Information Technology (DoIT) is required to adopt. **We have concerns that this language could inhibit our agencies' ability to utilize technology that incorporates AI, even if the AI component is incidental.** Given the complex nature of procurements involving banking, financial services, insurance, and taxes, we require greater flexibility in developing these contracts. Separate provisions of procurement law recognize our authority over these matters, such as the Treasurer's delegated authority under § 12-107(b)(1) of the State Finance and Procurement Article and both agencies' exemption from Title 3.5, Subtitle 3 of the State Finance and Procurement Article.

In light of our ongoing procurements and future needs, as well as our mutual constitutional autonomy, we suggest that a partnership with DoIT would be more appropriate, rather than direct oversight. To that end, we would respectfully request an amendment to exempt us from the new subtitle and instead require us to (1) develop policies and procedures that are functionally compatible with DoIT's, and (2) submit an annual report to DoIT on AI that we have procured and deployed. The enclosed amendment is similar to the language in § 3.5-802 for public senior higher education institutions, which have their own unique needs.

**Preservation of BPW's Authority**

The bill also amends § 12-101 of the State Finance and Procurement Article to exempt "proof of concept" procurements valued below \$1.0 million from review by BPW. While we have no qualms about the other provision in the bill that establishes procedures for these procurements,<sup>1</sup> we strongly urge the Committee

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<sup>1</sup> State Finance and Procurement, § 13-116.

to strike the change to § 12-101 and maintain BPW’s authority over these procurements going forward. This is for two primary reasons.

First, the Board’s review process in advance of the public hearing allows us to ensure that a procurement has followed all of the applicable procurement laws, including MBE compliance. According to the 2023 Procurement Advisors Report, last year, BPW awarded more than \$1.2 billion to MBE prime contractors and subcontractors, representing 17.85% of State agencies’ total contract award dollars approved by BPW. This was a slight improvement over prior years but still well below the State’s 29% aspirational goal for MBE participation. By retaining BPW’s review authority, we can ensure the State’s commitment to supporting our MBEs with increased accountability.

Second, removing BPW approval will not result in a more efficient procurement process. It is sometimes said that the Board of Public Works’ approval process is the reason that procurements take months, sometimes years, to be awarded. This is categorically untrue. BPW’s approval comes at the end of the agency procurement process. Once an agency submits its award recommendation for a procurement to the Board, the item appears on the next meeting agenda. Meetings occur every two to three weeks. Agencies can also submit last minute “hand-carried” agenda items up until the day of a BPW meeting, with the permission of two BPW members, depending on the urgency of the issue. Moreover, a proof of concept model under \$200,000 is still be excluded from BPW review. This current threshold should be adequate.

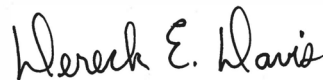
With a new strategy like proof of concept procurements, we understand the need to create efficiencies and act quickly to utilize emerging technologies. Our offices remain committed to working with BPW staff, the Department of General Services, and DoIT to facilitate the procurement process, eliminate lengthy delays, and ensure that these contracts can come to the Board as quickly as possible.

For the foregoing reasons, we respectfully request a favorable with amendments report on Senate Bill 818.

Sincerely,



Brooke E. Lierman  
Comptroller of Maryland



Dereck E. Davis  
State Treasurer

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## PROPOSED AMENDMENTS

BY: Chair, House Health and Government Operations Committee  
(To be offered in the House Health and Government Operations Committee)

### AMENDMENTS TO SENATE BILL 818 (Third Reading File Bill)

#### AMENDMENT NO. 1

On page 1, strike beginning with “exempting” in line 20 down through “Works;” in line 22.

On page 2, in line 11, strike “3.5 –301, 3.5-303(a), and 12-101” and substitute “3.5-301 and 3.5-303(a)”.

#### AMENDMENT NO. 2

On page 10, in line 8 after “(A)” insert “(1)”; in line 12, strike “(B)” and substitute “(2)”; in line 18, strike “(C)” and substitute “(3)”; and after line 22, insert:

**“(B) (1) EXCEPT AS PROVIDED IN § 3.5-804(E) OF THIS SUBTITLE, THIS SUBTITLE DOES NOT APPLY TO ARTIFICIAL INTELLIGENCE DEPLOYED BY THE COMPTROLLER OR THE STATE TREASURER.**

**(2) THE COMPTROLLER AND THE STATE TREASURER SHALL ESTABLISH POLICIES AND PROCEDURES THAT ARE FUNCTIONALLY COMPATIBLE WITH THE POLICIES AND PROCEDURES ADOPTED UNDER § 3.5-804(A) OF THIS SUBTITLE FOR ARTIFICIAL INTELLIGENCE.”**

On page 13, after line 10 insert:

**“(E) THE COMPTROLLER AND THE STATE TREASURER SHALL SUBMIT TO THE DEPARTMENT AN ANNUAL REPORT ON ARTIFICIAL INTELLIGENCE PROCURED AND DEPLOYED.”**

#### AMENDMENT NO. 3

On pages 16 through 18, strike in their entirety the lines beginning with line 17 on page 16 down through line 4 on page 18, inclusive.