

March 4, 2025

The Honorable Ben Barnes
Chair, Appropriations Committee
151 Taylor House Office Building
Annapolis, Maryland 21401

Re: Letter of Opposition – House Bill 578 – Procurement – Department of Transportation and Maryland Transportation Authority Contracts – Board of Public Works Authority

Dear Chair Barnes and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes House Bill 578, which would result in delays of certain MDOT capital construction projects, potentially result in increased risk and cost to the State, and result in added administrative burden for procurement officers and state employees already charged with managing billions of dollars in procurement expenditures annually.

Currently, MDOT's and the Maryland Transportation Authority's (MDTA) capital expenditures in connection with State roads, bridges, or highways are exempt from certain provisions of the State Finance and Procurement Article of the Code of Maryland, including Board of Public Works (BPW) approval of contract awards. HB 578 would require BPW approval of these contracts if valued at or in excess of \$500,000.¹ Requiring BPW approval would delay projects by 8 to 11 weeks² and require three additional positions to handle the administrative tasks necessary to prepare BPW Agenda Items and perform quality assurance and quality control of required back up documentation. Of 97 contracts of this kind awarded throughout 2024, 96 would have required BPW approval.

While MDOT understands that the intent of this legislation is to increase public transparency into these procurement contracts, MDOT has extensive processes already in place that promote transparency, oversight, and accountability. More specifically, every project that is programmed is listed in the release of the annual Consolidated Transportation Program (CTP). Projects are listed in stages of planning, design, and construction. The CTP provides a clear account of how MDOT is spending Federal and State Transportation Trust Fund dollars. As part of the CTP development

¹ Further, the bill requires a period for notice and comment before the BPW may act on a land acquisition valued at or in excess of \$500,000 by the Maryland Aviation Administration, the Maryland Port Administration, and the Maryland Transit Administration.

² BPW Agenda items are due to The MDOT Secretary's Office from modal administrations 4.5 weeks ahead of BPW meetings, with items published 12 days ahead of meetings. The timeline includes a modal internal deadline of 2 to 3 weeks for preparation and reviews, and accounts for the BPW's "two-meeting rule", which means NTP cannot be issued until the day following the next scheduled BPW meeting. Meetings are held every 2 to 3 weeks.

and release, MDOT conducts a Statewide tour, visiting all 23 counties and Baltimore City, to present the draft CTP for the coming fiscal year, as well as changes between the most recent complete and the current draft versions of the CTP and an update on transportation project funding for the State. Additionally, the State Highway Administration (SHA) has developed a detailed, public-facing Project Portal webpage. The Project Portal lists all major projects and others with community impact, shows the status of the project, can be searched easily by geographical region, and allows for public input. Finally, both SHA and MDTA regularly engage in public outreach efforts tied to modal projects, including public meetings in the affected communities and through regular social media engagements.

More than 80 percent of the funding for SHA's State roads, bridges, or highways contracts comes from the Federal Highway Administration (FHWA); therefore, FHWA is engaged in the funding authorization and approves SHA's process, which includes the review of the Plans, Specifications and Engineering checklist. Further, many projects undergo the National Environmental Policy Act process; this review considers environmental, social, and economic effects and features opportunities for public notice and feedback.

All of MDTA's contracts for State roads, bridges, or highways are approved by the MDTA Board, ensuring significant public transparency into these contracts. The MDTA Board, which is subject to Open Meetings Act requirements, is open to the public, and publishes its agenda items on its website.

Adding 8 to 11 weeks to the procurement process for critical infrastructure projects unnecessarily increases the potential of risk to the State and project costs, at a time when costs for labor and supplies continue to increase.

Lastly, it is worth noting that while current law exempts capital expenditures related to roads, bridges, and highways from BPW approval, this statutory authority does not exempt MDTA and SHA procurement decisions from being protested and appealed to the Maryland State Board of Contract Appeals (MSBCA), thereby preserving contractors' due process rights.

For the reasons stated above, the Maryland Department of Transportation respectfully requests that the Committee consider this information and issue House Bill 578 an unfavorable report.

Respectfully submitted,

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Maryland Department of Transportation
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