



Senate Bill 426

Committee: Budget & Tax

Date: February 5, 2025

Position: Favorable with Amendments

Founded in 1968, the Maryland Chamber of Commerce (the Chamber) is the leading voice for business in Maryland. We are a statewide coalition of more than 7,000 members and federated partners working to develop and promote strong public policy that ensures sustained economic growth and recovery for Maryland businesses, employees, and families.

The Chamber applauds the overall intent of Senate Bill 426 (SB 426), as procurement is a key lever for economic development, and we write to highlight a few targeted amendments that we believe will further strengthen the procurement process and provide greater certainty for Maryland businesses.

Clarification of Timing for Participation Goals and Post Execution Amendments

Government units should set participation goals at the solicitation stage rather than waiting until contract execution. This change would ensure that companies bidding on state contracts have clear expectations from the outset, reducing uncertainty and fostering a level playing field.

Additionally, we recommend that any adjustments to participation goals after contract execution should be allowed only under extraordinary circumstances clearly defined by the Chief Procurement Officer. This limitation would prevent last-minute changes that could force vendors into re-bidding or create ambiguity over what constitutes the “best interest of the state.”

We propose the following changes under Section 14-302(a)(8) and Section 14-602(c)(2):

- (I) AT ANY TIME PRIOR TO CONTRACT EXECUTION **SOLICITATION;**
 - (II) AFTER CONTRACT EXECUTION, ~~WHEN DETERMINED TO BE IN THE BEST INTEREST OF THE STATE,~~ **DUE TO EXTRAORDINARY CIRCUMSTANCES, IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE CHIEF PROCUREMENT OFFICER;**
- OR

We propose the following changes to Section 14-602(c)(4):

- (I)) ~~IT IS IN THE BEST INTEREST OF THE STATE~~ **IT IS NECESSARY DUE TO EXTRAORDINARY CIRCUMSTANCES, IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE CHIEF PROCUREMENT OFFICER;**

Penalties

We are concerned that the penalties outlined in the legislation are overly broad and could lead to unintended consequences for Maryland businesses. While we support accountability measures,

the current language creates uncertainty. For example, the provision that requires reporting violations to the Attorney General, who may then decide to bring a civil action, risks penalizing contractors for violations that may be the result of administrative oversights or misinterpretations.

Additionally, imposing financial penalties that are directed to the state's apprenticeship training fund, coupled with the possibility of future contract bands or civil penalties under the False Claims Act, could discourage participation in the procurement process, especially among smaller businesses.

To address these concerns, we recommend including a notice-and-cure period that would allow contractors a reasonable time to remedy any deficiencies before severe penalties are enforced. Second, we urge the inclusion of clear, precise definitions of what constitutes willful misconduct or intentional withholding of information, ensuring that only cases of demonstrable bad faith trigger the more severe consequences. These adjustments would help balance the need for rigorous enforcement of labor standards with the importance of maintaining a fair, predictable, and competitive procurement process that supports the interests of all businesses.

Good Labor Standards

As introduced, in order for a business to obtain certification as a good labor practices certified business, the business must attest that they will directly employ W-2 employees for any work performed under the contract.

While this requirement may be well-intentioned, we are concerned that it may inadvertently exclude a significant segment of Maryland's workforce and businesses. Many companies rely on 1099 arrangements, especially in industries where project-based or specialized work is common. Forcing a one-size-fits-all employment model could diminish competitive opportunities for these firms, hinder innovation, and ultimately reduce the pool of qualified contractors bidding on state projects. Instead, we recommend removing this standard as it would unduly restrict participation.

By ensuring that the state's procurement process is fair, transparent, and supportive of businesses, we will create an environment where every Maryland business can thrive and contribute to a stronger economy.

Cybersecurity and IT

On page 12, the Chamber suggests further clarifying the CPO's by defining IT marketplace portals in state code and giving the CPO the authority for the state to use secure marketplaces to procure IT services, which will strengthen cybersecurity and continue to allow Maryland agencies to innovate. Additionally, to increase efficiency and improve cybersecurity for the state, the Chamber suggests including a 90-day timeframe under which approved IT projects as defined in the bill must move forward to the Board under the CPO's authority.



For these reasons, the Chamber respectfully requests a **favorable report with amendments** on SB 426.

