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February 4, 2025

TO: The Honorable Josaline Pena-Melnyk  
Chair, Health and Government Operations Committee

FROM: Tiffany Clark  
Chief, Legislative Affairs, Office of the Attorney General

RE: House Bill 304 - State Procurement - Transparency and Procedures – **Letter of Concern**

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The Office of Attorney General (OAG) writes with concern regarding **House Bill 304**, which makes changes to State procurement-related definitions, processes, and requirements impacting (1) change orders and contract modifications, (2) bid protests and contract claims, (3) debriefings for unsuccessful offerors, and (4) procurement ethics.

Among other things, **House Bill 304** alters the time that a procurement officer must respond to a protest from 180 days to 45 days. By reducing the time for a procurement officer to respond to protests, this bill will cause backlogs and diminish overall work quality, as there will be less time to review. To keep up with the accelerated pace, it is likely that OAG would need to dedicate at least two additional AAGs solely to review these bid protests. Additional litigation could also result from contractors seeking costs from affirmative claims. These outcomes could prove to be significant costs to Maryland taxpayers.

Further, several amendments in **House Bill 304** are seemingly at odds with established law. Requiring disclosure of competitors' proposals may be at odds with the Public Information Act (PIA). Additionally, directing petitions to the Appellate Court of Maryland is contrary to the Administrative Procedure Act (APA) and Maryland Rules.

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This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or [sbrantley@oag.state.md.us](mailto:sbrantley@oag.state.md.us).

In its current state, we believe that **House Bill 304** could result in difficulty in advising agency clients, increased costs to Maryland taxpayers, and confusion with existing law.

We look forward to working with Delegate Kerr to reconsider the approach taken in this bill.