



MARYLAND STATE TREASURER

Dereck E. Davis

Testimony of the Maryland State Treasurer's Office

House Bill 500: Procurement Reform Act of 2025

Position: Favorable with Amendments

House Health and Government Operations Committee

February 18, 2025

As one of three members of the Board of Public Works (BPW or Board), the State Treasurer is in the unique position of understanding both the importance of the Board's oversight as well as the need to increase efficiencies in the State's procurement processes for the benefit of all involved. House Bill 500 seeks to fulfill this need by streamlining processes, consolidating programs, and clarifying existing procurement laws.

While generally supportive of these efforts, the State Treasurer's Office (STO) notes that several of the changes shift authority from BPW to the Chief Procurement Officer in the Department of General Services. These changes diminish the legislature's direct oversight of aspects of the procurement process via the State Treasurer, whom the General Assembly elects. For the following reasons, STO respectfully requests a favorable with amendments report on House Bill 500.

Provisions Limiting BPW Authority

A number of provisions in the bill shift, alter, or diminish BPW's authority to review and approve procurements. Four such provisions raise concerns for the State Treasurer, including those relating to (1) expedited procurements, (2) contract modifications, (3) source selection methods, and (4) cancelled solicitations or rejections of all bids.

Expedited Procurements

As drafted, under § 13-108 of the State Finance and Procurement Article, the Board would lose its authority to approve the use of the expedited procurement method and would instead only receive a report after a contract is awarded.

Prior to 2021, the use of this procurement method was limited to the Maryland Port Commission and the Maryland Aviation Administration. In testimony during the 2021 legislative session, the sponsor of the legislation proposed expanding the use of the expedited procurement as a way to limit overuse and misuse of the emergency procurement method, which became a concern due to the significant increase in the number of emergency procurements during the COVID-19 pandemic. The limitations of the emergency procurement method were also cited as reasons to limit its use and offer State agencies an alternative procurement method. As drafted, the proposed changes to the way the expedited procurement method is approved and reported reduce the Board's authority that previous legislation aimed to restore.

In order to better serve legislative intent, STO proposes an amendment to substitute the Chief Procurement Officer for the unit head. This change would ensure that BPW would continue to review expedited procurements at the beginning of the process, while allowing the Chief Procurement Officer to approve the method instead of agency representatives.

Contract Modifications

The addition of §15-112.1 of the State Finance and Procurement Article is similarly of concern. The current threshold for Board review for contract modifications is set at \$50,000 by regulations promulgated by the Board. While provisions in House Bill 500 place limitations on the substance of the modification, the legislation increases the threshold for review by twentyfold to \$1.0 million. As the State does not provide other avenues for visibility, the codification and increase in thresholds substantially limits the ability of the Board, the General Assembly, and the public to easily evaluate State procurement activity and changes to previously approved contracts.

Additionally, the modification approval process preserves visibility into agencies' minority business enterprise (MBE) compliance. Aside from modification requests, the Board requires MBE goals to be reported in an agenda item when an agency requests approval for a contract award or submits a procurement agency activity report (PAAR) for Board review. The only additional real-time reporting on MBE goal compliance is through requests for approval to modify a contract or exercise a contract's option. Too often the only time the Board, or any other interested party, is made aware of contractors' failures to meet MBE goals is through requests for approval of modifications.

For the reasons above, the State Treasurer's Office proposes amending House Bill 500 to strike §15-112.1 to preserve current law.

Source Selection Methods

House Bill 500 also diminishes BPW's oversight of established procurement methods. While procurement methods are currently established by law, as drafted, the bill grants the authority to establish new methods of source selection to the Chief Procurement Officer. The bill further allows the Chief Procurement Officer to provide guidelines for these new methods, a responsibility currently prescribed to the Board through the regulatory process. STO requests amending § 13-102(c) of the State Finance and Procurement Article as reflected in the bill to allow the Chief Procurement Officer to take these actions only with Board approval.

Cancellations of Procurements/Solicitation

Under § 13-206 of State Finance and Procurement Article as reflected in the bill, the Chief Procurement Officer, rather than the Board, would approve an agency's request to cancel an invitation for bids or reject all bids. Currently, the Board has adopted regulations to delegate authority over these actions to State agency heads, but agencies must include these actions in PAARs. The change contemplated in House Bill 500 would have the effect of repealing the Board's authority to compel agencies to submit this information on PAARs. STO proposes to amend the bill to preserve current law or otherwise ensure that the Board can review these agency activities.

Next Steps

STO has met with the Administration to discuss these amendments and emphasize the importance of preserving BPW's authority. Treasurer Davis and staff would appreciate the opportunity to continue discussing broader procurement reforms with the Subcommittee and respectfully request favorable with amendments consideration for House Bill 500. Please contact Laura Atas, Deputy Treasurer for Public Policy (latas@treasurer.state.md.us), with any questions.