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March 4, 2026

The Honorable Guy Guzzone
Chair, Budget and Taxation Committee
3 West Miller Senate Office Building
Annapolis, MD 21401

Re: Letter of Opposition – Senate Bill 943 – State Procurement – Competitive Sealed Bids and Proposals – In-State Evaluation Preference (Buy Maryland, Buy Local Act)

Dear Chair Guzzone and Committee Members:

The Maryland Department of Transportation (MDOT) offers the following letter of opposition for the Committee’s consideration of Senate Bill 943.

Senate Bill 943 restricts competition, is not aligned with the procurement procedures by which low bid procurement is conducted, is inconsistent with the purposes behind Division II of the State Finance & Procurement Article and is likely unconstitutional.

State procurement regulations¹ currently allow up to 10% of the total allocable technical points to be awarded under an economic benefits evaluation factor when a point system is used in the evaluation of proposals. If a point system is not used, an economic benefits evaluation factor may be included in the technical evaluation factors and be ranked in its relative order of importance, as the procurement officer determines. Procurement officers consult BPW Advisory 1996-4 Economic-Benefits as a Factor in Evaluating CSP², which outlines considerations in assessing whether the economic-benefits factor is appropriate in particular procurements and discusses how to evaluate proposals that offer such benefits.

SB 943 assigns 30 points to the State and local economic impact of the proposal, which would serve as a resident business preference and provide competitive advantages to one business over another based solely upon the business’s location. This could increase single bids and proposals received if out-of-state vendors perceive disadvantage and choose not to submit bids or proposals in turn increasing costs.

When economic benefits are used as an evaluation factor, even Maryland-based vendors do not always choose to demonstrate in their proposals how the contract will benefit the Maryland economy through Maryland subcontractors, suppliers, and joint venture partners; the number of jobs generated for Maryland residents; tax revenues generated to Maryland and its political

¹ Code of Maryland Regulations 21.05.03.03(A)(3)

² <https://bpw.maryland.gov/Pages/adv-1996-4.aspx>

subdivisions; and the amount or percentage of subcontract dollars placed with Maryland small and minority businesses. Under SB 943, bids or proposals submitted without the State and Local Economic Impact statement would be deemed non-responsive, decreasing competition and increasing single bids or proposals.

Procurement officers need to maintain the ability to tailor evaluation factors to the specific circumstances of each procurement. Frequently utilized factors such as project implementation plans and approaches to problem resolution do not appear in the standardized criteria. The 40% cap on technical evaluation scores could put Marylanders at risk as inferior products could win bids. This becomes extremely important with safety-related supplies such as train propulsion parts, attenuation truck parts, and materials in our bridges.

Economic benefits may not currently be used under the competitive sealed bidding method, but SB 943 conflates sealed bid procedures with competitive sealed proposal procedures and turns the low bid process under § 13-103 of the State Finance & Procurement Article into a proposal process which is generally contrary to fundamental procurement process. Rather than selecting the vendor who submitted the lowest responsive bid, the procurement officer would have to cap the consideration of the bid price at 20% and evaluate other factors for the remaining 80% of the points. This could increase protest risk by introducing subjectivity into what has historically been an objective, price-driven procurement method. It would significantly add to the timeline between advertising the solicitation and awarding the contract, and delay MDOT getting vital contracts into place.

SB 943 contradicts the following purposes and policies of Division II found in § 11-201 of the State Finance & Procurement Article:

- (1) providing for increased confidence in State procurement;
- (2) ensuring fair and equitable treatment of all persons who deal with the State procurement system;
- (3) providing safeguards for maintaining a State procurement system of quality and integrity;
- (4) fostering effective broad-based competition in the State through support of the free enterprise system; and
- (7) getting the maximum benefit from the purchasing power of the State.

Federal agencies consider In-State or local geographic preferences to be impermissibly restrictive of competition. Accordingly, MDOT would need an exemption for Federally-funded procurements.

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Lastly, adoption of a formalized in-State economic preference framework raises broader policy concerns. If Maryland moves toward structured geographic scoring, other states may adopt reciprocal preference models, which could disadvantage Maryland-based suppliers seeking work outside the State. This has historically been a key reason for hesitation around geographic preference programs.

The Maryland Department of Transportation looks forward to continued collaboration with the sponsor on Senate Bill 943 and respectfully requests the Committee consider this information when deliberating Senate Bill 943.

Respectfully submitted,

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