



## House Bill 24

### *Procurement - Public Work Contracts - Contractor Occupational Safety and Health Requirements*

MACo Position: **OPPOSE**

To: Economic Matters Committee

Date: January 24, 2019

From: Kevin Kinnally

The Maryland Association of Counties (MACo) **OPPOSES** HB 24. This bill would require a prospective bidder or offeror for a public works project over \$100,000 to submit a public safety plan and an attestation that the proposal meets specific requirements as part of the procurement process. This legislation also requires the Department of Labor, Licensing, and Regulation (DLLR) to develop a safety and health calculation worksheet and rating system, and enforce the bill's many new requirements.

Under current law, to ensure worker safety, all businesses—construction and otherwise—must comply with Federal and State Occupational Safety and Health Standards. DLLR administers Maryland's program. HB 24 attempts to further regulate safety and health standards through a public body's procurement process to achieve the same outcome.

Local government procurement policies promote fiscal stewardship by applying a fair, open, and transparent process to improve efficiency and promote healthy competition—with the award in most cases going to the lowest bidder. Adding requirements to make it more difficult for businesses to comply only inflates contract costs. Imposing state requirements onto the local procurement process would limit local flexibility and reduce the number of competitive bids, undermining the spirit and intent of the procurement process.

Counties are concerned that HB 24 places an undue burden on small and minority contractors. Although larger companies may have the resources to develop and monitor the rigorous safety plans envisioned under the bill, smaller vendors may not be able to adhere to the bill's arduous requirements, even if they engage in safe practices. This administrative burden could make it extremely difficult for a smaller contractor to comply, subjecting the contractor to civil penalties and possibly affecting the contractor's ability to bid on future contracts.

Also of concern is the requirement that a prospective bidder or offeror submit a safety plan and an attestation at the time of responding to a Request for Proposal. This approach not only places an onerous requirement on a prospective bidder, it also burdens procurement officials with

responsibilities they are not able to fulfill. Procurement officials do not have the expertise to adequately review the sufficiency of an occupational safety and health plan. MACo is concerned that the submission of these plans at the time of response could lead to a local jurisdiction being held liable for deficiencies in the plan or any safety-related issues that may occur at a worksite.

In summary, HB 24 attempts to put in place a process that would 1) result in outcomes already assured by Federal regulations; 2) add additional administrative burden and costs to contract bids, impeding the public procurement process and lessening the pool of competitive bids; and 3) require that public procurement officers review and evaluate safety plans and attestations, which they are wholly unqualified to do, thereby undermining the intended goal of the bill – the safety of all involved.

Because there is already a thorough regime of requirements in place that ensures safety, meets competitive bid standards, and doesn't add undue administrative burden to contractors or procurement officials (which saves taxpayer dollars), MACo urges the Committee to give HB 24 an **UNFAVORABLE** report.