



House Bill 977

Procurement – Public Work Contracts – Contractor Occupational Safety and Health Requirements

MACo Position: **OPPOSE**

To: Economic Matters Committee

Date: March 4, 2016

From: Andrea Mansfield

The Maryland Association of Counties (MACo) **OPPOSES** HB 977. 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 plan meets certain requirements as part of the procurement process. The bill 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 companies - construction and otherwise - must comply with Federal and State Occupational Safety and Health Standards. DLLR administers Maryland's program. HB 977 attempts to further regulate safety and health standards through a public body's procurement process to achieve the same outcome.

The procurement process is designed to save a public body money by putting an open, competitive process in place that allows multiple companies to bid - with the award in most cases going to the lowest bidder. In some cases, it could be the bidder that is viewed as having the most advantageous offer, but still the premise is to keep project costs low. Adding requirements to the process that make it more difficult for businesses to comply only adds costs to the contracts. Local governments currently have their own processes and the projects funded are predominately done so through local funds. Imposing State requirements onto the local procurement process would ultimately limit local flexibility and the number of competitive bids, increasing project costs.

Of great concern to our local officials is the limiting effect HB 977 may have on small and minority contractors. Although larger companies may have staff to develop and monitor the rigorous safety plans envisioned under the bill, smaller companies may not be able to afford staff or contract out for this purpose, even if they engage in safe practices. The administrative burden of this requirement 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 safety plan and an attestation be submitted by a prospective bidder or offeror at the time of responding to a Request for Proposal. This approach places an onerous requirement on a business prior to contract award. It also burdens procurement officials with responsibilities they are not able to fulfill. Procurement officials do not have 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.

For these reasons, MACo **OPPOSES** HB 977 and urges the Committee to give it an **UNFAVORABLE** report.