

HB0304/303029/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 304

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**Delegate Kerr**” and substitute “**Delegates Kerr, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kipke, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Ross, Szeliga, Taveras, Woods, and Woorman**”; in line 8, strike “change orders” and substitute “certain contract modifications”; strike beginning with the second “altering” in line 9 down through “protest” in line 12 and substitute “altering certain procedures, time periods, and appeals related to certain protests”; strike beginning with “authorizing” in line 16 down through “Maryland;” in line 19 and substitute “altering the procedures for reviewing and making a certain determination related to a certain contract claim;”; after line 20, insert:

“BY adding to

Article - State Finance and Procurement

Section 13-104(h)

Annotated Code of Maryland

(2021 Replacement Volume and 2024 Supplement)”;

in line 23, strike “11-101, 13-201,”; strike beginning with “15-219(a)” in line 23 down through “15-223(a)” in line 24 and substitute “and 15-219”; and strike in their entirety lines 27 through 29, inclusive.

On page 2, strike in their entirety lines 1 and 2.

AMENDMENT NO. 2

On pages 2 through 7, strike in their entirety the lines beginning with line 6 on page 2 through line 24 on page 7, inclusive.

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On page 7, strike in their entirety lines 26 through 28, inclusive, and substitute:

“(H) (1) AN UNSUCCESSFUL OFFEROR MAY SUBMIT A REQUEST TO THE PROCUREMENT OFFICER FOR A DEBRIEFING OF THE RECOMMENDED CONTRACT AWARD.

(2) AFTER RECEIVING A REQUEST FOR A DEBRIEFING UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PROCUREMENT OFFICER SHALL PROVIDE THE DEBRIEFING:

(I) AS SOON AS IS FEASIBLE AFTER RECEIVING THE REQUEST; AND

(II) BEFORE THE RECOMMENDED CONTRACT AWARD IS PRESENTED FOR APPROVAL TO THE HEAD OF THE UNIT OR THE BOARD.”.

On page 8, in line 1, strike “(2)” and substitute “(3)”; in lines 1 and 2, strike “SUBJECT TO A CONFIDENTIALITY AGREEMENT” and substitute “REASONABLY DETERMINED BY THE PROCUREMENT OFFICER TO BE CONFIDENTIAL, PROPRIETARY, OR PRIVILEGED”; in line 3, after “INFORMATION” insert “THAT HAS BEEN REQUESTED.”

(4) THE OFFICE OF STATE PROCUREMENT SHALL ESTABLISH GUIDELINES FOR DEBRIEFINGS;

and strike beginning with “OBTAINED” in line 3 down through “APPEALS” in line 16.

On pages 8 and 9, strike in their entirety the lines beginning with line 17 on page 8 through line 3 on page 9, inclusive.

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On page 9, in line 30, strike “RECEIVING” and substitute “PROVIDING”; and in the same line, strike “FROM VENDORS”.

On page 10, in line 19, strike “CHANGE ORDER” and substitute “CONTRACT MODIFICATION TO PROVIDE AN EQUITABLE ADJUSTMENT”.

On page 11, in line 5, strike “Except as provided under § 15–219 of this subtitle, a” and substitute “A”; in lines 6 and 7, in each instance, before “protest” insert “TIMELY”; in line 16, after “General” insert “ON ANY LEGAL ISSUES RAISED IN THE PROTEST”; in line 19, strike the closing bracket; in line 20, after “parties” insert a bracket; and in line 28, after “unit” insert “OR DESIGNEE”.

On page 12, in line 2, after “part” insert “OR DESIGNEE”; strike beginning with “(1)” in line 3 down through “(2)” in line 7; in line 7, strike “reviewing authority under this subsection” and substitute “PROCUREMENT OFFICER”; strike in their entirety lines 9 through 12, inclusive; in line 15, strike “reach” and substitute “ISSUE”; in lines 15 and 16, strike “within the time required under subsection (e) of this section” and substitute “ON THE PROTEST WITHIN 60 DAYS AFTER RECEIPT”; in line 16, after the first “the” insert “SOLE”; in line 17, strike “BIDDER OR OFFEROR” and substitute “PROTESTOR,”; in line 22, strike “90” and substitute “60”; and in line 23, strike “EARLIER” and substitute “LATER”.

On page 13, in line 3, after “(c)” insert “**(1) ON RECEIPT OF A TIMELY CONTRACT CLAIM FROM A CONTRACTOR, A PROCUREMENT OFFICER:**

(I) SHALL REVIEW THE SUBSTANCE OF THE CONTRACT CLAIM;

(Over)

(II) MAY REQUEST ADDITIONAL INFORMATION OR SUBSTANTIATION THROUGH AN APPROPRIATE PROCEDURE;

(III) MAY CONDUCT NEGOTIATIONS WITH THE CONTRACTOR INITIATING THE CONTRACT CLAIM; AND

(IV) SHALL COMPLY WITH ANY APPLICABLE REGULATIONS.

(2) UNLESS CLEARLY INAPPROPRIATE, THE PROCUREMENT OFFICER SHALL SEEK THE ADVICE OF THE OFFICE OF THE ATTORNEY GENERAL ON ANY LEGAL ISSUES.

(D) SUBJECT TO SUBSECTION (C) OF THIS SECTION AND CONSISTENT WITH THE STATE BUDGET AND OTHER APPLICABLE LAWS, THE PROCUREMENT OFFICER SHALL:

(1) RESOLVE THE CONTRACT CLAIM BY AGREEMENT OF THE PARTIES;

(2) WHOLLY OR PARTLY DENY THE CONTRACT CLAIM; OR

(3) WHOLLY OR PARTLY GRANT THE RELIEF SOUGHT BY THE CLAIMANT.

(E)";

in line 3, after "unit" insert "OR DESIGNEE"; in lines 4 and 7, in each instance, after "claim" insert "AND THE DECISION OF THE PROCUREMENT OFFICER"; in line 6, after "official" insert "OR DESIGNEE"; after line 7, insert:

“(3) THE ACTION OF THE PROCUREMENT OFFICER UNDER THIS SUBSECTION SHALL BE THE FINAL ACTION OF THE UNIT.

[(d) The person who reviews a contract claim under subsection (c) of this section shall:

(1) investigate the contract claim; and

(2) give the contractor written notice of a resolution of the contract claim:

(i) within 90 days after receiving the contract claim or a longer period to which the parties agree, if the amount of the contract claim is not more than the amount under which the accelerated procedure may be selected before the Appeals Board; or

(ii) for any other contract claim, within 180 days after receiving the contract claim or a longer period to which the parties agree.

(e) (F) Recovery under a contract claim is not allowed for any expense incurred:

(1) more than [30] 60 days before the [required submission of a notice of a claim] LAST DAY ON WHICH NOTICE OF A CLAIM IS PERMITTED TO BE FILED under subsection (a) of this section; or

(2) unless the time for submission of a claim is extended under subsection (b) of this section, more than [120] 150 days before the [required submission of the claim] LAST DAY ON WHICH NOTICE OF A CLAIM IS PERMITTED TO BE FILED.

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[(f)] (G) (1) If the unit determines that it is responsible for a portion but not all of the amount claimed by the contractor, subject to the terms of the contract, the unit shall pay the undisputed amount.

(2) Payment of the undisputed amount:

(i) is not an admission of the liability of the unit on the claims;
and

(ii) does not preclude recovery of the amount paid if it subsequently is determined that the determination of the unit was not correct.

[(g)] (H) **[(1)]** A decision not to pay a contract claim is a final action for the purpose of appeal to the Appeals Board.

[(2)] The failure to reach a decision within the time required under subsection (c) of this section may be deemed, at the option of the contractor, to be a decision not to pay the contract claim.];

in line 8, strike “**(H)**” and substitute “**(I)**”; strike beginning with “**AT**” in line 8 down through “**WITH**” in line 10 and substitute “**(1)** **THIS SUBSECTION APPLIES TO ALL CONTRACT CLAIMS, INCLUDING CLAIMS THAT ARE PENDING ADMINISTRATIVELY IN COURT ON JULY 1, 2025.**”

(2) PRIOR TO AUTHORIZING PAYMENT ON A CLAIM, THE PROCUREMENT OFFICER SHALL REQUIRE THE CONTRACTOR TO SUPPLEMENT THE CLAIM WITH;

in lines 13, 14, and 15, strike “**(1)**”, “**(2)**”, and “**(3)**”, respectively, and substitute “**(I)**”, “**(II)**”, and “**(III)**”, respectively; and in line 18, strike “**(I)**” and substitute “**(J)**”.

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On pages 13 and 14, strike in their entirety the lines beginning with line 24 on page 13 through line 6 on page 14, inclusive.

On page 14, in line 8, strike "October" and substitute "July".