



AIA
Maryland

Promoting Maryland Architecture Since 1965

4 February 2020

The Honorable Shane Pendergrass
Chair of the Health and Government Operations Committee
House Office Building
6 Bladen Street
Annapolis, Maryland 21401

Re: Letter of Concern for HB 0207
Baltimore City Community College Procurement Authority

Dear Chairwoman Pendergrass and members of the HGO Committee:

We are writing to voice AIA Maryland's opposition to Senate Bill 159. AIA Maryland represents over 2,000 architects in the state of Maryland and advocates for the profession and the quality of the built environment.

The underpinning of state procurement, the Brooks Act is a federal law passed in 1972. The Brooks Act identifies the procurement process to be used in the selection of architecture and engineering firms. That process is based on the notion that the quality of the response to a Request for Proposals (RFP), not the initial fee proposed should guide the selection of the architect or engineer. To accomplish this, fee is not submitted or factored in until the selection of the top three firms is made. The most qualified firm then enters into a negotiation on the fee, and if agreement is not found, the second most qualified firm begins negotiations, and so on for the third firm selected. This process successfully provides for the hiring of the most qualified firm at a fair, negotiated fee. COMAR requires the same process in the State of Maryland, called QBS or Qualifications Based Selection.

There are currently multiple institutions or agencies exempt from this legislation, despite resistance from the architecture community. These organizations, including Maryland Stadium Authority, Morgan State University, St. Mary's College and the University System of Maryland define their own process, which parallels, but does not mirror QBS. These exempt institutions and agencies may factor fee into their initial selection criteria, often eliminating the most qualified architects that could have been fee-competitive in a QBS process. We understand the public interest in being frugal with taxpayer dollars and fully support maximizing value, however, we feel wholeheartedly that selecting the cheapest firm is not the best way to do it. Hiring firms that undercut the cost to do the work often results in unintended compromises, including less client and community engagement, less attention to sustainable building design, slower response to owner requests and regulatory requirements, and a design that is less responsive to the particular needs of the community. These are issues that will remain present for the remaining useful life of the building.

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Additionally, architects are being asked more frequently to provide design solutions, often including renderings or models, during the interview. The investment that architects are making to win projects is becoming more significant as their work becomes less valued to fee-based, rather than quality-based selections. There are already too many institutions that are exempt from regular state procurement and adding yet another one creates a tendency toward even more institutions being exempted. We can anticipate heading to the point where regular state procurement becomes the exception rather than the norm. That not only hurts businesses, but it also hurts the design of the environment where we work, live and play. When architects know that the selection process is a race to the bottom, they are often less likely to respond, limiting the amount of qualified architectural responses and hurting competition.

In 2016, Lt Governor Rutherford initiated a procurement reform process to attract more participation and make the process easier. One specific aspect was standardizing the A/E service procurements with a uniform user-friendly ability to comply with requirements. Our design community was an extremely active voice in the process, recognizing how complicated Maryland procurement is in relation to adjacent jurisdictions where our members pursue projects. Adding one more exception to the state procurements guidelines heads in the opposite direction of the Commission conclusions, and it makes it more difficult to assess, and track information on contract solicitations, awards and performance.

AIA Maryland cares deeply about the quality of Maryland's built environment, particularly space that houses our future generations. We have worked with Senator Hayes and BCCC to suggest alternate means to achieve their desired goal of a more streamlined process including suggesting an on-call process similar to DGS and University Systems, considering an exemption for IT services only (the origin of this desired exemption) and exploring other options. We are willing to work further with them to consider options in lieu of adding them to the list of exempt institutions from procurement practices. It's important that we plan well and support a process that values the quality of the architectural responses to RFP's, rather than watering down a pool of respondents. We therefore respectfully ask your committee to consider our concerns and vote in opposition to SB 0159, allowing Baltimore City Community College to become exempt from state procurement regulations.

Sincerely,



Chris Parts, AIA
Director, Past President, AIA Maryland

cc:

Health and Government Operations Committee:

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