

Larry Hogan
Governor

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Lt Governor



Ellington E. Churchill, Jr.
Secretary

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Deputy Secretary

OFFICE OF THE SECRETARY

BILL: House Bill 1091 - Emergency and Expedited Procurements – Reform
COMMITTEE: House Appropriations
DATE: March 3, 2021
POSITION: Oppose

Upon review of House Bill 1091 - Emergency and Expedited Procurements – Reform, the Department of General Services (DGS) provides these comments for your consideration.

- House Bill 1091 requires the Chief Procurement Officer (CPO) to approve an agency’s recommended emergency contract award within 48 hours of being submitted to the CPO. **This requirement would limit the State’s ability to avoid or mitigate serious damage to public health, safety, or welfare by delaying award of emergency contracts.** The minimal oversight this requirement adds may be outweighed by the need for timely responses to emergencies. A response to an emergency may be needed within hours; waiting 2 days may cause greater damage and increase the cost to mitigate.
- The bill requires emergency procurements over \$1,000,000 be approved by the Board of Public Works (BPW). BPW generally meets every two weeks. The administrative burden to prepare an agenda for BPW meetings on a biweekly basis would be greatly increased with the allowance of “emergency BPW meetings”. Conversely, **by requiring the State to wait until a BPW meeting for approval of an emergency procurement, the State’s ability to avoid or mitigate serious damage to public health, safety, or welfare may be severely limited.**
- Depending on the nature of an emergency and its duration, multiple emergency procurements may be necessary. **Therefore, the requirement to report an emergency procurement within 15 days to the BPW would be difficult because of the need to conduct additional emergency procurements.**
- DGS estimates that fulfilling the requirements under the bill, **two full-time Administrator IV positions would be needed at an estimated cost of \$159,088 in FY 2022 and rising to \$208,991 in FY 2026.**
- The bill’s definition of emergency is helpful to clarify what is acceptable for an emergency procurement. Emphasis should be added to “the immediate and serious need for services, materials, or supplies that **cannot be met through normal procurement methods**”. In a true emergency as defined in the bill, imposing additional oversight and approvals – one that is part of “normal procurement methods” (BPW approval) and one that is added by this bill (CPO approval within 48 hours) would **limit the State’s ability to avoid or mitigate serious damage to public health, safety, or welfare.**

DGS respectfully requests an unfavorable report on House Bill 1091.

For additional information, contact Ellen Robertson at 410-260-2908.

