

HB0543 -- State Procurement - Small Procurement -

Uploaded by: Brian Levine

Position: FAV



**House Bill 543 -- *State Procurement - Small Procurement - Definition*
Senate Budget and Taxation Committee
March 30, 2023
Support**

The Montgomery County Chamber of Commerce (MCCC), the voice of business in Metro Maryland, supports House Bill 543 -- *State Procurement - Small Procurement - Definition*. House Bill 543 doubles the maximum dollar value threshold for smaller procurements from \$50,000 to \$100,000.

MCCC supports expanding procurement opportunities, as House Bill 543 proposes, for Maryland's small, minority-owned, and women-owned businesses. The Metro Maryland region is home to a large and growing population of small and entrepreneurial government contractors, including many who are working military veterans. Expanding procurement opportunities has been a longtime MCCC priority, most notably through efforts of the Montgomery County Chamber Community Foundation's (MCCCF) Veterans Institute for Procurement (VIP) program.

The VIP program is the first free training program for Service-Disabled Veteran-Owned Small Businesses and Maryland Veteran-Owned Small Businesses. Veteran-Owned company "C-level" executives receive 27 hours of comprehensive instruction on how to accelerate their federal government contracting business skills. Over three days, subject matter experts from industry and government provide best business practice strategies and instruction. Most of the executives who graduate from the VIP program are retired military veterans who reside in Maryland.

For these reasons, the Montgomery County Chamber supports House Bill 543 and requests a favorable report.

The Montgomery County Chamber of Commerce, on behalf of our nearly 500 members, advocates for growth in business opportunities, strategic investment in infrastructure, and balanced tax reform to advance Metro Maryland as a regional, national, and global location for business success. Established in 1959, MCCC is an independent non-profit membership organization and a proud Montgomery County Green Certified Business.

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'23 HB 543 Small Procure DGS SUP B&T 3-30-23.pdf

Uploaded by: Ellen Robertson

Position: FAV



Wes Moore, Governor · Aruna Miller, Lt. Governor · Atif Chaudhry, Acting Secretary

BILL: House Bill 543 - State Procurement - Small Procurement - Definition

COMMITTEE: Senate Budget & Taxation Committee

DATE: March 30, 2023

POSITION: Support

Upon review of House Bill 543 - State Procurement - Small Procurement - Definition, the Maryland Department of General Services (DGS) provides these comments for your consideration.

Per Chapter 590, Laws of Maryland 2017 (House Bill 1021), effective October 1, 2019, the Department of General Services Office of State Procurement (DGS OSP) became the control agency for state procurement of most goods and services other than those procurements by other primary procurement units (State Treasurer, DGS, Department of Transportation, University System of Maryland, Maryland Port Commission, Morgan State University and St. Mary's College of Maryland). As the control agency, DGS OSP conducts or oversees procurements for all Executive Branch Agencies, unless otherwise exempt.

Presently, there are three State procurement thresholds (*specifically noted for DGS OSP control agency approvals*):

1. small procurements for contracts up to \$50,000, a procurement unit may conduct a procurement independently, without seeking approval by the control agency, DGS OSP;
2. procurements over \$50,000 and up to \$200,000, a procurement unit must seek DGS OSP approval to conduct the procurement with DGS OSP oversight of the solicitation development and approval of the award recommendation or DGS OSP conducts the procurement on behalf of the procurement unit; or
3. procurements over \$200,000, DGS OSP conducts the procurement or provides oversight and approvals as in #2 above with the addition of seeking BPW award recommendation approval prior to contract execution.

This bill proposes to raise the threshold for small procurements from \$50,000 to \$100,000 (#1 above). Also, the threshold for DGS and the Department of Transportation construction contracts and Department of Natural Resources capital projects or maintenance would increase from \$100,000 to \$200,000 and would not require BPW approval.

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House Bill 543, DGS Support
March 30, 2023

The current procurement threshold levels were established in 1981, and the dollar value has increased significantly since then. According to the Consumer Price Index, \$50,000 in 1981 is equal to \$149,000 in 2021. House Bill 543 will provide greater efficiencies and to further streamline the procurement process by providing agencies the ability to independently conduct small procurements under \$100,000.

DGS OSP provides guidance, training, policies, procedures, and best practices to ensure the procurement units are conducting procurements according to statute and regulations. DGS OSP also conducts periodic reviews of the procurement units delegated procurements and may increase or decrease their procurement delegation as needed.

DGS supports House Bill 543 and urges a favorable report.

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

HB0543_DNR_SUP_B&T_3-30-23.pdf

Uploaded by: Emily Wilson

Position: FAV



Wes Moore, Governor
Aruna Miller, Lt. Governor
Josh Kurtz, Secretary
David Goshorn, Deputy Secretary

March 30, 2023

Bill Number: **House Bill 543 – Third Reader**

Short Title: **State Procurement - Small Procurement - Definition**

Department's Position: **SUPPORT**

Explanation of Department's Position:

DNR supports HB 543 because it would make procurement more efficient. HB 543 grants additional small procurement permissions to the DNR, allowing some procurements with values up to \$200,000 to be prepared and awarded by DNR without additional, often time-consuming, requirements of approvals by the Department of General Services (DGS) Offices of State Procurement and Construction. This will streamline procurements and enable us to complete projects in a timelier manner by reducing the time spent on each individual solicitation. By delegating authority for DNR to complete more DNR procurements in-house, the award process is sped up, DGS-OSP saves time, and projects may get completed faster.

Background Information:

The existing statute requires state agencies to carry out all small procurements in compliance with all state procurement policies. Large procurements have more layers of review involving multiple state agencies' approval before a contract award can be made to a vendor or contractor. Additional layers of approval requirements can delay contract awards for over a year or more, slowing down the completion of work activities and critical construction. Due to inflation the number of procurements over \$100,000 is steadily growing, thereby causing more delays in the accomplishment of the work of the state.

Bill Explanation:

HB 543 changes the definition of a small procurement from any procurement whose estimated value is less than \$50,000, to any that is less than \$100,000 for certain agencies; and from \$100,000 to \$200,000 for certain DNR procurements. The bill would allow procurements of all types with a value of \$100,000 or less to be handled from start to finish by the state agency, without approvals by DGS. In addition, it would allow DNR procurements of just capital projects or maintenance with a value up to \$200,000 to be handled from start to finish by DNR.

Contact: Emily Wilson, Director, Legislative and Constituent Services (Acting)
emilyh.wilson@maryland.gov ♦ 410-260-8426 (office) ♦ 443-223-1176 (cell)

Written Testimony of M.J. Stewart Jr. HB543 (FAV)

Uploaded by: Michael Stewart

Position: FAV

Michael J. Stewart Jr.

Attorney at Law



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HOUSE BILL 543 (FAV) –
State Procurement – Small Procurement – Definition

March 30, 2023

Maryland House of Delegates
Budget and Taxation Committee

Re: Written Testimony in Support of Favorable Report for HB543

Dear Chair Guzzone, Vice Chair Rosapepe and Members of the Committee:

I write in support of a favorable report of HB543 which raises the small procurement dollar threshold limits from \$50,000 to \$100,000 for most State procurement units, from \$100,000 to \$200,000 for the Department of General Services and the Department of Transportation for construction contracts, from \$100,000 to \$200,000 for the Department of Natural Resources for capital projects and maintenance, and from \$50,000 to \$100,000 for the State Retirement Agency in connection with its administration of the State Personnel and Pension System.

From May 2017 to January 2023, I was a member of the Maryland State Board of Contract Appeals and heard appeals involving bid and contract disputes between the State of Maryland and contractors and or vendors doing business with the State.

From April 1995 to May 2017, I was an attorney whose practice included acting as a consultant to small and medium-sized contractors in commercial, governmental and international arenas and advised them on how to reduce procurement risks by standardizing processes, negotiating favorable terms, and streamlining supplier channels. I also provided litigation support to insurance and claims counsel regarding contractual disputes.

While I attended law school at the University of Baltimore at night, I worked as a contract representative for Westinghouse Electric Corporation, now Northrop Grumman, where I interpreted U.S. Government procurement regulations including the Federal Acquisition Regulation and U.S. Postal Service Procurement Manual, engaged in proposal preparation and contract administration on programs such as U.S. Postal Service automation products, computer systems integration, various international efforts, and prepared a claim resulting from termination of multimillion dollar subcontract.

Per State Finance & Procurement Article § 13-109(e), the Board of Public Works (BPW) is supposed to review the small procurement thresholds every three years after reviewing the prevailing costs of labor and materials, and then recommend to the General Assembly appropriate adjustments in the ceiling for small procurements.

It appears that this has not been done since 2017. Since 2017, we have suffered through the COVID-19 Pandemic that has impacted the material supply chain and the labor markets. Due to rising inflation, the cost of both material and labor has risen significantly since 2017. The U.S. dollar had an average inflation rate of 3.24% per year between 2017 and today, producing a cumulative price increase of 21.08%. This means that today's prices are 1.21 times as high as average prices since 2017, according to the Bureau of Labor Statistics Consumer Price Index.

All State agencies have authority to make awards of small procurement contracts, regardless of the method of source selection, *i.e.*, competitive, sole source, or emergency procedures. The purpose of allowing small procurement without BPW approval is to allow State agencies the ability to be nimble and flexible below the threshold while allowing competition to the extent practical considering factors such as availability of vendors, dollar value of the procurement, cost of administering the procurement, and time available to make the procurement including delivery time. HB543's doubling the threshold in the current inflationary environment is essentially a "no-brainer."

I would like to thank the Chair, Vice Chair and the Member of the Committee for consideration of this written testimony, and look forward to a favorable report regarding HB543.

Very truly yours,

M. J. Stewart Jr.

Michael J. Stewart Jr.

MJSJR

HB0543 - TSO - Small Procurements - SUPP_FINAL_CO.

Uploaded by: Patricia Westervelt

Position: FAV

March 30, 2023

The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
3 West, Miller Senate Office Building
Annapolis MD 21401

RE: Letter of Support – House Bill 543 – State Procurement – Small Procurement – Definition

Dear Chair Guzzone and Committee Members:

The Maryland Department of Transportation (MDOT) supports House Bill 543, as it allows flexibility to make small purchases more efficiently.

House Bill 543 increases the threshold for small procurements from \$50,000 to \$100,000, and from \$100,000 to \$200,000 for construction contracts. For small procurements, competition is sought to the extent practicable, considering factors such as availability of vendors, the dollar value of the procurement, the cost of administering the procurement, and the time available to make the procurement including delivery time.

For small procurements over \$15,000, written solicitations must be posted on eMaryland Marketplace at least three days before bids or offers are due. Current regulation requires the publication of a notice of an invitation for bids for which the bid amount is reasonably expected to exceed the small procurement ceiling of \$50,000 in eMaryland Marketplace for at least 20 days before bids or offers are due.

Given the streamlined process for approving small procurements and the rising cost of inflation, periodic increases are practical and can increase efficiency. Most recently, in 2017, the General Assembly approved a procurement threshold increase from \$25,000 to \$50,000; before that, the small procurement ceiling had not been raised in decades.

Raising the threshold would allow procurement officers the flexibility to make small purchases without engaging in cumbersome solicitations. This would allow for time and resources to be used to manage larger scale procurements. It is important to note that increasing the limit would not exempt small procurements from the need to engage in competitive pricing or abide by Small Business Reserve requirements; it would simply expedite the process.

For these reasons, the Maryland Department of Transportation respectfully requests the Committee grant House Bill 543 a favorable report.

Respectfully submitted,

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
410-865-1090

MDE HB543 Favorable.pdf

Uploaded by: Tyler Abbott

Position: FAV



**The Maryland Department of the Environment
Secretary Serena McIlwain**

***House Bill 543
State Procurement - Small Procurement - Definition***

Position: Support
Committee: Budget & Taxation
Date: March 30, 2023
From: Gabrielle Leach

The Maryland Department of the Environment (MDE or the Department) **SUPPORTS** House Bill 543. This bill would raise the dollar threshold of small procurements to \$100,000 and alters other values for construction, medical evaluations, and capital projects.

MDE would benefit from the increased dollar value to \$100,000 for small procurements. With inflation and supply chain issues, the cost of many projects has increased significantly. As such, procurements that previously would have been considered small and thus handled by the agency must be reviewed by the Office of State Procurement at the Department of General Services (DGS). The process would be streamlined, and contracts would be able to be awarded under the Department's delegated authority. This would enable MDE to award such contracts quickly and efficiently. The Department's projects which at times may be defined as an imminent danger to citizens, however, do not meet the COMAR definition of an emergency, will be able to be addressed more rapidly.

The increased construction value will allow DGS to award construction contracts more efficiently as well. This will assist MDE in the endeavors that are undertaken for our mining division with respect to environmental hazards for abandoned mines. Projects may more timely benefit the citizens of Maryland who reside or travel to those affected areas.

For the reasons detailed above, MDE urges a **FAVORABLE** report for HB543.