



House Bill 951

Procurement – Occupational Safety and Health Prequalification

MACo Position: **OPPOSE**

To: Economic Matters Committee

Date: February 25, 2014

From: Andrea Mansfield

The Maryland Association of Counties (MACo) **OPPOSES** House Bill 951. This bill would place a new onerous requirement on local governments when procuring for a public works project. It will also prohibit a contractor or subcontractor from bidding on a public works project with any public body in the State unless they have been prequalified as a bidder based on a safety rating system established by the Department of Labor, Licensing, and Regulation (DLLR).

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 951 attempts to further regulate safety and health standards through a public body's procurement process to achieve the same outcome. Under this bill, DLLR must establish a safety questionnaire and rating system to prequalify bidders for a public works projects. As of January 1, 2015, if a bidder is not on the list, the bidder cannot bid on a project and a local government is precluded from awarding a contract to a bidder not on the list. This requirement would apply to all local government contracts whether or not State funds are provided. MACo is concerned that this approach would limit the number of qualified bidders and place more onerous requirements on local governments when procuring for projects, thereby increasing costs.

Of great concern to our local officials is the limiting effect HB 951 may have on small and minority contractors. Although larger companies may have staff to develop safety plans and monitor them, smaller companies may not be able to afford staff for this purpose. The administrative burden of this requirement could make it extremely difficult for a smaller contractor to comply, disqualifying the contractor from bidding altogether.

Similar to the prevailing wage legislation pending before the Committee, this "one size fits all" approach would significantly undermine a local government's ability to fund and manage its capital budget, especially those smaller in size and in more rural areas of the

state. 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. When you start adding requirements to the process that make it more difficult for businesses to comply, you add costs to 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.

For these reasons, MACo **OPPOSES** HB 951 and urges the Committee to give the bill an **UNFAVORABLE** report.