

MARYLAND
BOARD OF PUBLIC WORKS

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February 10, 2016

Senate Budget and Taxation Committee
Subcommittee on Education, Business and Administration
Suite 3 West, Miller Senate Office Building
Annapolis, Maryland 21401

Dear Senator King and Members of the Subcommittee:

We welcome the opportunity to appear before you on behalf of the Board of Public Works. Today's presentation supports our fiscal year 2017 operating budget. We are pleased that the Department of Legislative Service's analysis supports the Board's proposed operations budget.

Board budget overview. The Board's budget comprises two types of appropriations: agency operations and pass-through accounts. Our two perennial pass-through grantees, Historic Annapolis Foundation and the Maryland Zoo in Baltimore, are important guardians of State treasures and are prepared to comment on their requests.

Board operations. As for Board of Public Works operations, the amount budgeted comprises primarily personnel expenses (89% v. 11% for non-personnel expenses). Our mission remains to enable the Board members to carry out the myriad duties involved in stewarding State assets and also to assure public and intra-governmental access to Board deliberations, decision-making, and records, all of which are vitally important to the Board and to Maryland citizens.

DLS request for comments. In his analysis, the legislative analyst expressly asks for comment on three points.

1. *The Board of Public Works should discuss the growing trends of sole source procurements and other methods of procurement.*

Reply: *Sole Source* is an acceptable procurement method when, as the statute provides, "there is only 1 available source."¹ In the information technology arena, often there is only one source of hardware, software, and services. This is because: (1) IT products are typically proprietary in nature; and (2) the State agency has become dependent on the contractor's established IT infrastructure.

¹ Section 13-107(a), State Finance and Procurement Article, Annotated Code of MD.

Less compelling reasons for sole source are when an agency fails to re-procure in time or when it fails to process renewals options or contract extension modifications before contract expiration. Often times these issues are a result of staff turnover, inadequately-trained procurement staff, or insufficient procurement staff within the agency.

The budget analysis of procurement methods shows an increase in *Competitive Sealed Bid* procurements while *Competitive Sealed Proposal* procurements have decreased. As proposals are more time-consuming and burdensome on agency procurement staff and resources, agencies may choose to seek bids instead of proposals to save time and make do with limited resources.

Regarding the use of “other” methods of procurement, the Board notes an increased use of the *Intergovernmental Cooperative Purchasing* procurement method by State agencies. This method allows agencies to be more efficient, conserving resources that they might spend conducting full procurements, and may provide for better pricing and cost savings due to the economies of scale achieved in larger contracts that include several jurisdictions.

Another method included in the “other” category is the *Noncompetitive Negotiated Procurement of Human, Social, or Educational Services*. While limited in its scope, recent procurements for foster care services, such as those conducted by the Departments of Human Resources and Juvenile Services, have used this method (procurements for mental health services and job training programs may also use this method).

2. *The Board of Public Works should comment on the impact the Board of Public Works Transparency Act of 2016 (SB370/HB368) will have on agency operations and the Administration’s ability to balance the budget.*

Reply: These two bills would require the Board of Public Works to give ten days advance notice to the public before the Board could approve the Governor’s proposal to reduce the State’s budget. These bills would have little effect on Board of Public Works operations but the Secretary of Budget & Management should be consulted on the impact these bills would have on “the Administration’s ability to balance the budget.”

The bills would not affect Board operations because the Board Office always publishes the meeting Agenda ten days ahead of time. This is our routine practice to place the Agenda online for complete public access. However, the Board also accepts “supplementals” and “hand-carried” Items from agencies. These Items come in after the “regular” Agenda is printed. When those later Items are submitted, this office distributes to Board members and updates its website.

The Department of Budget & Management is the agency that submits budget-reduction recommendations to the Board. That is the agency that would have to ensure its recommendations were at the Board Office in time to be posted with the regular Agenda.

3. *The Zoo should discuss the future direction and financial prospects in light of its recent performance and current economic conditions.*

Reply: The Zoo is transmitting a reply under separate cover.

We continue to do an excellent job of managing our resources and meeting the tasks – expected and unexpected – assigned to us.² Thank you for your continued support of our sustained efforts to improve our operations and service to the Board members, the General Assembly, and the public.

Sincerely,

A handwritten signature in black ink that reads "Sheila C. McDonald". The signature is written in a cursive style with a large, prominent 'S' and 'M'.

Sheila McDonald

²Even thirty years ago, now-retired Judge Wilner noted, “As an institution the board has managed to earn and retain the confidence of the General Assembly, which has heaped more and more responsibility on it.” *The Maryland Board of Public Works: A History* by Alan Wilner (1984) at 123-24.