



*Bid protests happen quickly. Scott Livingston and the team at RWL are ready — at a moment's notice — to protect your rights under Maryland procurement law.*

## Maryland Procurement Law Alert

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### ***Public Private Partnerships in the News:***

#### **Firms managing Purple Line construction narrow list of potential new contractors.**

“The three bidders are Halmar International; a team of Dragados USA and OHL USA; and a joint venture of Tutor Perini and Lunda Construction Company. They were narrowed down from five teams that had expressed interest in the project” said the Purple Line Transit Partnership. <https://wapo.st/30k4RSk>

#### **Maryland selects Transurban, Macquarie to develop toll lanes for Beltway, I-270.**

“The Maryland Department of Transportation plans to enter into a predevelopment agreement with Australian companies Transurban and Macquarie to develop high-occupancy toll lanes for the Capital Beltway and Interstate 270. <https://wapo.st/3kRi3r7>

## **Losing bidder protests Maryland selection for Beltway, I-270 toll lanes developer.**

“A losing bidder has filed a protest against the Maryland Department of Transportation’s recent selection of two Australian firms to develop billions of dollars’ worth of toll lanes for the Capital Beltway and Interstate 270, the agency said Wednesday.” <https://wapo.st/3rrx05N>. Resolution of this dispute of award of a Public Private Partnership (“P3) Agreement is a matter for the courts the procedure governing “procurement contracts.”

### ***Procurement Decisions:***

#### **Maryland State Board of Contract Appeals (“MSBCA”) is overruled by Circuit Court.**

The MSBCA had ruled that a bid protest was untimely filed because it was not filed within 7 calendar days from date the bidder knew the basis for its Protest.” The 7<sup>th</sup> day was on a Sunday and the bid protest was received by the Procurement Officer on Monday, the 8th calendar day. The MSBCA stated “Although it may seem harsh to dismiss a Protest that is received one day late, especially when it was sent electronically within the 7-day period, timeliness must be strictly construed and cannot be waived.”

The Circuit Court for Allegany County overruled the MSBCA. The Circuit Court held that in computing the 7 calendar days deadline, Sunday is not counted. The case is on appeal to the Court of Special Appeals. <https://bit.ly/30jiBg6>

### ***Procurement News from General Assembly:***

The Maryland General Assembly is currently considering [numerous bills](#) that would affect State procurement law. Notable proposed legislation includes:

[HB327](#) – This bill would require that undisputed retainage proceeds retained by a unit or a certain contractor under a State procurement contract be paid within 90 days after the date of substantial completion.

[HB485/SB361](#)- This bill would establish the Public-Private Partnership Oversight Review Board; requiring a certain reporting agency to include in pre-solicitation reports for public-private partnerships with a total value that exceeds \$500,000,000 pre-solicitation reports of certain contracts and a certain environmental impact statement under certain circumstances; requiring certain agreements to be submitted to the Legislative Policy Committee; prohibiting the Board of Public Works, under certain circumstances, from designating a public-private partnership; etc.

[HB1212](#) – This bill would require each unit of State government to apply a percentage preference of 10% for bidders and offerors on a procurement contract who agree to the inclusion in the contract of a certain clause requiring that at least 50% of workers on the contract be socially and economically disadvantaged individuals under certain circumstances and the inclusion of a similar clause in certain subcontracts under certain circumstances; etc.

[SB175](#) – This bill would prohibit the Board of Public Works from requiring a contractor to furnish certain guarantees before an energy performance contract is ratified; and requiring certain performance bonds, payment bonds, and other securities to be provided at the time of contract ratification.



***Need help with Maryland State and local bid protests, contract claims, or other concerns? We are here for you.***

***Give us a call at (301) 704-8060 or email us***

***at [slivingston@rwllaw.com](mailto:slivingston@rwllaw.com) and [mmiller@rwllaw.com](mailto:mmiller@rwllaw.com) to find out how we can help.***



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