1 March 2018

The Honorable Shane Pendergrass, Chair
Health and Government Operations
Room 241 House Office Building
Annapolis, MD 21401

Re: Testimony and Letter of Support for HB1557
Procurement – Architectural Services and Engineering Services – Reciprocal Preference

Dear Delegate Pendergrass, and Members of the Health and Government Operations Committee;

We are writing to offer AIA Maryland’s support for House bill 1557. AIA Maryland represents nearly 2,000 Architects in the state of Maryland. Since its inception, AIA Maryland has advocated for provisions of law that support efforts to strengthen Maryland’s economy through the development of legislation to define the qualifications of a Maryland resident professional services business, and to define the requirements for a reciprocal resident offeror preference, thereby, promoting fairness and equity in the procurement of those Architectural services.

Bill Objectives:

COMAR requires the use of Qualification Based Selection (QBS) in the procurement of Architectural and Engineering services. Since the positive implementation of QBS, the out-of-state response to Requests for Proposals (RFP) has increased significantly. Unfortunately, there has been growing concern that qualified resident Maryland Architecture firms have experienced a lower rate of awards to out-of-state firms. These concerns are as follows:

1. That out of state firms are being awarded state procurement contracts at a higher rate than qualified Maryland based firms for the following reasons:
   a. The definition of qualifications to be a Maryland resident firm is loosely defined, thus allowing satellite offices of multi-state firms with minimal staff / firm presence in Maryland to qualify (i.e. part-time staff residences; offices with an active land line but no presence; a firm’s Maryland branch office that does not provide the services requested; etc.)
   b. The key decision makers are not aware of the benefit of selecting a Maryland firm over out-of-state firms when both are equally qualified.
   c. The qualification requirements for many projects are unnecessarily restrictive requiring highly specific portfolio and past experience requirements. This limits the pool of applicants to very large multi-state firms who are unfairly and inaccurately judged to have greater capacity and experience over Maryland firms to perform the necessary professional services.

2. That other surrounding states have State Preference qualifiers for the work within their jurisdiction that holds Maryland firms at a disadvantage when pursuing work outside of Maryland boundaries. When the
reciprocal is the case and firms from states with preference requirements pursue work in Maryland, they benefit from not having to compete against a State Preference.

3. Both items noted above effectively reduce Maryland firm’s opportunities both in and out of state. There is also a reduced benefit to the Maryland economy.

Therefore, AIA Maryland has worked closely with the State of Maryland over the past 5 years to carefully assess resident preference with respect to the procurement of Architectural services. This collaborative effort ultimately lead to the development of HBI557. The goals of this legislation are as follows:

1. Draft legislation to assist Maryland firms and level the playing field
   a. Legislation shall define the qualifications required to be considered a Maryland firm.
      1) This will provide a more robust definition of a Maryland firm and may encourage consideration by the decision makers if there are clear requirements for that designation.
   b. Legislation shall provide reciprocal language that requires those out of state firms to follow their home states requirements for out of state firm preference. Thus, if an out-of-state firm has language giving preference to home state firms, then the reciprocal preference will be applied to their weighting in the Maryland qualification based selection process
      1) This then levels the playing field by not allowing out of state firms to benefit from a restriction in their state, only to take advantage in Maryland for not having the same restrictions.
   c. Legislation may provide language such that when there is a tie in scoring offerors, that the first tie-breaker is in-state vs. out-of-state.
   d. Legislation shall not provide a legal requirement to have Maryland firm preference in the selection process / requirements
      1) We do not want to create legislative requirements that would create an isolationist position, and potentially trigger reciprocal language in other states procurement processes, thus negatively impacting Maryland firms

**Reason for Action:**

To assess and analyze the effect of professional Architecture service awards to out-of-state firms, AIA Maryland engaged the services of the nationally recognized Sage Policy Group, Inc. The November 2017 report titled, “The Economic Implications of Purchasing Architectural Services from non-Marylanders” has been transmitted to the Education, Health, and Environmental Affairs Committee for its review and consideration. The Sage Policy Group measured the economic implications associated with out-of-state architecture service contracts by key Maryland State Agencies. The findings of this study informed this current procurement legislation.

Understanding the magnitude of potential for economic activity that would be stimulated in Maryland if a greater volume of design services were Maryland based, HBI557 clearly defines the qualifications of a Maryland “resident firm”; it establishes a reciprocal relationship with States that offer state procurement preference parity; and gives preference to Maryland based firms if the Maryland firm and non-resident firm are equally qualified.

**Award Share:** Since 2004 over 25% of state awards were secured by firms not headquartered in Maryland and over 50% of contract dollars went to design professionals outside the state. While we commend the state agencies that promote Maryland based businesses there are other agencies such as The University of Maryland System for instance that awards only 40% of their contract dollars to Maryland headquartered firms. These
figures are significant as the state of Maryland has over 2,000 licensed architects belonging to a significant number of firms of national acclaim and extensive qualifications for all types and sizes of projects.

**Reciprocity:** While HB1557 promotes business for Maryland Architects it’s focus is on fairness, equity, and reciprocity. The Sage report highlights many states, including neighboring states, with local preference laws that penalize out of state architects while architects based in these protectionist states to work freely in Maryland. The District of Columbia is an example of one of these jurisdictions where Maryland architects are subject to a non-resident penalty.

**Employment Opportunities:** The Sage Policy Group Report identifies missed opportunities of over 2,250 jobs since 2004 if the contract procurement dollars had remained in the state. The associated labor dollars are estimated at over $166 million in labor income and approximate aggregate business sales over $350 million.

**Tax Revenue:** In addition to the potential for stimulated economic activity for in state business, the state has forgone over $14.6 million in tax revenue through contract award to out-of-state firms.

**Education:** With two nationally accredited architecture schools, Morgan State University and The University of Maryland, the increase of local procurement would stimulate growth within Maryland-based Architecture offices and significantly add to the employment opportunities for graduates.

**Conclusion:**

AIA Maryland offers its expertise and resources to the State to develop appropriate, economical and meaningful regulations to improve the quality of Maryland’s built-environment, including those steps to enhance Maryland’s public health, safety, and welfare. Therefore, we respectfully ask your committee to offer a favorable report on this bill.

Thank you for your time and consideration

Testimony Given by:

[Signature]

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cc: Health, and Government Operations Committee:
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