

ACEC

American Council of Engineering Companies
Maryland

2019

LEGISLATIVE BUSINESS AGENDA

WHO ARE WE?

An organization of 90 engineering and professional service firms in the State of Maryland.

WHO DO WE REPRESENT?

Over 7,000 employees including:

Engineers	Scientists
Architects	Technical Specialists
Land Surveyors	Planners

CONTACT INFORMATION

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UNINSURABLE CONTRACT PROVISIONS - INCORPORATE NEGLIGENCE STANDARD

WHAT IS THE ISSUE?

In 2018, the State of Maryland made a decision to delete the “negligent performance” clause from procurement contracts for A/E services. By excluding this indemnity language, A/E contract services become uninsurable, impacting A/E firms and State agencies that use these services.

Legislative Action Required

Amend Maryland State Finance and Procurement law to include a provision that requires “negligent performance” as a standard for determining liability for A/E services.

WHY IS IT IMPORTANT?

- Insurance companies can deny coverage without the word “negligence” in the procurement contract, thereby leaving the A/E firm without insurance coverage.
- If the State files a claim for negligence, the State would have to pursue the A/E firm to settle the claim, not the insurance company, because without indemnity language to determine liability for A/E services, the insurance is invalid.
- A/E firms are exposed to a risk and expense that is not covered by insurance, which could be a hardship for most businesses.
- This issue especially impacts small and minority A/E businesses where such a risk may lead to bankruptcy.
- The State runs the risk of carrying the cost of claims if the contract requires the A/E firm to have insurance, but the firm is not insured.
- This practice is contrary to the intent of procurement reform, and is not “business friendly”.