

capital expenditures," except in connection with "roads, bridges, and highways," as well as for approving all contracts for the expenditure of loan proceeds.⁴⁶

The 1939 act, as has been noted, created the Department of Budget and Procurement, headed by the erstwhile purchasing agent, Walter Kirkman, and that department provided staff assistance to the board in connection with construction procurement matters. But although that department and its successors—the Department of Public Improvements created in 1949 and the Department of General Services created in 1970—did a great deal of the detail work, the contracts themselves, and all amendments to them, still had to be submitted to and approved by the board.

That flow of paperwork, often involving relatively miniscule amounts or routine change orders over which there was no dispute, was the primary concern of the various commissions and task forces studying the board and its activities, beginning with the Sobeloff–Stockbridge Commission in 1951–52. Each successive study commission urged that these small and routine matters be delegated to the executive control agencies and withdrawn from full board review. There was no public disagreement with either the assessment that the board was being unnecessarily inundated with minutia or with the recommendations made to correct the problem. Nor was there any public clamor for changing the system, however, so nothing was done. The board's meetings became longer and more frequent. The work got done; the board simply coped.

It was the second type of attention—more particular and more dramatic—that caused the most commotion and directed public attention to how the board discharged its procurement function. Interestingly, the genesis of that attention did not even involve the board.

In 1973 allegations were made, and highly publicized, that, while governor of Maryland, Spiro Agnew had been the linchpin in a bribery and extortion conspiracy involving the selection of architects and engineers on state road, bridge, and tunnel projects. These projects, under the law, were considered exempt from board jurisdiction and thus never came before it.⁴⁷ Such projects were controlled instead by the State Roads Commission, and indeed the chairman of that commission was alleged to be part of the conspiracy. Nevertheless, once lit, the spotlight moved around and soon focused on the overall process by which professional services—particularly those of an architectural or engineering nature—were obtained, and that, of course, did involve the board. There was considerable public clamor for total competitive bidding for these services—requiring that the procuring agency prepare specifications and solicit bids and that the board award the service contract to the low bidder. The architect and engineering societies, on the other hand, very much opposed such requirements, insisting that professional services were not susceptible to competitive bidding.

Seeking advice on the matter, Governor Mandel appointed a task force chaired by Dr. Abel Wolman, professor emeritus at Johns Hopkins University, to review the various methods used by the federal government and other states to select architects and engineers for capital projects and to make appropriate recommendations for changes in the methods used by the Maryland state agencies. The task force report,

46. Acts of 1939, ch. 64. See also chapter 7.

47. Prior to the creation of the Department of Transportation (DOT) in 1970, it was clear that the board had little or no jurisdiction over transportation projects committed by law to the State Roads Commission. For one thing, they nearly always involved either roads, bridges, or tunnels, which were excepted from the purview of art. 78A, sec. 7, of the Code, and for another they were not normally financed with state general obligation bonds and thus probably did not fall within the board's authority under art. 78A, sec. 1. In any event the board never attempted to interfere with the commission's contracting prerogatives. The situation is somewhat different today. Approval of the board is required for the sale of consolidated transportation bonds, used to finance nearly all capital projects of the department (*Md. Ann. Code*, Transportation Article, sec. 3–207), the issuance of revenue anticipation notes (sec. 3–211), service contracts such as those involved in the Agnew scandal (secs. 2–103 [h], 2–310, 2–316), acquisition of railroad corridor property (sec. 2–105), use of surplus funds in the Transportation Authority Fund (secs. 4–313, 4–314), and a host of other matters.