

Putting Maryland Back to Work – Maryland Construction and Development Industry Recovery Road Map

April 29th, 2020

Industry Overview

The construction and development sectors together represent one of the largest sources of employment for Maryland, with construction alone accounting for almost 174,000 Maryland jobs in March 2020. The construction industry also contributed \$17.5 billion to the state's GDP in 2019. Maryland has around 13,900 construction firms, of which nearly 88% are small businesses.

Looking forward, construction industry professionals have lowered their expectations. The Housing Market Index, produced by the National Association of Home Builders and Wells Fargo, serves as a guide to builder confidence. The index remained relatively flat between February and March 2020. In April, however, the index has fallen by its largest monthly margin ever to a value of 30, a level not seen since 2012.

This decline in optimism towards the future reflects how COVID-19 will likely impact the construction and development sector of Maryland's economy. While construction sites can stay open now, new construction in the future is likely to slow, depending on the length of the shutdown and the speed of an eventual economic recovery. This slowdown in new projects will likely continue even as the economy reopens. As businesses grapple with lower than expected revenue through 2020, it is likely that many planned projects will be put on hold or canceled altogether.

Background:

The work of this task force is based on the American Enterprise Institute's "[National Coronavirus Response: A Road Map to Reopening](#)". Specifically, this document is intended for Phase II, "State-by-State Reopening".

The content of this report was based on input from industry leaders serving on the Maryland Department of Commerce's "*Maryland Construction and Development Recovery Task Force*". The report was prepared by Paul Beatty and Tim Murphy, with the Maryland Department of Commerce.

Notes:

- All recommendations included in this document are deliberative by nature, and should be subject to further industry input and discussion.
- Recommendations in Section A (*Industry Specific Operating Procedures*) are considered to be the responsibility of the industry employer, unless otherwise noted.
- Recommendations in Sections B-E are considered to be the responsibility of the State of Maryland, except where otherwise noted.
- "Industry" below refers to the construction and development industry.
- **Bolded** recommendations are suggested mandatory procedures. All other recommendations are suggested guidelines/best practices for the industry to follow.

A. Industry Specific Operating Procedures

Employer Considerations:

COVID-19 Health Guidelines:

- 1. The development of industry specific health guidelines related to COVID-19.**
- 2. These guidelines would address the following:**

Testing:

- 1. Employers should develop a clear, uniform set of best practices for testing, based on CDC and State of Maryland guidelines.**
2. Based on the most recent CDC and State of Maryland guidance available, employers should make reasonable efforts to provide employee access to accurate and reliable testing for their personnel, as availability permits.
 - a. Where possible, the State of Maryland should provide and/or coordinate the distribution of tests to industry companies to ensure workforce availability.

Personal Protective Equipment (PPE):

- 1. Employers should establish a standard operating procedure for the use of administrative controls and/or personal protective equipment.**
 - a. Employers should adapt infection control strategies based on a thorough hazard assessment, using appropriate combinations of administrative controls, safe work practices, and PPE.
 - b. Procedure should include guidelines on proper use and disposal of PPE per CDC guidelines.
2. Employers should provide appropriate administrative controls and/or PPE to all employees, according to said standard operating procedure.

Health Monitoring:

1. Workers should not come to work if they are sick, and should be referred to CDC guidelines for dealing with an illness.
 - a. Employees should not hide potential illness, and employers should take steps to ensure employees feel safe in disclosing potential exposure, symptoms, illness, etc.
2. Employees displaying potential symptoms at work should be separated from other employees, and directed to proper medical attention.

Positive COVID-19 Tests:

1. Based on CDC and state guidance, employers should develop action plans in the event of a positive test for COVID-19 from an employee or anyone else exposed to a job site.
2. Action plan could include:
 - a. Workforce reductions, increased screenings for remaining workforce, contact tracing, etc.
 - b. Open, transparent notification to anyone that has come in contact with the COVID-19 employee while maintaining confidentiality as required by the Americans with Disabilities Act (ADA).
 - c. Open communication regarding these COVID-19 positive guidelines, and HR sick time practices with employees.
 - d. All positive cases should be reported to the Controlling Contractor and the State Health Department.
 - e. Defining the circumstances under which closing a jobsite might be necessitated, and specifying the required actions to reopen safely.

Workforce:

1. Employers should consider creating a daily screening process, which could incorporate:
 - a. Testing (health questionnaires, symptom checks, temperature testing, etc.) for workers and other personnel (including third-party visitors, e.g. government inspectors or delivery drivers) before entering a job site each day.
2. Employers should consider developing alternate plans for employee hours, including split schedules/shifts, shorter work weeks, staggered start/break/shift times, etc.
3. Social distancing should be maintained to the greatest extent possible, including during shift and lunch breaks.
 - a. Where possible, more break areas (e.g. additional break tents) should be provided, communal break areas/shared food and drink services should be removed/discouraged, and isolated breaks should be encouraged.
 - b. Social distancing while commuting should be encouraged, including proper protection and distancing while carpooling, using public transport, etc.
 - c. Unnecessary visitors to job sites should be limited.
4. Employers can consider a set of differently scaled guidelines for jobsites with varying numbers of employees.

Employees:

1. Employees should be trained in, and understand, current COVID-19 health and workplace guidelines, both general and industry-specific.

Work Space/Job Site Standards:

1. **Employers should develop a uniform standard for jobsite procedures, including:**
 - a. Proper job signage::
 - i. CDC health guidelines for workers regarding COVID-19, especially reminders to workers not to enter a jobsite if they are experiencing symptoms consistent with COVID-19.
 - ii. Signage should be posted in English and Spanish.
 - b. A comprehensive COVID-19 exposure control, mitigation, and recovery plan.
 - c. Administrative controls and/or PPE Utilization.
 - d. Social distancing, hygiene/sanitation guidelines.
 - e. Symptom monitoring and incident reporting.
2. **A copy of the plan should be available on each job site during any construction activities, and available for inspection by state and local authorities, subcontractors, and suppliers.**
3. Where sites allow, stairwells should be designated “up” or “down” to minimize cross-traffic.
4. Employers should make best efforts at each job site and office space to ensure appropriate hygiene practices, such as:
 - a. Hand washing and sanitizing stations
 - b. Regularly sanitized, and properly spaced, bathrooms, and other common and high touch-point spaces.
5. Where possible, in-person meetings should be avoided, and virtual meetings/calls used instead.
 - a. Employers should develop guidelines for required in-person meetings.
 - b. Employers should provide an Activity Hazard Analysis for their workers addressing concerns of working inside of the 6-foot boundary.
 - c. Employers should ensure maximum usage of non-contact procedures for their own in-house documentation and communication.
 - i. This should include no-contact methods for receiving deliveries.
6. Employers should develop response plans for violations and non-compliance of established COVID-19 health guidelines.
7. On large jobs, employers should consider designating a site monitor to ensure compliance with CDC, state/local, and jobsite guidelines.
8. Job sites should be properly secured and locked to prevent unauthorized visitors from gaining access and exposing employees, on and off working hours.

B. Legal & Legislative Issues

1. Clarification from the State of Maryland regarding legal and liability issues related to employer-sponsored testing and health screening.
2. The State of Maryland should consider granting immunity from civil liability for any injury or death alleged to have been sustained as a result of an act or omission by such companies in the course of performing such services during the COVID-19 outbreak, unless it is established that such injury or death was caused by the willful misconduct of such company.

3. The State of Maryland should consider creating a cap on non-medical damages in any COVID-19 related civil personal injury and wrongful death lawsuits.
4. The State of Maryland should consider taking action to empower the Maryland Insurance Commissioner to better assist insureds in making certain that insurance companies do not act in bad faith in denying coverage on claims, especially the defense of claims that arise due to COVID-19, including increased penalties for insurers acting in bad faith.
5. The State of Maryland should consider temporarily modifying state procurement processes to account for future risks as it relates to lump sum bidding. This will afford the State and Contractors bid certainty, reduction in future claims and allow the State to get more cost-effective pricing.
6. The State of Maryland should be conservative in the consideration of waivers of MBE requirements due to COVID-19 related changes. If the original MBE is not available, for whatever reason, primes should still seek the services of another comparable MBE.

C. Regulatory Issues

1. Wherever possible, state and local entities should be encouraged to allow documentation and approval processes to be accomplished or submitted electronically.
 - a. Documentation includes, but isn't limited to:
 - i. Permits, government and third-party inspections, plan checks and reviews, proposals submissions.
 - ii. Invoicing, e-ticketing (e.g. truck weight tickets), document signatures, change orders.
2. Where paper copies or wet signatures are required, encourage use of drop boxes or another non-contact means of submission
3. Encourage state and local planning jurisdictions to expand their allowance and use of third-party inspections and plan reviews.
4. As much as possible, state regulations should be aligned with those of neighboring jurisdictions, including Pennsylvania, Delaware, Virginia, West Virginia, and Washington, D.C.

D. Financial & Public Funding Opportunities

1. The State of Maryland should strongly consider a tax-credit, loan, or other financial vehicle to assist industry businesses with the costs of providing PPE and other mandated health services to employees and work sites.
2. The State of Maryland should consider extending employer eligibility for tax credit reimbursements for paid leave expenses beyond those covered under the Families First Coronavirus Response Act.

E. Government/Public Sector Issues

1. Clear, consistent guidance from Maryland Department of Transportation (MDOT) on interstate travel for labor (i.e. employee travel) and materials delivery.
 - a. This guidance should be done in concert with neighboring jurisdictions, including Pennsylvania, Delaware, Virginia, West Virginia, and Washington, D.C.
2. Clear, consistent guidance from the State of Maryland on exactly what industries and sub-industries are essential, and by extension, if construction (and related government functions, such as planning) are essential.
3. Mandate or otherwise encourage local jurisdictions to provide extensions for development deadlines, as the public and private sectors begin to understand the full extent of the economic impact of COVID-19.
 - a. The State of Maryland should evaluate the benefits of an executive order tolling the expiration of plans, permits, and permissions from the beginning of the Governor's State of Emergency.
4. A public commitment from the State of Maryland to continue its own ongoing capital projects.
5. In conjunction with the Maryland Department of Labor, an increased focus on the development of online digital learning and virtual reality training to maximize workforce capacity and replace diminished numbers of potential new employees (e.g. loss of 2020 high school apprenticeship programs).
6. Facilitate the continuation of this Task Force on a bi-weekly or monthly basis for ongoing discussions. Together, along with critical state and local partners, it can provide the opportunity for:
 - a. Firms to share best practices.
 - b. For builders and local agencies to coordinate about evolving guidelines and to allow more predictability while providing better environments for their agents.
 - c. To establish a partnership and ongoing dialogue with Maryland Occupational Safety and Health (MOSH), rather than the guidelines being solely an enforcement tool.