
By: **Senator Pipkin**

Introduced and read first time: February 6, 2004

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 2004

CHAPTER 479

1 AN ACT concerning

2 **Procurement Law and Process - ~~Review and Revision~~ Auction Bids**

3 FOR the purpose of repealing a certain limitation on the amounts and types of
4 contracts for which the use of certain auction bids may be authorized; ~~providing~~
5 ~~that a certain prohibition against an individual submitting a bid or proposal for~~
6 ~~a certain procurement if the individual assisted in the drafting of certain~~
7 ~~documents does not include certain activities; establishing a task force to review~~
8 ~~Maryland's procurement law; establishing the membership, responsibilities, and~~
9 ~~staffing of the task force; requiring the Department of Legislative Services to~~
10 ~~review and report on the impact of certain changes to the auction bid process on~~
11 ~~or before a certain date; providing for the termination of certain provisions of~~
12 ~~this Act; providing for the effective date of certain provisions of this Act; and~~
13 ~~generally relating to the review and revision of the procurement process~~ auction
14 bids under the State procurement law.

15 BY repealing and reenacting, with amendments,
16 Article - State Finance and Procurement
17 Section 13-111(a)
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2003 Supplement)

20 ~~BY repealing and reenacting, with amendments,~~
21 ~~Article - State Government~~
22 ~~Section 15-508~~
23 ~~Annotated Code of Maryland~~
24 ~~(1999 Replacement Volume and 2003 Supplement)~~

1 ~~BY repealing and reenacting, with amendments,~~
2 ~~Article - State Government~~
3 ~~Section 15-508~~
4 ~~Annotated Code of Maryland~~
5 ~~(1999 Replacement Volume and 2003 Supplement)~~
6 ~~(As enacted by Chapter 482 of the Acts of the General Assembly of 2002)~~

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - State Finance and Procurement**

10 13-111.

11 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
12 SUBSECTION, THIS section applies to the procurement of SERVICES, EQUIPMENT, AND
13 supplies[, with an estimated contract value of \$1,000,000 or more,] by a primary
14 procurement unit.

15 (2) THIS SECTION DOES NOT APPLY TO CONSTRUCTION CONTRACTS OR
16 THE PROCUREMENT OF INFORMATION TECHNOLOGY SERVICES.

17 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
18 ~~read as follows:~~

19 ~~**Article - State Government**~~

20 ~~15-508.~~

21 (a) ~~An individual or a person that employs an individual who assists an~~
22 ~~executive unit in the drafting of specifications, an invitation for bids, a request for~~
23 ~~proposals for a procurement, or the selection or award made in response to an~~
24 ~~invitation for bids or request for proposals may not:~~

25 (1) ~~submit a bid or proposal for that procurement; or~~

26 (2) ~~assist or represent another person, directly or indirectly, who is~~
27 ~~submitting a bid or proposal for that procurement.~~

28 (b) ~~For purposes of subsection (a) of this section, assisting in the drafting of~~
29 ~~specifications, an invitation for bids, or a request for proposals for a procurement does~~
30 ~~not include:~~

31 (1) ~~providing descriptive literature such as catalogue sheets, brochures,~~
32 ~~technical data sheets, or standard specification "samples", whether requested by an~~
33 ~~executive agency or provided on an unsolicited basis;~~

34 (2) ~~submitting written comments on a specification prepared by an~~
35 ~~agency or on a solicitation for a bid or proposal when comments are solicited from two~~

1 or more persons as part of a request for information or a prebid or preproposal
2 process;

3 (3) providing specifications for a sole source procurement made in
4 accordance with § 13-107 of the State Finance and Procurement Article;

5 (4) providing architectural and engineering services for programming,
6 master planning, or other project planning services; [or]

7 (5) providing specifications for an unsolicited proposal procurement
8 made in accordance with § 13-107.1 of the State Finance and Procurement Article;

9 (6) ~~PROVIDING AN EXECUTIVE UNIT WITH INFORMATION RELATING TO~~
10 ~~COMMERCIAL PRODUCTS AND BEST INDUSTRY PRACTICES, INCLUDING NEW~~
11 ~~CAPABILITIES, TECHNIQUES, OR INNOVATIONS; OR~~

12 (7) ~~PROVIDING AN ANALYSIS OF STATE ACTIVITIES FREE OF CHARGE.~~

13 ~~SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~
14 ~~read as follows:~~

15 **~~Article – State Government~~**

16 ~~15-508.~~

17 (a) ~~An individual or a person that employs an individual who assists an~~
18 ~~executive unit in the drafting of specifications, an invitation for bids, a request for~~
19 ~~proposals for a procurement, or the selection or award made in response to an~~
20 ~~invitation for bids or request for proposals may not:~~

21 (1) ~~submit a bid or proposal for that procurement; or~~

22 (2) ~~assist or represent another person, directly or indirectly, who is~~
23 ~~submitting a bid or proposal for that procurement.~~

24 (b) ~~For purposes of subsection (a) of this section, assisting in the drafting of~~
25 ~~specifications, an invitation for bids, or a request for proposals for a procurement does~~
26 ~~not include:~~

27 (1) ~~providing descriptive literature such as catalogue sheets, brochures,~~
28 ~~technical data sheets, or standard specification "samples", whether requested by an~~
29 ~~executive agency or provided on an unsolicited basis;~~

30 (2) ~~submitting written comments on a specification prepared by an~~
31 ~~agency or on a solicitation for a bid or proposal when comments are solicited from two~~
32 ~~or more persons as part of a request for information or a prebid or preproposal~~
33 ~~process;~~

34 (3) ~~providing specifications for a sole source procurement made in~~
35 ~~accordance with § 13-107 of the State Finance and Procurement Article; [or]~~

1 (4) providing architectural and engineering services for programming,
2 master planning, or other project planning services;

3 (5) ~~PROVIDING AN EXECUTIVE UNIT WITH INFORMATION RELATING TO~~
4 ~~COMMERCIAL PRODUCTS AND BEST INDUSTRY PRACTICES, INCLUDING NEW~~
5 ~~CAPABILITIES, TECHNIQUES, OR INNOVATIONS; OR~~

6 (6) ~~PROVIDING AN ANALYSIS OF STATE ACTIVITIES FREE OF CHARGE.~~

7 ~~SECTION 4. AND BE IT FURTHER ENACTED, That:~~

8 (a) ~~There is a Joint Task Force on Maryland's Procurement Law.~~

9 (b) ~~The Task Force consists of the following members:~~

10 (1) ~~five members of the Senate of Maryland, appointed by the President~~
11 ~~of the Senate; and~~

12 (2) ~~five members of the House of Delegates, appointed by the Speaker of~~
13 ~~the House.~~

14 (c) ~~The President and Speaker shall designate the co chairmen of the Task~~
15 ~~Force.~~

16 (d) ~~The Office of the Attorney General, the Board of Public Works, and the~~
17 ~~Department of Legislative Services shall provide staff for the Task Force.~~

18 (e) ~~A member of the Task Force:~~

19 (1) ~~may not receive compensation; but~~

20 (2) ~~is entitled to reimbursement for expenses under the Standard State~~
21 ~~Travel Regulations, as provided in the State budget.~~

22 (f) ~~The Task Force shall:~~

23 (1) ~~review the organizational structure and substantive provisions of~~
24 ~~Maryland's procurement law, as they have evolved since the law was last~~
25 ~~comprehensively revised;~~

26 (2) ~~review the Model Procurement Code adopted by the American Bar~~
27 ~~Association in 2000 and identify provisions which would improve Maryland's~~
28 ~~procurement law and procurement process;~~

29 (3) ~~identify areas in which Maryland's procurement law could be~~
30 ~~updated, clarified, and reorganized; and~~

31 (4) ~~develop any recommendations and proposed legislation it considers~~
32 ~~appropriate for revising the procurement law.~~

1 (g) The Task Force shall report its findings and recommendations to the
2 Senate Education, Health, and Environmental Affairs Committee and the House
3 Health and Government Operations Committee, in accordance with § 2-1246 of the
4 State Government Article, on or before December 1, 2005.

5 SECTION ~~5~~. 2. AND BE IT FURTHER ENACTED, That the Department of
6 Legislative Services ~~is requested to~~ shall review and evaluate the impact on State
7 expenditures and administrative efficiency of the changes made by this Act to the
8 auction bid process as provided in § 13-111(a) of the State Finance and Procurement
9 Article. The Department shall submit a report to the Senate Education, Health, and
10 Environmental Affairs Committee and the House Health and Government Operations
11 Committee, in accordance with § 2-1246 of the State Government Article, on or before
12 January 1, 2007.

13 SECTION ~~6~~. 3. AND BE IT FURTHER ENACTED, That ~~Section 1~~ of this Act
14 shall take effect October 1, 2004. It shall remain effective for a period of 3 years and,
15 at the end of September 30, 2007, with no further action required by the General
16 Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

17 SECTION ~~7~~. AND BE IT FURTHER ENACTED, That ~~Section 3~~ of this Act shall
18 ~~take effect on the taking effect of the termination provision specified in Section 4 of~~
19 ~~Chapter 482 of the Acts of the General Assembly of 2002. If that termination provision~~
20 ~~takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.~~
21 ~~This Act may not be interpreted to have any effect on that termination provision.~~

22 SECTION ~~8~~. AND BE IT FURTHER ENACTED, That ~~Section 4~~ of this Act shall
23 ~~take effect July 1, 2004. It shall remain effective for a period of 1 year and 6 months~~
24 ~~and, at the end of December 31, 2005, with no further action required by the General~~
25 ~~Assembly, Section 4 of this Act shall be abrogated and of no further force and effect.~~

26 SECTION ~~9~~. AND BE IT FURTHER ENACTED, That, ~~subject to the provisions~~
27 ~~of Sections 7 and 8 of this Act, this Act shall take effect October 1, 2004.~~