

Chapter 604

(House Bill 629)

AN ACT concerning

Environmentally Preferable Procurement – Maryland Green Purchasing Committee

FOR the purpose of altering the membership of the Maryland Green Purchasing Committee; requiring the Committee to develop and publish specifications for adoption by State units that will enable implementation of environmentally preferable purchasing; requiring State units to adopt certain environmentally preferable purchasing specifications; altering the requirement for the reporting of recycled content materials by State units; defining a certain term; altering a certain definition; making technical changes; repealing obsolete provisions; and generally relating to the procurement and use of environmentally preferable products and practices.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 14–405 and 14–410
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

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

Article – State Finance and Procurement

14–405.

(a) (1) In this section the following words have the meanings indicated.

(2) [“Percentage price preference” means the percent by which a responsive bid from a responsible bidder whose product contains recycled materials may exceed the lowest responsive bid submitted by a responsible bidder whose products do not contain recycled materials.

(3) (i) “Recycled materials” means material recovered from or otherwise destined for the waste stream.

(ii) “Recycled materials” includes post–consumer material, industrial scrap material, compost, processed and pasteurized chicken litter, and obsolete inventories.

(b) No later than January 1, 1994, the Board shall adopt regulations that require the Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland to establish a percentage price preference, not to exceed 5%, for the purchase of products made from recycled materials.

(c) A percentage price preference under this section may not be used in conjunction with any other percentage price preference established under this title.] **“ENVIRONMENTALLY PREFERABLE PRODUCT OR SERVICE” MEANS A PRODUCT OR SERVICE THAT THROUGHOUT THE FULL LIFE CYCLE OF THE PRODUCT OR SERVICE:**

(I) IS ENERGY EFFICIENT, WATER EFFICIENT, BIOBASED, NONOZONE DEPLETING, MADE WITH RECYCLED CONTENT, OR NONTOXIC; OR

(II) HAS OTHER ATTRIBUTES RECOGNIZED AS ENVIRONMENTALLY PREFERABLE BY THE MARYLAND GREEN PURCHASING COMMITTEE.

[(d)] **(B)** (1) To encourage the maximum purchase of [commodities utilizing recycled materials, the Department of General Services, in consultation with the Department of the Environment, the University of Maryland, the Maryland Environmental Service, the Department of Transportation, the Department of Natural Resources, the Department of Health and Mental Hygiene, and as necessary with representatives of the recycling industry and environmental organizations,] **ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES, THE MARYLAND GREEN PURCHASING COMMITTEE ESTABLISHED UNDER § 14-410 OF THIS SUBTITLE** shall establish [a list of acceptable products which contain recycled materials] **ENVIRONMENTALLY PREFERABLE SPECIFICATIONS TO BE ADOPTED BY STATE AGENCIES.**

(2) [The list] **THE ENVIRONMENTALLY PREFERABLE SPECIFICATIONS** shall be published **AND MAINTAINED ONLINE BY THE MARYLAND GREEN PURCHASING COMMITTEE** for use by State agencies [at least twice each year].

[(e)] **(C)** Each State unit shall review annually the procurement specifications currently used by the unit and, to the extent practicable:

(1) [require the use of a percentage price preference in their purchase of supplies and commodities containing recycled materials] **ADOPT THE ENVIRONMENTALLY PREFERABLE SPECIFICATIONS PUBLISHED BY THE MARYLAND GREEN PURCHASING COMMITTEE; and**

(2) revise the unit's procurement specifications in accordance with [the best practices manual and strategy to increase environmentally preferable purchasing under] § 14-410 of this subtitle.

[(f)] (D) On or before September 1 of each year, each State unit shall report to the [Department of the Environment] **DEPARTMENT OF GENERAL SERVICES** on the unit's procurement of [recycled materials] **ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES AS A PERCENTAGE OF THE UNIT'S GROSS PURCHASES** during the preceding fiscal year, including the types and quantities of [materials] **PRODUCTS AND SERVICES** procured [and the percentage of recycled materials in the unit's gross purchases].

[(g)] (E) (1) Except as provided in paragraph (2) of this subsection, this section is broadly applicable to all procurements by the State if the quality of the product **OR SERVICE** is consistent with the requirements of the bid specifications.

(2) Only to the extent necessary to prevent the denial of federal moneys or eliminate the inconsistency with federal law, this section does not apply to a procurement by the State if the procurement officer determines that compliance with this section would:

- (i) cause denial of federal moneys; or
- (ii) be inconsistent with the requirements of federal law.

14-410.

(a) (1) In this section the following words have the meanings indicated.

(2) "Committee" means the Maryland Green Purchasing Committee.

(3) "Environmentally preferable purchasing" means the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or services that serve the same purpose, based on:

(I) THE FULL LIFE CYCLE OF THE PRODUCT OR SERVICE;

(II) RELEVANT INTERNATIONAL CONSENSUS STANDARDS;

AND

(III) RELEVANT FACTORS INCLUDING the raw materials, manufacturing, packaging, distribution, use, reuse, operation, maintenance,

RECYCLING, ENERGY RECOVERY, CLIMATE CHANGE, FOSSIL FUEL, OZONE DEPLETION, and disposal of the goods or services.

- (b) (1) There is a Maryland Green Purchasing Committee.
- (2) The Committee [consists] **SHALL CONSIST** of the following members:
- (i) the Secretary of General Services, or the Secretary's designee;
 - (ii) the Secretary of Budget and Management, or the Secretary's designee;
 - (iii) the Secretary of Natural Resources, or the Secretary's designee;
 - (iv) the Secretary of the Environment, or the Secretary's designee;
 - (v) the Secretary of Health and Mental Hygiene, or the Secretary's designee;
 - (vi) the Secretary of Business and Economic Development, or the Secretary's designee;
 - (vii) the Secretary of Transportation, or the Secretary's designee;
 - (viii) the Secretary of Public Safety and Correctional Services, or the Secretary's designee; [and]
 - (ix) the Chancellor of the University System of Maryland, or the Chancellor's designee;
- (X) THE SECRETARY OF INFORMATION TECHNOLOGY, OR THE SECRETARY'S DESIGNEE;**
- (XI) THE SECRETARY OF EDUCATION, OR THE SECRETARY'S DESIGNEE; AND**
- (XII) THE STATE TREASURER, OR THE TREASURER'S DESIGNEE.**
- (3) The Secretary of General Services, or the Secretary's designee, shall serve as the Chair of the Committee.

(4) STAFF SUPPORT TO THE COMMITTEE SHALL BE PROVIDED BY THE DEPARTMENT OF GENERAL SERVICES, WITH ASSISTANCE AS NECESSARY TO BE FURNISHED BY OTHER MEMBER AGENCIES.

(c) The Committee shall provide the State with information and assistance regarding environmentally preferable purchasing, including:

(1) the promotion of environmentally preferable purchasing **THROUGH EDUCATION AND TRAINING;**

(2) the development and implementation of [a strategy to increase environmentally preferable purchasing that may include the development of] statewide policies, guidelines, programs, **BEST PRACTICES**, and regulations;

(3) coordination with other State or federal agencies, task forces, workgroups, regulatory efforts, research and data collection efforts, or other programs and services relating to environmentally preferable purchasing; ~~and~~

(4) [the development of an environmentally preferable purchasing best practices manual that may be adopted from other governmental or nongovernmental institutions.] **THE PUBLICATION OF ENVIRONMENTALLY PREFERABLE SPECIFICATIONS TO BE ADOPTED BY STATE AGENCIES; AND**

(5) THE FRAMEWORK AND FORMAT FOR STATE UNIT REPORTS REQUIRED UNDER § 14-405 OF THIS SUBTITLE.

(d) [In developing the best practices manual and strategy to increase environmentally preferable purchasing under subsection (c) of this section, the Committee shall consider:

(1) greater use and procurement of meters used to measure electricity consumption that are:

(i) capable of measuring the flow of electricity in two directions;
and

(ii) compatible with advanced metering infrastructure;

(2) achievement of greater energy efficiency through implementation of policies that reduce operating times for heating, ventilation, and air-conditioning systems in State-owned or State-operated buildings;

(3) increasing the energy efficiency of new and existing computer servers and data storage center operations; and

(4) procurement of food and beverage containers and utensils that are made of biodegradable materials or plant-based plastics or recyclable products that may contain post consumer recycled contents.

(e) The Committee shall designate a single point of contact for State agencies, suppliers, and other interested parties to contact regarding environmentally preferable purchasing issues.

[(f)] (E) On or before October 1 of each year, the Committee shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the Committee's activities and the progress made as a result of the implementation of this section.

[(g)] (F) This section may not be construed to:

(1) limit or supersede recycled content requirements under any other provision of law; or

(2) require the acquisition of goods or services that:

(i) do not perform adequately for the intended use;

(ii) exclude adequate competition; or

(iii) are not available at a reasonable price in a reasonable period of time.

[(h)] (G) A bidder or offeror for a procurement contract [with the Department of General Services] shall certify in writing that any claims of environmental attributes made relating to a product or service are consistent with the Federal Trade Commission's Guidelines for the Use of Environmental Marketing Terms.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.

Approved by the Governor, May 15, 2014.