HOUSE BILL 1326

P2 4lr3000
CF SB 754

By: **Delegates Reznik, Bromwell, Cardin, Carr, Costa, Cullison, Kaiser, A. Kelly, Kramer, Luedtke, Morhaim, Nathan–Pulliam, Oaks, Pena–Melnyk, Rosenberg, Simmons, Stein, Tarrant, and Zucker**
Introduced and read first time: February 7, 2014
Assigned to: Ways and Means and Environmental Matters

A BILL ENTITLED

AN ACT concerning

Public–Private Partnerships – Disclosure of Involvement in Deportations – Requirement

FOR the purpose of prohibiting, under certain circumstances, a private entity from being qualified as a bidder for public–private partnerships; requiring an entity to certify to the reporting agency whether the entity had direct involvement in the deportation of certain victims; requiring an entity, under certain circumstances, to certify and disclose to the reporting agency certain information regarding the entity's direct involvement in the deportation of certain victims; authorizing an entity, under certain circumstances, to provide any mitigating circumstances in certain forms in the certification; providing for the construction of certain provisions of this Act; defining certain terms; and generally relating to the disclosure of involvement in deportations by entities that seek to be qualified as bidders for public–private partnerships.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 10A–202(b)(1)
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY adding to
Article – State Finance and Procurement
Section 10A–202.1
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:

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

Article – State Finance and Procurement

10A–202.

(b) (1) **(I)** [A] **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A** private entity may be qualified as a bidder through a request for qualifications.

(II) A PRIVATE ENTITY MAY NOT BE QUALIFIED AS A BIDDER IF THE PRIVATE ENTITY:

1. IS REQUIRED TO MAKE A CERTIFICATION UNDER § 10A–202.1 OF THIS SUBTITLE; AND

2. FAILS TO MAKE THE CERTIFICATION.

10A–202.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "DIRECT INVOLVEMENT" MEANS OWNERSHIP OR OPERATION OF THE TRAINS ON WHICH INDIVIDUALS WERE TRANSPORTED TO EXTERMINATION CAMPS, DEATH CAMPS, OR ANY FACILITY USED TO TRANSITION INDIVIDUALS TO EXTERMINATION CAMPS OR DEATH CAMPS DURING THE PERIOD BEGINNING ON SEPTEMBER 1, 1939, AND ENDING ON SEPTEMBER 2, 1945.

(3) "ENTITY" MEANS:

(I) A CORPORATION, AN AFFILIATE, OR ANY OTHER SIMILAR ORGANIZATION OR A SUCCESSOR IN INTEREST OF THE CORPORATION, AFFILIATE, OR SIMILAR ORGANIZATION THAT CONTROLS, OR IS CONTROLLED OR OWNED OR PARTIALLY OWNED BY OR UNDER COMMON CONTROL WITH, A CORPORATION THAT HAD DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS; OR

(II) A MEMBER OF A PARTNERSHIP OR A CONSORTIUM THAT INCLUDES AN ENTITY THAT CERTIFIES THAT IT HAD DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS.

(4) (I) "PROPERTY" MEANS ANY PERSONAL BELONGINGS OWNED OR CONTROLLED BY VICTIMS.

(II) "PROPERTY" INCLUDES:

1. JEWELRY;

2. BOOKS;

3. ARTIFACTS;

4. PRECIOUS METALS; AND

5. CURRENCY.

(5) (I) "RECORDS" MEANS MATERIAL RELATING TO THE DEPORTATION OF VICTIMS.

(II) "RECORDS" INCLUDES:

1. DOCUMENTS;

2. CORRESPONDENCE;

3. MEMORANDA;

4. RECEIPTS;

5. INVOICES;

6. PRESENTATIONS;

7. AUDITS; AND

8. ANY OTHER MATERIALS RELATED TO ITEMS 1 THROUGH 7 OF THIS SUBPARAGRAPH.

(6) (I) "REPARATIONS" INCLUDES ANY RESTITUTION OR SETTLEMENT PAID BY AN ENTITY TO ALL IDENTIFIABLE VICTIMS IN CONNECTION WITH THE ENTITY'S DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS.

(II) "REPARATIONS" DOES NOT INCLUDE ANY OTHER RESTITUTION OR SETTLEMENT PAID BY THE ENTITY OR ANY AFFILIATED PARTY

OR FOREIGN GOVERNMENT UNRELATED TO THE ENTITY'S DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS.

(7) "VICTIM" MEANS AN INDIVIDUAL WHO WAS ON AN ENTITY'S TRAIN FOR THE PURPOSE OF BEING TRANSPORTED TO AN EXTERMINATION CAMP, A DEATH CAMP, OR A FACILITY USED TO TRANSITION INDIVIDUALS TO EXTERMINATION CAMPS OR DEATH CAMPS DURING THE PERIOD BEGINNING ON SEPTEMBER 1, 1939, AND ENDING ON SEPTEMBER 2, 1945.

(B) THIS SECTION MAY NOT BE CONSTRUED TO AFFECT ANY OTHER STATE LAW REQUIRING THE DISCLOSURE OF INFORMATION REGARDING AN ENTITY'S INVOLVEMENT IN THE DEPORTATION OF VICTIMS.

(C) BEFORE AN ENTITY ATTEMPTS TO BE QUALIFIED AS A BIDDER THROUGH A REQUEST FOR QUALIFICATIONS, THE ENTITY SHALL CERTIFY TO THE REPORTING AGENCY WHETHER THE ENTITY HAD ANY DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS.

(D) IF AN ENTITY CERTIFIES THAT THE ENTITY HAD DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS, THE ENTITY SHALL CERTIFY AND DISCLOSE TO THE REPORTING AGENCY THE FOLLOWING INFORMATION:

(1) WHETHER THE ENTITY HAS ANY RECORDS RELATED TO THE DEPORTATIONS IN ITS POSSESSION, CUSTODY, OR CONTROL;

(2) IF THE ENTITY HAS RECORDS RELATED TO THE DEPORTATIONS, A DETAILED DESCRIPTION OF THE FULL CONTENTS OF THE RECORDS AND THE SPECIFIC LOCATIONS WHERE THE RECORDS ARE MAINTAINED;

(3) WHETHER THE ENTITY HAS PROVIDED RESTITUTION AND REPARATIONS TO ALL IDENTIFIABLE VICTIMS OF THE DEPORTATIONS OR TO THEIR FAMILIES; AND

(4) IF THE ENTITY HAS NOT PROVIDED RESTITUTION AND REPARATIONS TO ALL IDENTIFIABLE VICTIMS OF THE DEPORTATIONS OR TO THEIR FAMILIES, WHETHER THE ENTITY HAS OTHERWISE REACHED A SETTLEMENT AGREEMENT WITH ALL IDENTIFIABLE VICTIMS OR THEIR FAMILIES.

(E) IF AN ENTITY CERTIFIES THAT IT HAD DIRECT INVOLVEMENT IN THE DEPORTATION OF VICTIMS, THE ENTITY MAY PROVIDE ANY MITIGATING

CIRCUMSTANCES IN NARRATIVE AND DOCUMENTARY FORM IN THE CERTIFICATION.

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