

Chapter 403

(House Bill 158)

AN ACT concerning

State Personnel and Procurement – Service Contracts – Reporting and Audit Requirements

FOR the purpose of ~~altering the definition of “service contract”, for purposes of provisions of law governing procurement contracts for certain services, to include services provided within a State-owned facility; requiring that certain units submit a certain demonstration to a certain exclusive representative under certain circumstances; requiring that certain units meet with a certain exclusive representative to discuss certain alternatives under certain circumstances; requiring that certain service contracts be subject to an a legislative audit to determine compliance with certain requirements; requiring that certain audits be completed before the expiration of an initial term of certain service contracts;~~ requiring that a certain audit finding be made available to the public; requiring a unit in the Executive Branch of State government that has an independent personnel system to adopt certain rules and regulations; and generally relating to service contracts, reporting requirements, and audits of service contracts.

BY repealing and reenacting, with amendments,Article – State Finance and ProcurementSection 13–218.1(b)(1)Annotated Code of Maryland(2009 Replacement Volume and 2014 Supplement)BY repealing and reenacting, ~~with~~ without amendments,

Article – State Personnel and Pensions

Section 13–401 ~~and 13–405~~

Annotated Code of Maryland

(2009 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, with amendments,Article – State Personnel and PensionsSection 13–405Annotated Code of Maryland(2009 Replacement Volume and 2014 Supplement)

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

Article – State Finance and Procurement13–218.1.

(b) (1) At least 60 days before the issuance of a solicitation for a service contract that is not exempt under § 13–403(c) or § 13–404(b) of the State Personnel and Pensions Article, the unit shall provide the exclusive representative of the employees who may be affected by the service contract with:

(I) written notice of:

[(i)] 1. work that is being proposed for contracting; and

[(ii)] 2. contracting procedures, requirements, timetables, and employee rights as provided in Title 13, Subtitle 4 of the State Personnel and Pensions Article; AND

(II) A REASONABLE OPPORTUNITY TO MEET AND DISCUSS ALTERNATIVES TO THE PROPOSED SERVICE CONTRACT.

Article – State Personnel and Pensions

13–401.

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

(b) “Service contract” means a procurement contract for services that:

(1) will be provided to a unit in the Executive Branch of State government;

(2) will be performed within a ~~STATE-OWNED OR~~ State-operated facility;

and

(3) in the estimation of the procurement officer, will exceed an annual cost of \$100,000.

(c) “Services” has the meaning stated in § 11–101 of the State Finance and Procurement Article.

(d) “Unit” has the meaning stated in § 11–101 of the State Finance and Procurement Article.

13–405.

(a) A unit that seeks to enter into a service contract that is not exempt under § 13–403(c) or § 13–404(b) of this subtitle shall submit to the Department the information required by this section.

(b) ~~{The} AT LEAST 60 DAYS BEFORE MAKING THE SUBMISSION UNDER SUBSECTION (A) OF THIS SECTION, THE~~ unit shall:

~~(1) submit a demonstration TO THE EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES AFFECTED BY THE SERVICE CONTRACT that the unit has taken formal and positive steps to consider alternatives to the service contract, including reorganization, reevaluation of service, and reevaluation of performance; AND~~

~~(2) PROVIDE THE EXCLUSIVE REPRESENTATIVE WITH A REASONABLE OPPORTUNITY TO MEET AND DISCUSS ALTERNATIVES TO THE PROPOSED SERVICE CONTRACT.~~

(c) (1) The unit shall submit calculations that:

(i) compare the cost of the service contract with the cost of using State employees; and

(ii) show savings to this State, over the duration of the service contract, of 20% of the contract or \$200,000, whichever is less.

(2) In calculating the cost comparison required by this subsection, a unit shall include:

(i) direct costs, including fringe benefits;

(ii) indirect overhead costs, including the proportional share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials, but only to the extent that those costs are attributed solely to the service in question and would not exist if the service were not performed by State employees;

(iii) any continuing or transitional costs that would be directly associated with contracting for the services, including unemployment compensation and the cost of transitional services; and

(iv) additional costs of performance of the services by State employees, including salaries and benefits of additional staff and the cost of additional space, equipment, and materials needed to perform the services.

(d) (1) The unit shall submit a formal plan of assistance for all State employees who will be adversely affected by the service contract.

(2) The plan of assistance shall include:

(i) efforts to place affected employees in vacant positions in the unit or in another unit;

(ii) provisions in the service contract, if feasible, for the hiring by the contractor of displaced employees; and

(iii) prior notification to affected employees in accordance with § 13-218.1 of the State Finance and Procurement Article.

(E) (1) ~~(H)~~ A SERVICE CONTRACT THAT IS NOT EXEMPT UNDER § 13-403(C) OR § 13-404(B) OF THIS SUBTITLE SHALL BE SUBJECT TO ~~AN A~~ LEGISLATIVE AUDIT ~~OF BOOKS, ACCOUNTS, OR RECORDS~~ TO DETERMINE COMPLIANCE WITH PROJECTED COST SAVINGS UNDER SUBSECTION (C) OF THIS SECTION.

~~(H) THE LEGISLATIVE AUDIT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE COMPLETED PRIOR TO THE EXPIRATION OF THE INITIAL TERM OF THE SERVICE CONTRACT.~~

(2) AUDIT FINDINGS FROM AN AUDIT CONDUCTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE MADE AVAILABLE TO THE PUBLIC.

SECTION 2. AND BE IT FURTHER ENACTED, That any unit in the Executive Branch of State government with an independent personnel system shall adopt rules or regulations similar to the provisions of Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.

Approved by the Governor, May 12, 2015.