

Article - State Finance and Procurement

§11–203. IN EFFECT

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(i) the Blind Industries and Services of Maryland;

(ii) the Maryland State Arts Council, for the support of the arts;

(iii) the Maryland Health and Higher Educational Facilities Authority, if no State money is to be spent on a procurement contract;

(iv) the Maryland Industrial Training Program or the Partnership for Workforce Quality Program in the Department of Economic Competitiveness and Commerce, for training services or programs for new or expanding businesses or industries or businesses or industries in transition;

(v) the Maryland Food Center Authority, to the extent the Authority is exempt under Title 10, Subtitle 2 of the Economic Development Article;

(vi) the Maryland Public Broadcasting Commission:

1. for services of artists for educational and cultural television productions;

2. when planning for or fulfilling the obligations of grants or cooperative agreements that support the educational and cultural activities of the Commission; or

3. for procurement contracts needed to implement the repacking requirements of the federal Spectrum Act;

(vii) public institutions of higher education, for cultural, entertainment, and intercollegiate athletic procurement contracts;

(viii) the Maryland State Planning Council on Developmental Disabilities, for services to support demonstration, pilot, and training programs;

(ix) the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

(x) the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

(xi) the Department of Economic Competitiveness and Commerce, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Commerce or the Secretary's designee;

(xii) the Rural Maryland Council;

(xiii) the Maryland State Lottery and Gaming Control Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

(xiv) the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

(xv) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

(xvi) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

(xvii) the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and
2. is listed in or eligible for listing in the National Register of Historic Places; and

(xviii) the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

- (2) procurement by a unit from:
 - (i) another unit;
 - (ii) a political subdivision of the State;
 - (iii) an agency of a political subdivision of the State;
 - (iv) a government, including the government of another state, of the United States, or of another country;
 - (v) an agency or political subdivision of a government; or
 - (vi) a bistate, multistate, bicounty, or multicounty governmental agency; or
- (3) procurement in support of enterprise activities for the purpose of:
 - (i) direct resale; or
 - (ii) remanufacture and subsequent resale.

(b) (1) The following provisions of this Division II apply to each procurement enumerated in subsection (a) of this section:

- (i) § 11–205 of this subtitle (“Collusion”);
- (ii) § 10–204 of this article (“Approval for designated contracts”);
- (iii) Title 12, Subtitle 2 of this article (“Supervision of Capital Expenditures and Real Property Leases”);
- (iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
- (v) § 13–221 of this article (“Disclosures to Secretary of State”);
- (vi) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);

(vii) Title 16 of this article (“Suspension and Debarment of Contractors”); and

(viii) Title 17 of this article (“Special Provisions – State and Local Subdivisions”).

(2) Except for procurement under subsection (a)(1)(i) and (xi) and (2)(i) and (vi) of this section, the provisions of Title 14, Subtitle 3 of this article (“Minority Business Participation”) shall apply to each procurement enumerated in subsection (a) of this section.

(3) A procurement by an entity listed in subsection (a)(1)(i) through (xiii) and (xvii) of this section shall be made under procedures that promote the purposes stated in § 11–201(a) of this subtitle.

(4) (i) A unit that procures human, social, or educational services from an entity enumerated in subsection (a)(2) of this section shall publish in eMaryland Marketplace notice of a procurement contract or an extension or renewal of a procurement contract if:

1. the procurement contract, extension, or renewal costs more than \$25,000; and

2. the procurement is made for 3rd party clients described in § 13–106 of this article.

(ii) The notice required under this paragraph shall be published not more than 30 days after the execution and approval of the procurement contract or the extension or renewal of the procurement contract.

(5) The purchase of advisory services from the General Selection Board or the Transportation Selection Board under § 13–305 of this article shall be governed by the Maryland Architectural and Engineering Services Act.

(c) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the Maryland Stadium Authority.

(d) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the Board of Trustees of the State Retirement and Pension System for:

(1) services of managers to invest the assets of the State Retirement and Pension System, including real and personal property;

(2) expenditures to manage, maintain, and enhance the value of the assets of the State Retirement and Pension System in accordance with investment guidelines adopted by the Board of Trustees;

(3) services related to the administration of the optional retirement program under Title 30 of the State Personnel and Pensions Article; and

(4) services related to the administration of the Postretirement Health Benefits Trust Fund.

(e) (1) In this subsection, “University” means the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(2) Except as otherwise provided in this subsection, this Division II does not apply to the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(3) (i) A procurement by a University shall comply with the policies and procedures developed by the University and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with § 12–112 of the Education Article for the University System of Maryland, § 14–109 of the Education Article for Morgan State University, or § 14–405(f) of the Education Article for St. Mary’s College of Maryland.

(ii) 1. The review and approval of the Board of Public Works shall be required for the following types of contracts with a value that exceeds \$1,000,000:

A. capital improvements;

B. services; and

C. dispositions of personal property subject to § 10–305 of this article, except for dispositions of personal property that was purchased with the proceeds of a general obligation loan.

2. In its review of a contract for services or capital improvements with a value that exceeds \$1,000,000, the Board of Public Works may request the comments of the appropriate agencies, including the Department of Budget and Management and the Department of General Services.

(4) A University’s policies shall:

(i) to the maximum extent practicable, require the purchasing of supplies and services in accordance with Title 14, Subtitle 1 of this article; and

(ii) promote the purposes of the regulations adopted by the Department of General Services governing the procurement of architectural and engineering services.

(5) (i) Except as provided in paragraph (7) of this subsection, the following provisions of Division II of this article apply to a University:

1. § 11–205 of this subtitle (“Collusion”);
2. § 11–205.1 of this subtitle (“Falsification, concealment, etc., of material facts”);
3. § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
4. § 13–225 of this article (“Retainage”);
5. Title 14, Subtitle 3 of this article (“Minority Business Participation”);
6. Title 15, Subtitle 1 of this article (“Procurement Contract Administration”);
7. § 15–226 of this article (“Policy established; timing of payments; notice upon nonpayment; disputes; appeals”); and
8. Title 16 of this article (“Suspension and Debarment of Contractors”).

(ii) If a procurement violates the provisions of this subsection or policies adopted in accordance with this subsection, the procurement contract is void or voidable in accordance with the provisions of § 11–204 of this subtitle.

(6) (i) The State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by:

1. the University System of Maryland before July 1, 1999; and
2. Morgan State University before July 1, 2004.

(ii) At the election of the Board of Regents of the University System of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 1999.

(iii) At the election of the Board of Regents of Morgan State University and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 2004.

(iv) At the election of the Board of Trustees of St. Mary’s College of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by St. Mary’s College of Maryland after June 30, 2006.

(7) Paragraphs (3), (4), and (5) of this subsection do not apply to:

(i) procurement by a University from:

1. another unit;
2. a political subdivision of the State;
3. an agency of a political subdivision of the State;
4. a government, including the government of another state, of the United States, or of another country;
5. an agency or political subdivision of a government; or
6. a bistate, multistate, bicounty, or multicounty governmental agency;

(ii) procurement by a University in support of enterprise activities for the purpose of:

1. direct resale;
2. remanufacture and subsequent resale; or
3. procurement by the University for overseas programs; or

(iii) procurement by the University System of Maryland for:

1. services of managers to invest, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article; or
2. expenditures to manage, maintain, and enhance, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, the value of gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article.

(f) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the College Savings Plans of Maryland for:

(1) services of managers to invest the assets of the Maryland Prepaid College Trust in accordance with the comprehensive investment plan adopted by the College Savings Plans of Maryland Board under § 18–1906 of the Education Article; and

(2) expenditures to manage, maintain, and enhance the value of the

assets of the Maryland Prepaid College Trust in accordance with the comprehensive investment plan adopted by the College Savings Plans of Maryland Board under § 18–1906 of the Education Article.

(g) This Division II does not apply to a contract or grant awarded by a unit of State government to the Chesapeake Bay Trust for a project involving the restoration or protection of the Chesapeake Bay and other aquatic and land resources of the State.

(h) (1) Except as provided in paragraph (2) of this subsection, this division does not apply to a public–private partnership under Title 10A of this article.

(2) To the extent otherwise required by law, the following provisions of this division apply to a public–private partnership under Title 10A of this article:

- (i) § 11–205 of this subtitle (“Collusion”);
- (ii) § 11–205.1 of this subtitle (“Falsification, concealment, etc. of material facts”);
- (iii) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);
- (iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
- (v) Title 17, Subtitle 1 of this article (“Security for Construction Contracts”);
- (vi) Title 17, Subtitle 2 of this article (“Prevailing Wage Rates – Public Work Contracts”); and
- (vii) Title 18 of this article (“Living Wage”).

11–203. // EFFECTIVE JULY 1, 2017 PER CHAPTERS 200 AND 201 OF 2013 //

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

- (1) procurement by:
 - (i) the Blind Industries and Services of Maryland;
 - (ii) the Maryland State Arts Council, for the support of the arts;
 - (iii) the Maryland Health and Higher Educational Facilities Authority, if no State money is to be spent on a procurement contract;
 - (iv) the Maryland Industrial Training Program or the Partnership for Workforce Quality Program in the Department of Economic Competitiveness and

Commerce, for training services or programs for new or expanding businesses or industries or businesses or industries in transition;

(v) the Maryland Food Center Authority, to the extent the Authority is exempt under Title 10, Subtitle 2 of the Economic Development Article;

(vi) the Maryland Public Broadcasting Commission:

1. for services of artists for educational and cultural television productions;

2. when planning for or fulfilling the obligations of grants or cooperative agreements that support the educational and cultural activities of the Commission; or

3. for procurement contracts needed to implement the repacking requirements of the federal Spectrum Act;

(vii) public institutions of higher education, for cultural, entertainment, and intercollegiate athletic procurement contracts;

(viii) the Maryland State Planning Council on Developmental Disabilities, for services to support demonstration, pilot, and training programs;

(ix) the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

(x) the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

(xi) the Department of Economic Competitiveness and Commerce, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Commerce or the Secretary's designee;

(xii) the Rural Maryland Council;

(xiii) the Maryland State Lottery and Gaming Control Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

(xiv) the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

(xv) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

(xvi) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

(xvii) the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and

2. is listed in or eligible for listing in the National Register of Historic Places; and

(xviii) the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

(2) procurement by a unit from:

(i) another unit;

(ii) a political subdivision of the State;

(iii) an agency of a political subdivision of the State;

(iv) a government, including the government of another state, of the United States, or of another country;

(v) an agency or political subdivision of a government; or

(vi) a bistate, multistate, bicounty, or multicounty governmental agency; or

(3) procurement in support of enterprise activities for the purpose of:

(i) direct resale; or

(ii) remanufacture and subsequent resale.

(b) (1) The following provisions of this Division II apply to each procurement enumerated in subsection (a) of this section:

(i) § 11–205 of this subtitle (“Collusion”);

(ii) § 10–204 of this article (“Approval for designated contracts”);

(iii) Title 12, Subtitle 2 of this article (“Supervision of Capital Expenditures and Real Property Leases”);

(iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);

(v) § 13–221 of this article (“Disclosures to Secretary of State”);

(vi) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);

(vii) Title 16 of this article (“Suspension and Debarment of Contractors”); and

(viii) Title 17 of this article (“Special Provisions – State and Local Subdivisions”).

(2) A procurement by an entity listed in subsection (a)(1)(i) through (xiii) and (xvii) of this section shall be made under procedures that promote the purposes stated in § 11–201(a) of this subtitle.

(3) (i) A unit that procures human, social, or educational services from an entity enumerated in subsection (a)(2) of this section shall publish in eMaryland Marketplace notice of a procurement contract or an extension or renewal of a procurement contract if:

1. the procurement contract, extension, or renewal costs more than \$25,000; and

2. the procurement is made for 3rd party clients described in § 13–106 of this article.

(ii) The notice required under this paragraph shall be published not more than 30 days after the execution and approval of the procurement contract or the extension or renewal of the procurement contract.

(4) The purchase of advisory services from the General Selection Board or the Transportation Selection Board under § 13–305 of this article shall be governed by the Maryland Architectural and Engineering Services Act.

(c) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the Maryland Stadium Authority.

(d) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the Board of Trustees of the State Retirement and Pension System for:

(1) services of managers to invest the assets of the State Retirement and Pension System, including real and personal property;

(2) expenditures to manage, maintain, and enhance the value of the assets of the State Retirement and Pension System in accordance with investment guidelines adopted by the Board of Trustees;

(3) services related to the administration of the optional retirement program under Title 30 of the State Personnel and Pensions Article; and

(4) services related to the administration of the Postretirement Health Benefits Trust Fund.

(e) (1) In this subsection, “University” means the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(2) Except as otherwise provided in this subsection, this Division II does not apply to the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(3) (i) A procurement by a University shall comply with the policies and procedures developed by the University and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with § 12–112 of the Education Article for the University System of Maryland, § 14–109 of the Education Article for Morgan State University, or § 14–405(f) of the Education Article for St. Mary’s College of Maryland.

(ii) 1. The review and approval of the Board of Public Works shall be required for the following types of contracts with a value that exceeds \$1,000,000:

- A. capital improvements;
- B. services; and
- C. dispositions of personal property subject to § 10–305 of this article, except for dispositions of personal property that was purchased with the proceeds of a general obligation loan.

2. In its review of a contract for services or capital improvements with a value that exceeds \$1,000,000, the Board of Public Works may request the comments of the appropriate agencies, including the Department of Budget and Management and the Department of General Services.

(4) A University's policies shall:

(i) to the maximum extent practicable, require the purchasing of supplies and services in accordance with Title 14, Subtitle 1 of this article; and

(ii) promote the purposes of the regulations adopted by the Department of General Services governing the procurement of architectural and engineering services.

(5) (i) Except as provided in paragraph (7) of this subsection, the following provisions of Division II of this article apply to a University:

- 1. § 11–205 of this subtitle (“Collusion”);
- 2. § 11–205.1 of this subtitle (“Falsification, concealment, etc., of material facts”);
- 3. § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
- 4. § 13–225 of this article (“Retainage”);
- 5. Title 14, Subtitle 3 of this article (“Minority Business Participation”);
- 6. Title 15, Subtitle 1 of this article (“Procurement Contract Administration”);
- 7. § 15–226 of this article (“Policy established; timing of payments; notice upon nonpayment; disputes; appeals”); and
- 8. Title 16 of this article (“Suspension and Debarment of Contractors”).

(ii) If a procurement violates the provisions of this subsection or policies adopted in accordance with this subsection, the procurement contract is void

or voidable in accordance with the provisions of § 11–204 of this subtitle.

(6) (i) The State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by:

1. the University System of Maryland before July 1, 1999; and
2. Morgan State University before July 1, 2004.

(ii) At the election of the Board of Regents of the University System of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 1999.

(iii) At the election of the Board of Regents of Morgan State University and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 2004.

(iv) At the election of the Board of Trustees of St. Mary's College of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by St. Mary's College of Maryland after June 30, 2006.

(7) Paragraphs (3), (4), and (5) of this subsection do not apply to:

(i) procurement by a University from:

1. another unit;
2. a political subdivision of the State;
3. an agency of a political subdivision of the State;
4. a government, including the government of another state, of the United States, or of another country;
5. an agency or political subdivision of a government; or
6. a bistate, multistate, bicounty, or multicounty governmental agency;

(ii) procurement by a University in support of enterprise activities for the purpose of:

1. direct resale;
2. remanufacture and subsequent resale; or

3. procurement by the University for overseas programs; or

(iii) procurement by the University System of Maryland for:

1. services of managers to invest, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article; or

2. expenditures to manage, maintain, and enhance, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, the value of gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article.

(f) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the College Savings Plans of Maryland for:

(1) services of managers to invest the assets of the Maryland Prepaid College Trust in accordance with the comprehensive investment plan adopted by the College Savings Plans of Maryland Board under § 18–1906 of the Education Article; and

(2) expenditures to manage, maintain, and enhance the value of the assets of the Maryland Prepaid College Trust in accordance with the comprehensive investment plan adopted by the College Savings Plans of Maryland Board under § 18–1906 of the Education Article.

(g) This Division II does not apply to a contract or grant awarded by a unit of State government to the Chesapeake Bay Trust for a project involving the restoration or protection of the Chesapeake Bay and other aquatic and land resources of the State.

(h) (1) Except as provided in paragraph (2) of this subsection, this division does not apply to a public–private partnership under Title 10A of this article.

(2) To the extent otherwise required by law, the following provisions of this division apply to a public–private partnership under Title 10A of this article:

(i) § 11–205 of this subtitle (“Collusion”);

(ii) § 11–205.1 of this subtitle (“Falsification, concealment, etc. of material facts”);

(iii) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);

(iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);

(v) Title 17, Subtitle 1 of this article (“Security for Construction Contracts”);

(vi) Title 17, Subtitle 2 of this article (“Prevailing Wage Rates – Public Work Contracts”); and

(vii) Title 18 of this article (“Living Wage”).

11–203. // EFFECTIVE JUNE 30, 2020 PER CHAPTER 296 OF 2015 //

(a) Except as provided in subsection (b) of this section, this Division II does not apply to:

(1) procurement by:

(i) the Blind Industries and Services of Maryland;

(ii) the Maryland State Arts Council, for the support of the arts;

(iii) the Maryland Health and Higher Educational Facilities Authority, if no State money is to be spent on a procurement contract;

(iv) the Maryland Industrial Training Program or the Partnership for Workforce Quality Program in the Department of Economic Competitiveness and Commerce, for training services or programs for new or expanding businesses or industries or businesses or industries in transition;

(v) the Maryland Food Center Authority, to the extent the Authority is exempt under Title 10, Subtitle 2 of the Economic Development Article;

(vi) the Maryland Public Broadcasting Commission:

1. for services of artists for educational and cultural television productions; or

2. when planning for or fulfilling the obligations of grants or cooperative agreements that support the educational and cultural activities of the Commission;

(vii) public institutions of higher education, for cultural, entertainment, and intercollegiate athletic procurement contracts;

(viii) the Maryland State Planning Council on Developmental Disabilities, for services to support demonstration, pilot, and training programs;

(ix) the Maryland Historical Trust for:

1. surveying and evaluating architecturally, archeologically, historically, or culturally significant properties; and

2. other than as to architectural services, preparing historic preservation planning documents and educational material;

(x) the University of Maryland, for University College Overseas Programs, if the University adopts regulations that:

1. establish policies and procedures governing procurement for University College Overseas Programs; and

2. promote the purposes stated in § 11–201(a) of this subtitle;

(xi) the Department of Economic Competitiveness and Commerce, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of Maryland and the tourism industry where there will be a private sector contribution to the project of not less than 50% of the total cost of the project, if the project is reviewed by the Attorney General and approved by the Secretary of Commerce or the Secretary's designee;

(xii) the Rural Maryland Council;

(xiii) the Maryland State Lottery and Gaming Control Agency, for negotiating and entering into private sector cooperative marketing projects that directly enhance promotion of the Maryland State Lottery and its products, if the cooperative marketing project:

1. provides a substantive promotional or marketing value that the lottery determines acceptable in exchange for advertising or other promotional activities provided by the lottery;

2. does not involve the advertising or other promotion of alcohol or tobacco products; and

3. is reviewed by the Attorney General and approved by the Maryland Lottery Director or the Director's designee;

(xiv) the Maryland Health Insurance Plan established under Title 14, Subtitle 5 of the Insurance Article;

(xv) the Maryland Energy Administration, when negotiating or entering into grants or cooperative agreements with private entities to meet federal specifications or solicitation requirements related to energy conservation, energy efficiency, or renewable energy projects that benefit the State;

(xvi) the Maryland Developmental Disabilities Administration of the Department of Health and Mental Hygiene for family and individual support services, and individual family care services, as those terms are defined by the Department of Health and Mental Hygiene in regulation;

(xvii) the Department of General Services for the renovation of a structure that:

1. was built during the 18th or 19th century; and
2. is listed in or eligible for listing in the National Register of Historic Places; and

(xviii) the Department of Natural Resources, for negotiating or entering into grants, agreements, or partnerships with nonprofit entities related to conservation service opportunities;

(2) procurement by a unit from:

- (i) another unit;
- (ii) a political subdivision of the State;
- (iii) an agency of a political subdivision of the State;
- (iv) a government, including the government of another state, of the United States, or of another country;
- (v) an agency or political subdivision of a government; or
- (vi) a bistate, multistate, bicounty, or multicounty governmental agency; or

(3) procurement in support of enterprise activities for the purpose of:

- (i) direct resale; or
- (ii) remanufacture and subsequent resale.

(b) (1) The following provisions of this Division II apply to each procurement enumerated in subsection (a) of this section:

- (i) § 11–205 of this subtitle (“Collusion”);
- (ii) § 10–204 of this article (“Approval for designated contracts”);
- (iii) Title 12, Subtitle 2 of this article (“Supervision of Capital Expenditures and Real Property Leases”);
- (iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
- (v) § 13–221 of this article (“Disclosures to Secretary of State”);

(vi) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);

(vii) Title 16 of this article (“Suspension and Debarment of Contractors”); and

(viii) Title 17 of this article (“Special Provisions – State and Local Subdivisions”).

(2) A procurement by an entity listed in subsection (a)(1)(i) through (xiii) and (xvii) of this section shall be made under procedures that promote the purposes stated in § 11–201(a) of this subtitle.

(3) (i) A unit that procures human, social, or educational services from an entity enumerated in subsection (a)(2) of this section shall publish in eMaryland Marketplace notice of a procurement contract or an extension or renewal of a procurement contract if:

1. the procurement contract, extension, or renewal costs more than \$25,000; and

2. the procurement is made for 3rd party clients described in § 13–106 of this article.

(ii) The notice required under this paragraph shall be published not more than 30 days after the execution and approval of the procurement contract or the extension or renewal of the procurement contract.

(4) The purchase of advisory services from the General Selection Board or the Transportation Selection Board under § 13–305 of this article shall be governed by the Maryland Architectural and Engineering Services Act.

(c) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the Maryland Stadium Authority.

(d) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the Board of Trustees of the State Retirement and Pension System for:

(1) services of managers to invest the assets of the State Retirement and Pension System, including real and personal property;

(2) expenditures to manage, maintain, and enhance the value of the assets of the State Retirement and Pension System in accordance with investment guidelines adopted by the Board of Trustees;

(3) services related to the administration of the optional retirement program under Title 30 of the State Personnel and Pensions Article; and

(4) services related to the administration of the Postretirement Health Benefits Trust Fund.

(e) (1) In this subsection, “University” means the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(2) Except as otherwise provided in this subsection, this Division II does not apply to the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

(3) (i) A procurement by a University shall comply with the policies and procedures developed by the University and approved by the Board of Public Works and the Administrative, Executive, and Legislative Review Committee of the General Assembly in accordance with § 12–112 of the Education Article for the University System of Maryland, § 14–109 of the Education Article for Morgan State University, or § 14–405(f) of the Education Article for St. Mary’s College of Maryland.

(ii) 1. The review and approval of the Board of Public Works shall be required for the following types of contracts with a value that exceeds \$1,000,000:

A. capital improvements;

B. services; and

C. dispositions of personal property subject to § 10–305 of this article, except for dispositions of personal property that was purchased with the proceeds of a general obligation loan.

2. In its review of a contract for services or capital improvements with a value that exceeds \$1,000,000, the Board of Public Works may request the comments of the appropriate agencies, including the Department of Budget and Management and the Department of General Services.

(4) A University’s policies shall:

(i) to the maximum extent practicable, require the purchasing of supplies and services in accordance with Title 14, Subtitle 1 of this article; and

(ii) promote the purposes of the regulations adopted by the Department of General Services governing the procurement of architectural and engineering services.

(5) (i) Except as provided in paragraph (7) of this subsection, the following provisions of Division II of this article apply to a University:

1. § 11–205 of this subtitle (“Collusion”);

2. § 11–205.1 of this subtitle (“Falsification, concealment, etc.,

of material facts”);

3. § 13–219 of this article (“Required clauses – Nondiscrimination clause”);

4. § 13–225 of this article (“Retainage”);

5. Title 14, Subtitle 3 of this article (“Minority Business Participation”);

6. Title 15, Subtitle 1 of this article (“Procurement Contract Administration”);

7. § 15–226 of this article (“Policy established; timing of payments; notice upon nonpayment; disputes; appeals”); and

8. Title 16 of this article (“Suspension and Debarment of Contractors”).

(ii) If a procurement violates the provisions of this subsection or policies adopted in accordance with this subsection, the procurement contract is void or voidable in accordance with the provisions of § 11–204 of this subtitle.

(6) (i) The State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by:

1. the University System of Maryland before July 1, 1999; and
2. Morgan State University before July 1, 2004.

(ii) At the election of the Board of Regents of the University System of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 1999.

(iii) At the election of the Board of Regents of Morgan State University and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by the University after June 30, 2004.

(iv) At the election of the Board of Trustees of St. Mary’s College of Maryland and subject to the approval of the Board of Public Works, the State Board of Contract Appeals shall have authority over contract claims related to procurement contracts awarded by St. Mary’s College of Maryland after June 30, 2006.

(7) Paragraphs (3), (4), and (5) of this subsection do not apply to:

(i) procurement by a University from:

1. another unit;
2. a political subdivision of the State;
3. an agency of a political subdivision of the State;
4. a government, including the government of another state, of the United States, or of another country;
5. an agency or political subdivision of a government; or
6. a bistate, multistate, bicounty, or multicounty governmental agency;

(ii) procurement by a University in support of enterprise activities for the purpose of:

1. direct resale;
2. remanufacture and subsequent resale; or
3. procurement by the University for overseas programs; or

(iii) procurement by the University System of Maryland for:

1. services of managers to invest, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article; or

2. expenditures to manage, maintain, and enhance, in accordance with the management and investment policies adopted by the Board of Regents of the University System of Maryland, the value of gift and endowment assets received by the University System of Maryland in accordance with § 12–104(e) of the Education Article.

(f) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article, this Division II does not apply to the College Savings Plans of Maryland for:

(1) services of managers to invest the assets of the Maryland Prepaid College Trust in accordance with the comprehensive investment plan adopted by the College Savings Plans of Maryland Board under § 18–1906 of the Education Article; and

(2) expenditures to manage, maintain, and enhance the value of the assets of the Maryland Prepaid College Trust in accordance with the comprehensive investment plan adopted by the College Savings Plans of Maryland Board under § 18–1906 of the Education Article.

(g) This Division II does not apply to a contract or grant awarded by a unit of State government to the Chesapeake Bay Trust for a project involving the restoration or protection of the Chesapeake Bay and other aquatic and land resources of the State.

(h) (1) Except as provided in paragraph (2) of this subsection, this division does not apply to a public–private partnership under Title 10A of this article.

(2) To the extent otherwise required by law, the following provisions of this division apply to a public–private partnership under Title 10A of this article:

- (i) § 11–205 of this subtitle (“Collusion”);
- (ii) § 11–205.1 of this subtitle (“Falsification, concealment, etc. of material facts”);
- (iii) Title 12, Subtitle 4 of this article (“Policies and Procedures for Exempt Units”);
- (iv) § 13–219 of this article (“Required clauses – Nondiscrimination clause”);
- (v) Title 17, Subtitle 1 of this article (“Security for Construction Contracts”);
- (vi) Title 17, Subtitle 2 of this article (“Prevailing Wage Rates – Public Work Contracts”); and
- (vii) Title 18 of this article (“Living Wage”).