

Chapter 612

(House Bill 780)

AN ACT concerning

Competitive Sealed Proposals – ~~Private~~ Security Contracts

FOR the purpose of ~~requiring competitive sealed proposals to be used as the~~ providing that competitive sealed proposals is the preferred procurement method for certain private security contracts; and generally relating to competitive sealed proposals and procurement.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–104
Annotated Code of Maryland
(2021 Replacement Volume and 2023 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

13–104.

(a) ~~(1)~~ Competitive sealed proposals is the preferred method for:

(1) human, social, cultural, or educational services; AND

(2) SECURITY SERVICES WITH AN EXPECTED VALUE THAT IS GREATER THAN \$1,000,000.

~~(2) COMPETITIVE SEALED PROPOSALS SHALL BE USED FOR A CONTRACT FOR PRIVATE SECURITY SERVICES WITH AN EXPECTED VALUE THAT IS GREATER THAN \$100,000.~~

(b) (1) Whenever procurement is based on competitive sealed proposals, a procurement officer shall seek proposals by issuing a request for proposals.

(2) A request for proposals shall include a statement of:

(i) the scope of the procurement contract, including the expected degree of minority business enterprise participation, as provided in § 14–303(b) of this article;

(ii) a summary of the factors used to determine the expected degree of minority business enterprise participation for the procurement contract, including subcontracting opportunities identified for the project, any applicable North American Industry Classification System codes linked to the subcontracting opportunities, and the number of certified minority business enterprises in those industries;

(iii) the factors, including price, that will be used in evaluating proposals; and

(iv) the relative importance of each factor.

(c) A unit shall publish a request for proposals in the same manner as required for an invitation for bids.

(d) (1) After receipt of proposals but before the procurement officer awards the procurement contract, a unit may conduct discussions with an offeror to:

(i) obtain the best price for the State; and

(ii) ensure full understanding of:

1. the requirements of the State, as set forth in the request for proposals; and

2. the proposal submitted by the offeror.

(2) If discussions are conducted, the unit:

(i) shall conduct the discussions in accordance with regulations adopted under this Division II;

(ii) shall provide an opportunity to participate to each responsible offeror who submits a proposal that, in the judgment of the procurement officer, is reasonably susceptible of being selected for award;

(iii) shall treat all of those responsible offerors fairly and equally;

(iv) may allow all of those responsible offerors to revise their initial proposals by submitting best and final offers, if discussions indicate that it would be in the best interests of the State to do so;

(v) may conduct more than 1 series of discussions and requests for best and final offers; and

(vi) may not disclose to an offeror any information derived from a proposal or discussions with a competing offeror.

(e) (1) Except as provided in paragraph (2) of this subsection:

(i) a proposal is irrevocable for the period specified in the request for proposals; and

(ii) a best and final offer is irrevocable for the period specified in the request for best and final offers.

(2) A procurement officer may allow an offeror to correct or withdraw a proposal or best and final offer if correction or withdrawal is:

(i) allowed under regulations adopted under this Division II; and

(ii) approved in writing by the Office of the Attorney General.

(f) After obtaining any approval required by law, the procurement officer shall award the procurement contract to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the State considering the evaluation factors set forth in the request for proposals.

(g) A unit shall publish notice of a contract in excess of \$50,000 awarded under this section, or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article in eMaryland Marketplace.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2024~~ July 1, 2025.

Approved by the Governor, May 9, 2024.