
By: Chairman, Economic Matters Committee (Departmental - Dept. Business & Economic Dev.)

Introduced and read first time: February 19, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Emerging Technology-Based Goods and Services - Qualification and Authorized Source**
3 **Selection Based on Economic Development Benefits**

4 FOR the purpose of qualifying suppliers under the Maryland Technology First Program
5 within the Department of Business and Economic Development; permitting State
6 units to select qualified suppliers as sources for procurement contracts; establishing
7 the Maryland Technology First Program and describing its authority and duties; and
8 generally relating to procurement under the Maryland Technology First Program.

9 BY adding to

10 Article 83A - Department of Business and Economic Development
11 Section 6-801 through 6-808, inclusive, to be under the new subtitle "Subtitle 8.
12 Maryland Technology First Program"
13 Annotated Code of Maryland
14 (1995 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article - State Finance and Procurement
17 Section 13-107
18 Annotated Code of Maryland
19 (1995 Replacement Volume and 1995 Supplement)

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

22 **Article 83A - Department of Business and Economic Development**

23 SUBTITLE 8. MARYLAND TECHNOLOGY FIRST PROGRAM.

24 6-801.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

2

1 (B) "AUTHORIZATION" MEANS A DESIGNATION OF A QUALIFIED SUPPLIER AS
2 A PROCUREMENT SOURCE UNDER § 13-107(C) OF THE STATE FINANCE AND
3 PROCUREMENT ARTICLE.

4 (C) "DEFENSE-DEPENDENT ENTERPRISE" MEANS AN ENTERPRISE THAT HAS
5 DERIVED SUBSTANTIAL REVENUE FROM DEFENSE-RELATED CONTRACTS CARRIED
6 OUT IN THE STATE AND THAT IS SEEKING TO EXPAND ITS NON-DEFENSE-RELATED
7 BUSINESS.

8 (D) "EMERGING-TECHNOLOGY" MEANS A TECHNOLOGY THAT IS NEWLY
9 DEVELOPED, IS IN THE PROCESS OF DEVELOPMENT, OR REPRESENTS A SIGNIFICANT
10 ADVANCEMENT IN STATE OF PRACTICE.

11 (E) "INFORMATION TECHNOLOGY" HAS THE MEANING PROVIDED IN § 3-402
12 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

13 (F) "PROGRAM" MEANS THE MARYLAND TECHNOLOGY FIRST PROGRAM.

14 (G) "QUALIFICATION" MEANS THE DEPARTMENT'S DETERMINATION THAT A
15 SUPPLIER MAY PARTICIPATE IN THE PROGRAM AS AN EMERGING-TECHNOLOGY
16 PROVIDER.

17 (H) "SUPPLIER" MEANS A SUPPLIER OF GOODS OR SERVICES.

18 (I) "UNIT" MEANS AN ENTITY IN THE EXECUTIVE BRANCH OF THE STATE
19 GOVERNMENT THAT IS AUTHORIZED BY LAW TO ENTER INTO A PROCUREMENT
20 CONTRACT.

21 6-802.

22 THERE IS A MARYLAND TECHNOLOGY FIRST PROGRAM WITHIN THE
23 DEPARTMENT.

24 6-803.

25 THE PURPOSE OF THE PROGRAM IS TO ENCOURAGE THE DEVELOPMENT OF
26 NON-DEFENSE-RELATED AND TECHNOLOGICALLY-INNOVATIVE INDUSTRIAL AND
27 COMMERCIAL ACTIVITY IN THE STATE BY AUTHORIZING STATE UNITS TO BUY
28 GOODS AND SERVICES FROM QUALIFIED EMERGING-TECHNOLOGY PROVIDERS
29 THAT MANUFACTURE, OR WILL MANUFACTURE, THE GOODS IN THE STATE OR THAT
30 WILL PERFORM THE SERVICES IN THE STATE.

31 6-804.

32 (A) A SUPPLIER SEEKING QUALIFICATION UNDER THE PROGRAM SHALL
33 APPLY TO THE DEPARTMENT.

34 (B) TO APPLY FOR QUALIFICATION, THE SUPPLIER MUST SUBMIT THE
35 FOLLOWING INFORMATION:

36 (1) A DETAILED DESCRIPTION OF THE SUBMITTER'S
37 EMERGING-TECHNOLOGY BASED GOODS OR SERVICES THAT MAY BE OF INTEREST
38 TO THE STATE;

39 (2) INFORMATION SUBSTANTIATING THAT:

3

1 (I) THE STATE'S PROCUREMENT OF THE SUBMITTER'S GOODS OR
2 SERVICES WOULD RESULT IN ECONOMIC BENEFIT TO THE STATE; AND

3 (II) IF APPLICABLE, THE SUBMITTER IS A DEFENSE-DEPENDENT
4 ENTERPRISE; AND

5 (3) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUESTS.

6 (C) THE DEPARTMENT SHALL NOTIFY UNITS OF THE QUALIFICATION OF
7 SUPPLIERS.

8 6-805.

9 (A) A UNIT SEEKING TO PROCURE GOODS OR SERVICES UNDER THE
10 PROGRAM SHALL APPLY TO THE DEPARTMENT FOR AUTHORIZATION.

11 (B) TO APPLY FOR AUTHORIZATION, THE UNIT MUST SUBMIT THE
12 FOLLOWING INFORMATION:

13 (1) A DETAILED DESCRIPTION OF THE GOODS OR SERVICES THE UNIT
14 DESIRES TO PROCURE;

15 (2) INFORMATION SUBSTANTIATING THAT:

16 (I) THE GOODS OR SERVICES ARE BASED ON AN
17 EMERGING-TECHNOLOGY;

18 (II) THE UNIT HAS NOT PREVIOUSLY USED THE
19 EMERGING-TECHNOLOGY BASED GOODS OR SERVICES; AND

20 (III) THE UNIT HAS NOT PREVIOUSLY PROCURED THE SAME OR
21 SUBSTANTIALLY SIMILAR GOODS OR SERVICES FROM THE PROPOSED SUPPLIER;
22 AND

23 (3) ANY OTHER INFORMATION THAT THE DEPARTMENT REQUESTS.

24 6-806.

25 (A) THE SECRETARY SHALL MAKE A PRELIMINARY DETERMINATION
26 WHETHER IT IS IN THE BEST INTEREST OF THE STATE TO:

27 (1) QUALIFY THE SUPPLIER UNDER THE PROGRAM AS AN
28 EMERGING-TECHNOLOGY BASED GOODS AND SERVICES SUPPLIER; AND

29 (2) AUTHORIZE THE UNIT TO PROCURE THE GOODS OR SERVICES
30 FROM THE PROPOSED SUPPLIER UNDER § 13-107(C) OF THE STATE FINANCE AND
31 PROCUREMENT ARTICLE.

32 (B) IF A PROPOSED SUPPLIER IS A DEFENSE-RELATED ENTERPRISE, THE
33 SECRETARY SHALL CONSIDER QUALIFICATION OF THAT SUPPLIER TO BE OF
34 ECONOMIC BENEFIT TO THE STATE.

35 (C) IF THE UNIT HAS PROCURED THE SAME OR SUBSTANTIALLY SIMILAR
36 GOODS OR SERVICES FROM THE PROPOSED SUPPLIER ON ANY PRIOR OCCASION,
37 THE SECRETARY MAY NOT AUTHORIZE THE PROCUREMENT UNDER THE PROGRAM.

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1 (D) IF THE GOODS OR SERVICES TO BE PROCURED BY THE UNIT ARE
2 INFORMATION TECHNOLOGY, THE SECRETARY MAY NOT AUTHORIZE THE
3 PROCUREMENT UNDER THE PROGRAM UNLESS THE CHIEF OF INFORMATION
4 TECHNOLOGY IN THE DEPARTMENT OF BUDGET AND FISCAL PLANNING CERTIFIES
5 THE GOODS OF SERVICES AS CONSISTENT WITH THE INFORMATION TECHNOLOGY
6 MASTER PLAN.

7 (E) IF THE SECRETARY HAS MADE A PRELIMINARY DETERMINATION TO
8 QUALIFY THE PROPOSED SUPPLIER AND AUTHORIZE THE UNIT TO PROCURE FROM
9 THE PROPOSED SUPPLIER UNDER § 13-107(C) OF THE STATE FINANCE AND
10 PROCUREMENT ARTICLE, THE SECRETARY SHALL RECOMMEND QUALIFICATION OF
11 THE PROPOSED SUPPLIER AND APPROVAL OF THE PROCUREMENT TO THE BOARD
12 OF PUBLIC WORKS. QUALIFICATION OF THE SUPPLIER AND THE PROCUREMENT IS
13 SUBJECT TO THE APPROVAL OF THE BOARD OF PUBLIC WORKS.

14 6-807.

15 A SUPPLIER SELLING GOODS OR SERVICES TO A STATE UNIT UNDER THIS
16 PROGRAM MUST AGREE TO PAY INTO THE DEPARTMENT'S ENTERPRISE FUND A
17 PORTION, SPECIFIED BY THE DEPARTMENT, OF THE SUPPLIER'S FUTURE GROSS
18 SALES REVENUE FROM SALES TO ENTITIES OTHER THAN THE STATE THAT, IN THE
19 JUDGMENT OF THE SECRETARY, ARE A RESULT OF THE STATE'S PROCUREMENT.

20 6-808.

21 THE DEPARTMENT SHALL ADOPT REGULATIONS SETTING FORTH THE
22 PROCESS OR CRITERIA BY WHICH IT WILL:

23 (1) EVALUATE SUPPLIERS' APPLICATIONS FOR QUALIFICATION;

24 (2) EVALUATE UNITS' APPLICATIONS FOR AUTHORIZATION;

25 (3) DETERMINE, ALONG WITH THE STATE UNIT APPLYING FOR THE
26 AUTHORIZATION, WHETHER OTHER ENTITIES COULD SUPPLY THE UNIT WITH
27 GOODS OR SERVICES THAT MEET COMPARABLE STANDARDS OF PERFORMANCE
28 AND PRICE AND PROVIDE THE STATE WITH COMPARABLE ECONOMIC BENEFITS;

29 (4) ESTABLISH FOR EACH AUTHORIZED TRANSACTION, THE PORTION
30 OF FUTURE GROSS SALES REVENUE THAT THE SUPPLIER MUST PAY INTO THE
31 DEPARTMENT'S ENTERPRISE FUND AND THE DURATION OF SUCH PAYMENTS; AND

32 (5) CALCULATE WHICH FUTURE SALES OF GOODS OR SERVICES BY A
33 SUPPLIER ARE A RESULT OF THE STATE'S PROCUREMENT.

34 **Article - State Finance and Procurement**

35 13-107.

36 (a) (1) Whenever a procurement officer determines that there is only
37 available source for the subject of a procurement contract, the procurement officer may
38 award the procurement contract without competition to that source.

39 (2) Before awarding a procurement contract to a sole source, the
40 procurement officer shall obtain:

5

1 (i) the approval of the head of the unit; and

2 (ii) any other approval required by law.

3 (b) (1) Subject to paragraphs (2) and (3) of this subsection, with the prior
4 written approval of the Attorney General, a unit may enter into a sole source contract to
5 obtain the services of a contractor in connection with:

6 (i) threatened or pending litigation;

7 (ii) appraisal of real property for acquisition by the State; or

8 (iii) collective bargaining.

9 (2) This subsection applies only to a procurement in which:

10 (i) a unit obtains the services of a contractor to represent the State;

11 and

12 (ii) the nature of the services to be performed requires confidentiality.

13 (3) This subsection does not apply if the unit reasonably can anticipate a
14 continuing need for a contractor described in paragraph (1)(ii) or (iii) of this subsection.

15 (C) A UNIT MAY ENTER INTO A SOLE SOURCE CONTRACT TO OBTAIN THE
16 GOODS OR SERVICES OF A CONTRACTOR DESIGNATED BY THE SECRETARY OF
17 BUSINESS AND ECONOMIC DEVELOPMENT IN ACCORDANCE WITH THE MARYLAND
18 TECHNOLOGY FIRST PROGRAM, UNDER ARTICLE 83A, TITLE 6, SUBTITLE 8 OF THE
19 CODE.

20 [(c)] (D) Not more than 30 days after the execution and approval of a
21 procurement contract awarded under this section, a unit shall publish in the Contract
22 Weekly notice of the award.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1996.