
By: Delegate Poole (Governor's Task Force on Procurement)

Introduced and read first time: January 29, 1997

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement Law - Intergovernmental Cooperative Purchasing Agreements**

3 FOR the purpose of authorizing a primary procurement unit to sponsor or participate in
4 an intergovernmental cooperative purchasing agreement under specified
5 circumstances; specifying that an intergovernmental cooperative purchasing
6 agreement sponsored by a primary procurement unit be awarded in accordance with
7 the procurement law and that specified procedures apply; providing that when a
8 primary procurement unit participates in an intergovernmental cooperative
9 purchasing agreement, any protest or contract claim shall be handled in accordance
10 with the terms of the agreement; authorizing a political subdivision of the State to
11 participate in an intergovernmental cooperative purchasing agreement sponsored by
12 a primary procurement unit in a certain manner; specifying situations under which
13 an intergovernmental cooperative purchasing agreement is appropriate; defining
14 certain terms; and generally relating to authorization for the use of
15 intergovernmental cooperative purchasing agreements.

16 BY repealing and reenacting, with amendments,
17 Article - State Finance and Procurement
18 Section 13-102
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1996 Supplement)

21 BY adding to
22 Article - State Finance and Procurement
23 Section 13-110
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1996 Supplement)

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

28 **Article - State Finance and Procurement**

29 13-102.

30 (a) Except as provided in Subtitle 3 of this title, all procurement by units shall be
31 by competitive sealed bids unless one of the following methods specifically is authorized:

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1 (1) competitive sealed proposals under § 13-104 or § 13-105 of this subtitle;

2 (2) noncompetitive negotiation under § 13-106 of this subtitle;

3 (3) sole source procurement under § 13-107 of this subtitle;

4 (4) emergency or expedited procurement under § 13-108 of this subtitle;

5 [or]

6 (5) small procurement under § 13-109 of this subtitle; OR

7 (6) AN INTERGOVERNMENTAL COOPERATIVE PURCHASING
8 AGREEMENT UNDER § 13-110 OF THIS SUBTITLE.

9 (b) (1) In awarding a procurement contract for human, social, cultural, or
10 educational service, the preferred method is by competitive sealed proposals under §
11 13-104 of this subtitle.

12 (2) In awarding a procurement contract for a lease of real property, the
13 preferred method is by competitive sealed proposals under § 13-105 of this subtitle.

14 (3) PROCUREMENT UNDER AN INTERGOVERNMENTAL COOPERATIVE
15 PURCHASING AGREEMENT IS APPROPRIATE IN SITUATIONS WHERE THE STATE IS
16 EXPECTED TO ACHIEVE A BETTER PRICE AS THE RESULT OF ECONOMIES OF SCALE
17 OR TO OTHERWISE BENEFIT BY PURCHASING IN COOPERATION WITH ANOTHER
18 GOVERNMENTAL ENTITY.

19 13-110.

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

22 (2) "GOVERNMENTAL ENTITY" MEANS:

23 (I) THE FEDERAL GOVERNMENT OR AN AGENCY OR OTHER
24 INSTRUMENTALITY OF THE FEDERAL GOVERNMENT;

25 (II) ANOTHER STATE OR AN AGENCY OR OTHER
26 INSTRUMENTALITY OF ANOTHER STATE;

27 (III) A BISTATE OR MULTISTATE AGENCY;

28 (IV) A COUNTY, MUNICIPAL CORPORATION, OR OTHER POLITICAL
29 SUBDIVISION OF THE STATE OR OF ANOTHER STATE, OR AN AGENCY OR OTHER
30 INSTRUMENTALITY OF THE POLITICAL SUBDIVISION;

31 (V) A BICOUNTY OR MULTICOUNTY AGENCY; OR

32 (VI) A PRIMARY PROCUREMENT UNIT.

33 (3) "INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT"
34 MEANS A CONTRACT:

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1 (I) 1. ENTERED INTO BY AT LEAST ONE GOVERNMENTAL
2 ENTITY AND A PERSON SELECTED IN A MANNER THAT IS CONSISTENT WITH THE
3 PURPOSES SET FORTH UNDER § 11-201 OF THIS ARTICLE;

4 2. THAT IS AVAILABLE FOR USE BY THE GOVERNMENTAL
5 ENTITY ENTERING THE CONTRACT AND AT LEAST ONE ADDITIONAL
6 GOVERNMENTAL ENTITY WHICH MAY, BUT NEED NOT BE, AN ORIGINAL PARTY TO
7 THE CONTRACT; AND

8 3. THAT IS INTENDED TO PROMOTE EFFICIENCY AND
9 SAVINGS THAT CAN RESULT FROM INTERGOVERNMENTAL COOPERATIVE
10 PURCHASING; OR

11 (II) BETWEEN A PRIMARY PROCUREMENT UNIT AND A PERSON
12 WHO, AT THE TIME THE INTERGOVERNMENTAL COOPERATIVE PURCHASING
13 AGREEMENT IS AWARDED, HAS A CONTRACT WITH THE FEDERAL GOVERNMENT OR
14 AN AGENCY OR OTHER INSTRUMENTALITY OF THE FEDERAL GOVERNMENT, AND
15 WHO AGREES TO PROVIDE THE UNIT WITH IDENTICAL PRICES, TERMS, AND
16 CONDITIONS AS STIPULATED IN THE FEDERAL CONTRACT.

17 (B) (1) SUBJECT TO § 12-107 OF THIS ARTICLE, WHENEVER A PRIMARY
18 PROCUREMENT UNIT PROCUREMENT OFFICER DETERMINES THAT IT IS IN THE BEST
19 INTEREST OF THE STATE TO SPONSOR OR PARTICIPATE IN AN
20 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT, WITH THE
21 APPROVAL OF THE UNIT HEAD AND SUBJECT TO ANY OTHER APPROVAL REQUIRED
22 BY LAW, THE PRIMARY PROCUREMENT UNIT MAY BECOME A PARTY TO OR
23 PARTICIPATE UNDER THE AGREEMENT.

24 (2) A DETERMINATION UNDER THIS SUBSECTION SHALL BE IN WRITING
25 AND INCLUDE A STATEMENT THAT THE INTERGOVERNMENTAL COOPERATIVE
26 PURCHASING AGREEMENT:

27 (I) WILL PROVIDE COST BENEFITS TO THE STATE, PROMOTE
28 ADMINISTRATIVE EFFICIENCIES, OR PROMOTE INTERGOVERNMENTAL
29 COOPERATION; AND

30 (II) IS NOT INTENDED TO EVADE THE PURPOSES OF THIS DIVISION
31 II.

32 (C) (1) IF A PRIMARY PROCUREMENT UNIT SPONSORS AN
33 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT:

34 (I) THE CONTRACT SHALL BE AWARDED IN THE SAME MANNER AS
35 THE CONTRACT WOULD BE AWARDED UNDER THIS DIVISION II IF THE UNIT WAS
36 THE SOLE PARTICIPANT UNDER THE CONTRACT; AND

37 (II) ALL PROCEDURES UNDER THIS DIVISION II, INCLUDING
38 PROCEDURES GOVERNING CONTRACT CLAIMS AND PROTESTS, SHALL APPLY.

39 (2) A POLITICAL SUBDIVISION OF THE STATE MAY PARTICIPATE UNDER
40 ANY INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT SPONSORED

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1 BY A PRIMARY PROCUREMENT UNIT IN A MANNER CONSISTENT WITH THE TERMS
2 OF THE AGREEMENT.

3 (D) IF A PRIMARY PROCUREMENT UNIT PARTICIPATES IN AN
4 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT, ANY PROTEST
5 OR CONTRACT CLAIM INVOLVING THE AGREEMENT SHALL BE HANDLED IN
6 ACCORDANCE WITH THE TERMS OF THE AGREEMENT.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1997.