

BY: Commerce and Government Matters Committee

AMENDMENTS TO HOUSE BILL NO. 252

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “requirements;” insert “exempting certain unsolicited proposals from a certain requirement that procurement be by competitive sealed bid; establishing an interagency panel to review unsolicited proposals and to make certain determinations subject to certain requirements and procedures; providing for the effect of certain action or inaction by the interagency panel;”; strike beginning with “requiring” in line 11 down through “Management” in line 15 and substitute “providing for certain reconsideration by the interagency panel of approval of an unsolicited proposal; providing that a certain provision of the Maryland Public Ethics Law does not apply to certain persons submitting unsolicited proposals under this Act; providing for the effects of certain provisions of this Act”; in line 15, after “Department” insert “of Budget and Management”; and after line 18, insert:

“BY repealing and reenacting, with amendments,

Article - State Finance and Procurement

Section 13-102(a)

Annotated Code of Maryland

(2001 Replacement Volume)”.

AMENDMENT NO. 2

On page 1, after line 26, insert:

“13-102.

(a) Except as provided in Subtitle 3 and Subtitle 4 of this title, all procurement by units shall be by competitive sealed bids unless one of the following methods specifically is authorized:

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

(Over)

- (2) noncompetitive negotiation under § 13-106 of this subtitle;
- (3) sole source procurement under § 13-107 of this subtitle;
- (4) emergency or expedited procurement under § 13-108 of this subtitle;
- (5) small procurement under § 13-109 of this subtitle; [or]
- (6) an intergovernmental cooperative purchasing agreement under § 13-110 of this subtitle; OR
- (7) AN UNSOLICITED PROPOSAL UNDER § 13-107.1 OF THIS SUBTITLE.”.

AMENDMENT NO. 3

On page 2, in lines 5 and 11, in each instance, strike “OFFERER” and substitute “OFFEROR”; after line 9, insert:

“(B) (1) THERE IS AN INTERAGENCY PANEL CONSISTING OF REPRESENTATIVES, APPOINTED BY THE GOVERNOR, FROM THE FOLLOWING:

- (I) THE UNIVERSITY SYSTEM OF MARYLAND;
- (II) THE DEPARTMENT OF GENERAL SERVICES;
- (III) THE DEPARTMENT OF TRANSPORTATION;
- (IV) THE DEPARTMENT OF BUDGET AND MANAGEMENT;
- (V) THE COUNCIL ON MANAGEMENT AND PRODUCTIVITY; AND
- (VI) THE PROCURING AGENCY INVOLVED IN THE PROCUREMENT MATTER SUBMITTED TO THE INTERAGENCY PANEL UNDER PARAGRAPH (2) OF THIS SUBSECTION.

(2) (I) A PROCUREMENT OFFICER SHALL FORWARD AN UNSOLICITED PROPOSAL SUBMITTED UNDER THIS SECTION TO THE INTERAGENCY

PANEL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR REVIEW AND A DETERMINATION AS TO WHETHER THE UNSOLICITED PROPOSAL MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

(II) THE INTERAGENCY PANEL SHALL MAKE A DETERMINATION AS TO WHETHER THE UNSOLICITED PROPOSAL MEETS THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION BY A MAJORITY VOTE OF THE PANEL:

- DESIGNEES:
1. AT A MEETING OF PANEL MEMBERS OR THEIR
 2. BY A TELEPHONE POLL OF PANEL MEMBERS; OR
 3. IN WRITING.

(III) IF THE INTERAGENCY PANEL DETERMINES THAT THE UNSOLICITED PROPOSAL DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, THE PROCUREMENT OFFICER MAY NOT AWARD A PROCUREMENT CONTRACT BASED ON THE UNSOLICITED PROPOSAL.

(IV) 1. THE INTERAGENCY PANEL SHALL MAKE A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHIN 30 DAYS AFTER RECEIVING THE UNSOLICITED PROPOSAL FOR REVIEW.

2. IF THE INTERAGENCY PANEL FAILS TO MAKE A DETERMINATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH WITHIN THE 30-DAY PERIOD ESTABLISHED UNDER THIS SUBPARAGRAPH, THE UNSOLICITED PROPOSAL SHALL BE DEEMED TO HAVE BEEN DISAPPROVED BY THE INTERAGENCY PANEL.”;

in lines 10, 14, 18, 20, and 27, strike “(B)”, “(C)”, “(D)”, “(E)”, and “(F)”, respectively, and substitute “(C)”, “(D)”, “(E)”, “(F)”, and “(G)(1)”, respectively; in line 21, strike “MAY” and

substitute "SHALL"; and in lines 31, 32, and 33, strike "(1)", "(2)", and "(I)", respectively, and substitute "(I)", "(II)", and "1.", respectively.

AMENDMENT NO. 4

On page 3, in line 1, strike "(II)" and substitute "2."; after line 2, insert:

"(2) FOR PURPOSES OF THIS SUBSECTION:

(I) THE BALTIMORE SUN AND THE WASHINGTON POST SHALL BE CONSIDERED NEWSPAPERS OF GENERAL CIRCULATION IN ALL COUNTIES OF THE STATE; AND

(II) THE BALTIMORE AFRO-AMERICAN SHALL BE CONSIDERED A NEWSPAPER OF GENERAL CIRCULATION IN BALTIMORE CITY, BALTIMORE COUNTY, AND ANNE ARUNDEL COUNTY.

(3) IF, DURING THE 30-DAY PERIOD ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A PERSON PETITIONS THE INTERAGENCY PANEL FOR RECONSIDERATION OF A DETERMINATION OF APPROVAL UNDER SUBSECTION (B) OF THIS SECTION, THE INTERAGENCY PANEL SHALL RECONSIDER THE DETERMINATION OF APPROVAL AND MAKE WRITTEN FINDINGS AFFIRMING OR REVERSING THE DETERMINATION OF APPROVAL."

strike in their entirety lines 3 through 17, inclusive; in line 19, strike "(F)" and substitute "(G)"; and after line 22, insert:

"(I) THE PROVISIONS OF § 15-508(A) OF THE STATE GOVERNMENT ARTICLE DO NOT APPLY TO A PERSON WHO SUBMITS AN UNSOLICITED PROPOSAL UNDER THIS SECTION WITH RESPECT TO THE DRAFTING OF SPECIFICATIONS OR ANY OTHER MATTER PERTAINING TO THE UNSOLICITED PROPOSAL.

(J) THIS SECTION DOES NOT:

(1) ALTER ANY REQUIREMENTS OR PROCEDURES ESTABLISHED BY

LAW RELATING TO PROCUREMENT FROM MINORITY BUSINESS ENTERPRISES; OR

(2) AFFECT THE AUTHORITY OF THE BOARD TO:

(I) DELEGATE ITS AUTHORITY UNDER § 12-101(B)(4) OF THIS ARTICLE; OR

(II) ADOPT REGULATIONS TO ALLOW A UNIT OF STATE GOVERNMENT TO ENTER INTO A CONTRACT WITHOUT BOARD APPROVAL UNDER § 12-203(A) OF THIS ARTICLE.”.

AMENDMENT NO. 5

On page 3, strike beginning with “June” in line 23 down through “report” in line 26 and substitute “September 30 of each year, the Department of Budget and Management shall generate, from the State’s electronic financial management information system, a report on the impact of this Act. The report shall be provided”; in line 28, after “Committee” insert a period; strike beginning with the comma in line 28 down through “including” in line 29 and substitute “The report shall include.”; in line 30, strike “received” and substitute “awarded”; and strike in their entirety lines 32 through 37, inclusive, and substitute:

“(2) the goods or services for which contracts were awarded under this Act;

(3) the monetary amounts of the contracts awarded under this Act; and

(4) the number of contract awardees under this Act that were certified minority business enterprises.”.

On page 4, strike in their entirety lines 1 through 5, inclusive.