

HOUSE BILL 252

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P2

2002 Regular Session
2r1297
CF 2r1669

By: **Delegates Wood and McIntosh**
Introduced and read first time: January 22, 2002
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Unsolicited Proposals**

3 FOR the purpose of authorizing a unit of State government to award a contract for
4 goods or services in response to an unsolicited proposal that meets certain
5 requirements; establishing that a qualifying unsolicited proposal is not required
6 to be a sole source contract; requiring a procurement officer to obtain certain
7 approval before awarding a contract in response to an unsolicited proposal;
8 providing for the confidentiality of information contained in an unsolicited
9 proposal; limiting the term of a contract based on an unsolicited proposal;
10 requiring each contracting unit to publish notice of intent to award, and notice of
11 award of, an unsolicited proposal in certain publications; requiring each
12 contracting unit to publish quarterly a notice encouraging certain unsolicited
13 proposals in newspapers of general circulation of the State; requiring each
14 contracting unit to report annually on the impact of this Act to the Department
15 of Budget and Management; requiring the Department to report annually on the
16 impact of this Act to the Governor and certain committees of the General
17 Assembly; providing for the application of this Act; providing for the termination
18 of this Act; and generally relating to unsolicited proposals.

19 BY adding to
20 Article - State Finance and Procurement
21 Section 13-107.1
22 Annotated Code of Maryland
23 (2001 Replacement Volume)

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

26 **Article - State Finance and Procurement**

27 13-107.1.

28 (A) A PROCUREMENT OFFICER MAY ENTER INTO A CONTRACT BASED ON AN
29 UNSOLICITED PROPOSAL IF THE UNSOLICITED PROPOSAL:

1 (1) IS IN WRITING;

2 (2) (I) CONTAINS A NOVEL OR INNOVATIVE CONCEPT, APPLICATION,
3 APPROACH, OR METHOD WHICH, TO THE KNOWLEDGE OF THE PROCUREMENT
4 OFFICER, IS NOT USED BY OR AVAILABLE TO ANOTHER UNIT; OR

5 (II) DEMONSTRATES A NOVEL CAPABILITY OF THE OFFERER OF
6 THE PROPOSAL;

7 (3) HAS NOT BEEN PREVIOUSLY SUBMITTED TO THE UNIT BY ANOTHER
8 PERSON; AND

9 (4) MEETS A NEED OF OR IS OTHERWISE ADVANTAGEOUS TO THE UNIT.

10 (B) IF AN UNSOLICITED PROPOSAL MEETS THE REQUIREMENTS OF
11 SUBSECTION (A) OF THIS SECTION, THE OFFERER OF THE PROPOSAL IS NOT
12 REQUIRED TO BE THE ONLY AVAILABLE SOURCE FOR THE CONTRACT AWARDED
13 UNDER THIS SECTION.

14 (C) BEFORE AWARDING A PROCUREMENT CONTRACT UNDER THIS SECTION, A
15 PROCUREMENT OFFICER SHALL OBTAIN:

16 (1) THE APPROVAL OF THE HEAD OF THE UNIT; AND

17 (2) ANY OTHER APPROVAL REQUIRED BY LAW.

18 (D) THE TERM, INCLUDING EXTENSIONS, OF A CONTRACT AWARDED UNDER
19 THIS SECTION MAY NOT EXCEED 2 YEARS.

20 (E) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION,
21 A PROCUREMENT OFFICER MAY TREAT THE INFORMATION CONTAINED IN AN
22 UNSOLICITED PROPOSAL AS CONFIDENTIAL INFORMATION THAT IS NOT SUBJECT TO
23 DISCLOSURE UNDER ANY OTHER STATE OR LOCAL LAW.

24 (2) IF A CONTRACT IS AWARDED UNDER THIS SECTION, DISCLOSURE OF
25 THE UNSOLICITED PROPOSAL IS GOVERNED BY TITLE 10, SUBTITLE 6, PART III OF
26 THE STATE GOVERNMENT ARTICLE.

27 (F) NOT LESS THAN 30 DAYS BEFORE THE EXECUTION AND AWARD OF A
28 CONTRACT BASED ON AN UNSOLICITED PROPOSAL UNDER THIS SECTION, THE
29 CONTRACTING UNIT SHALL PUBLISH A GENERAL NOTICE OF THE INTENT TO AWARD
30 THE CONTRACT IN:

31 (1) THE CONTRACT WEEKLY; AND

32 (2) AT LEAST ONE NEWSPAPER OF GENERAL CIRCULATION IN:

33 (I) THE COUNTY OF THE AGENCY TO BE SERVED UNDER THE
34 CONTRACT; AND

1 (II) IF APPLICABLE, THE COUNTY OF THE CLIENT POPULATION TO
2 BE SERVED BY THE AGENCY UNDER THE CONTRACT.

3 (G) (1) AT LEAST QUARTERLY, EACH CONTRACTING UNIT SHALL PUBLISH
4 NOTICE, WHICH NOTICE ENCOURAGES SMALL BUSINESS PERSONS TO OFFER
5 UNSOLICITED PROPOSALS, IN AT LEAST ONE NEWSPAPER OF GENERAL
6 CIRCULATION IN:

7 (I) THE COUNTY OF THE AGENCY TO BE SERVED UNDER THE
8 CONTRACT; AND

9 (II) IF APPLICABLE, THE COUNTY OF THE CLIENT POPULATION TO
10 BE SERVED BY THE AGENCY UNDER THE CONTRACT.

11 (2) FOR PURPOSES OF THIS SUBSECTION:

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

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

18 (H) IN ADDITION TO PUBLISHING NOTICE OF THE INTENT TO AWARD A
19 CONTRACT BASED ON AN UNSOLICITED PROPOSAL UNDER SUBSECTION (F) OF THIS
20 SECTION, NOT MORE THAN 30 DAYS AFTER THE EXECUTION AND APPROVAL OF A
21 PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION, A UNIT SHALL PUBLISH
22 NOTICE OF THE AWARD IN THE CONTRACT WEEKLY.

23 SECTION 2. AND BE IT FURTHER ENACTED, That on or before June 30 of
24 each year each contracting unit shall report to the Department of Budget and
25 Management, and on or before September 30 of each year the Department shall
26 report to the Governor and, in accordance with § 2-1246 of the State Government
27 Article, the Senate Education, Health, and Environmental Affairs Committee and the
28 House Commerce and Government Matters Committee, on the impact of this Act,
29 including for the previous fiscal year:

30 (1) the number of unsolicited proposals received by each contracting
31 unit;

32 (2) a description of the unsolicited proposals received by each contracting
33 unit;

34 (3) the number of persons offering an unsolicited proposal who were
35 awarded a contract under this section;

36 (4) the size and characteristics of the persons offering unsolicited
37 proposals and the persons awarded a contract under this section;

1 (5) the monetary amounts of the contracts awarded under this section;

2 (6) the goods or services for which contracts were awarded under this
3 section; and

4 (7) a description of the activities in which each contracting unit engaged
5 to attract and encourage minority business enterprises to offer unsolicited proposals.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply only
7 to an unsolicited proposal offered on or after the effective date of this Act.

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2002. It shall remain effective for a period of 6 years and, at the end of
10 September 30, 2008, with no further action required by the General Assembly, this
11 Act shall be abrogated and of no further force and effect.