Unofficial Copy P2

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2002 Regular Session (2lr1669)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Commerce and Government Matters --

to protect the confidentiality of information contained in an unsolicited

proposal; limiting the term of a contract based on an unsolicited proposal;

limiting the annual State expenditures under a contract based on an unsolicited

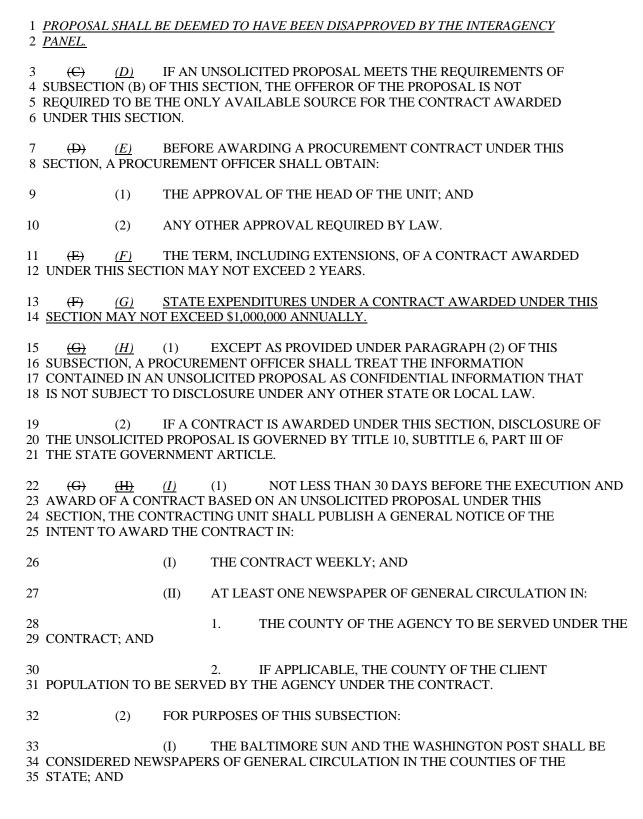
proposal; requiring each contracting unit to publish notice of intent to award, and notice of award of, an unsolicited proposal in certain publications; requiring

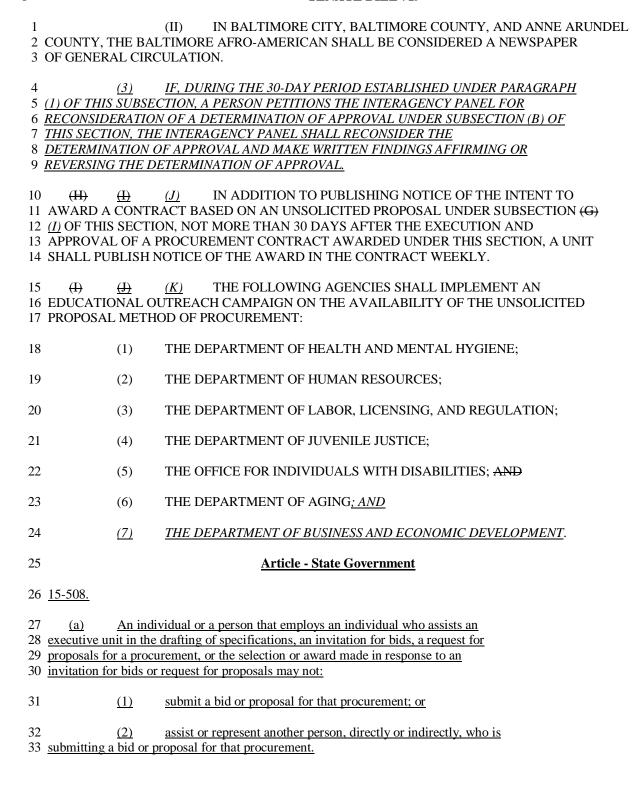
Introduc	ed by Senators Hollinger, Stone, Collins, Frosh, and Harris	
	Read and Examined by Proofreaders:	
		Proofreader.
	with the Great Seal and presented to the Governor, for his approval this ay of at o'clock,M.	Proofreader.
		President.
	CHAPTER	
1 AN	ACT concerning	
2	Procurement - Unsolicited Proposals	
4 5 6 7 8 9 10	R the purpose of authorizing a unit of State government to award a contract for goods or services in response to an unsolicited proposal that meets certain requirements; 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; establishing that a qualifying unsolicited proposal is not required to be a sole source contract; requiring a procurement officer to obtain certain approval before awarding a	
12	contract in response to an unsolicited proposal; requiring a procurement officer	

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1 2 3 4 5 6 7 8 9 10	certain agencies to implement certain outreach programs; providing for certain reconsideration by the interagency panel of approval of an unsolicited proposal; providing that a certain prohibition against assisting in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement does not include providing specifications for certain unsolicited proposal procurements; requiring the Department of Budget and Management to report annually on the impact of this Act to the Governor and certain committees of the General Assembly; defining certain terms; providing for the application of this Act; providing for the termination of this Act; and generally relating to unsolicited procurement proposals.						
11 12 13 14 15	BY repealing and reenacting, with amendments, Article - State Finance and Procurement Section 13-102(a) Annotated Code of Maryland (2001 Replacement Volume)						
16 17 18 19 20	BY adding to Article - State Finance and Procurement Section 13-107.1 Annotated Code of Maryland (2001 Replacement Volume)						
21 22 23 24 25	Section 15-508 Annotated Code of Maryland						
26 27	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:						
28	Article - State Finance and Procurement						
29	13-102.						
30 31 32	(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:						
33 34	(1) competitive sealed proposals under \S 13-104 or \S 13-105 of this subtitle;						
35	(2) noncompetitive negotiation under § 13-106 of this subtitle;						
36	(3) sole source procurement under § 13-107 of this subtitle;						

1		(4)	emerger	ncy or expedited procurement under § 13-108 of this subtitle;
2		(5)	small pr	ocurement under § 13-109 of this subtitle; [or]
3	13-110 of thi	(6) s subtitle		governmental cooperative purchasing agreement under §
5		(7)	AN UN	SOLICITED PROPOSAL UNDER § 13-107.1 OF THIS SUBTITLE.
6	13-107.1.			
7 8	(A) INDICATEI	(1) O.	IN THIS	S SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
	SERVICES I			ESS AND ECONOMIC DEVELOPMENT SERVICES" MEANS THE DEPARTMENT OF BUSINESS AND ECONOMIC
14		CONTRA	CT THI	"EDUCATIONAL SERVICES" MEANS SERVICES PROCURED TO ROVIDING TRAINING DIRECTLY TO THIRD-PARTY CLIENTS PRIMARY PURPOSE OF WHICH IS THE DIRECT PROVISION
18	THIRD-PAI	RTY CLI	ENTS U	"HEALTH OR SOCIAL SERVICES" MEANS SERVICES PROCURED N <u>PROVIDING</u> SUPPORT, CARE, OR SHELTER DIRECTLY TO NDER A CONTRACT THE PRIMARY PURPOSE OF WHICH IS OF THESE SERVICES.
20 21	` /			ENT OFFICER MAY ENTER INTO A CONTRACT BASED ON AN IF THE UNSOLICITED PROPOSAL:
22		(1)	IS IN W	RITING;
				CONTAINS A NOVEL OR INNOVATIVE CONCEPT, APPLICATION WHICH, TO THE KNOWLEDGE OF THE PROCUREMENT OR AVAILABLE TO ANOTHER UNIT; OR
26 27	THE PROPO	OSAL;	(II)	DEMONSTRATES A NOVEL CAPABILITY OF THE OFFEROR OF
28 29	PERSON;	(3)	HAS NO	OT BEEN PREVIOUSLY SUBMITTED TO THE UNIT BY ANOTHER
30		(4)	IS FOR	THE DELIVERY OF:
31			<u>(I)</u>	EDUCATIONAL SERVICES OR:
32			<u>(II)</u>	HEALTH OR SOCIAL SERVICES <u>: OR</u>
33			(III)	BUSINESS AND ECONOMIC DEVELOPMENT SERVICES; AND

1	(5)	MEETS	A NEEI	O OF OR IS OTHERWISE ADVANTAGEOUS TO THE UNIT.
2 3	<u>(C) (1)</u> REPRESENTATIVES			TTERAGENCY PANEL CONSISTING OF THE GOVERNOR FROM THE FOLLOWING:
4		<u>(I)</u>	THE DI	EPARTMENT OF HEALTH AND MENTAL HYGIENE;
5		<u>(II)</u>	THE DI	EPARTMENT OF HUMAN RESOURCES;
6		(III)	THE DI	EPARTMENT OF LABOR, LICENSING, AND REGULATION;
7		<u>(IV)</u>	THE DI	EPARTMENT OF JUVENILE JUSTICE;
8		<u>(V)</u>	THE O	FFICE FOR INDIVIDUALS WITH DISABILITIES;
9		<u>(VI)</u>	THE DI	EPARTMENT OF AGING;
10 11	DEVELOPMENT; A	(VII) ND	THE DI	EPARTMENT OF BUSINESS AND ECONOMIC
12		(VIII)	THE CO	DUNCIL ON MANAGEMENT AND PRODUCTIVITY.
15 16	DESCRIBED UNDE DETERMINATION	ER PARAC AS TO WI	NDER TH GRAPH (HETHER	CUREMENT OFFICER SHALL FORWARD AN UNSOLICITED US SECTION TO THE INTERAGENCY PANEL 1) OF THIS SUBSECTION FOR REVIEW AND A THE UNSOLICITED PROPOSAL MEETS THE (A) OF THIS SECTION.
			CITED I	TERAGENCY PANEL SHALL MAKE A DETERMINATION AS PROPOSAL MEETS THE REQUIREMENTS OF BY A MAJORITY VOTE OF THE PANEL:
21 22	<u>DESIGNEES;</u>		<u>1.</u>	AT A MEETING OF PANEL MEMBERS OR THEIR
23			<u>2.</u>	BY A TELEPHONE POLL OF PANEL MEMBERS; OR
24			<u>3.</u>	<u>IN WRITING.</u>
27	OF THIS SECTION,	THE PR	DOES NO	INTERAGENCY PANEL DETERMINES THAT THE OT MEET THE REQUIREMENTS OF SUBSECTION (A) MENT OFFICER MAY NOT AWARD A PROCUREMENT ICITED PROPOSAL.
				THE INTERAGENCY PANEL SHALL MAKE A AGRAPH (I) OF THIS PARAGRAPH WITHIN 30 DAYS TED PROPOSAL FOR REVIEW.
				<u>IF THE INTERAGENCY PANEL FAILS TO MAKE A</u> AGRAPH (I) OF THIS PARAGRAPH WITHIN THE DER THIS SUBPARAGRAPH, THE UNSOLICITED





	(b) For purposes of subsection (a) of this section, assisting in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement does not include:
	(1) providing descriptive literature such as catalogue sheets, brochures, technical data sheets, or standard specification "samples", whether requested by an executive agency or provided on an unsolicited basis;
9	(2) submitting written comments on a specification prepared by an agency or on a solicitation for a bid or proposal when comments are solicited from two or more persons as part of a request for information or a prebid or preproposal process;
11 12	(3) providing specifications for a sole source procurement made in accordance with § 13-107 of the State Finance and Procurement Article; [or]
13 14	(4) providing architectural and engineering services for programming, master planning, or other project planning services; OR
	(5) PROVIDING SPECIFICATIONS FOR AN UNSOLICITED PROPOSAL PROCUREMENT MADE IN ACCORDANCE WITH § 13-107.1 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.
20 21 22	SECTION 2. AND BE IT FURTHER ENACTED, That on or before September 30 of each year the Department of Budget and Management shall report to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee and the House Commerce and Government Matters Committee, on the impact of this Act, including for the previous fiscal year:
24	(1) the number of unsolicited proposals awarded by each contracting unit;
25	(2) the monetary amounts of the contracts awarded under this Act;
26	(3) the goods or services for which contracts were awarded under this Act; and
27 28	(4) the number of contract awardees under this Act who were certified minority business enterprises.
29 30	SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply only to an unsolicited proposal offered on or after the effective date of this Act.
33	SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2002. It shall remain effective for a period of 6 years and, at the end of September 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.