
By: **Senator Pipkin**

Introduced and read first time: February 6, 2004

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement Law and Process - Review and Revision**

3 FOR the purpose of repealing a certain limitation on the amounts and types of
4 contracts for which the use of certain auction bids may be authorized; providing
5 that a certain prohibition against an individual submitting a bid or proposal for
6 a certain procurement if the individual assisted in the drafting of certain
7 documents does not include certain activities; establishing a task force to review
8 Maryland's procurement law; establishing the membership, responsibilities, and
9 staffing of the task force; requiring the Department of Legislative Services to
10 review and report on the impact of certain changes to the auction bid process on
11 or before a certain date; providing for the termination of certain provisions of
12 this Act; providing for the effective date of certain provisions of this Act; and
13 generally relating to the review and revision of the procurement process.

14 BY repealing and reenacting, with amendments,
15 Article - State Finance and Procurement
16 Section 13-111(a)
17 Annotated Code of Maryland
18 (2001 Replacement Volume and 2003 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - State Government
21 Section 15-508
22 Annotated Code of Maryland
23 (1999 Replacement Volume and 2003 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - State Government
26 Section 15-508
27 Annotated Code of Maryland
28 (1999 Replacement Volume and 2003 Supplement)
29 (As enacted by Chapter 482 of the Acts of the General Assembly of 2002)

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

3 **Article - State Finance and Procurement**

4 13-111.

5 (a) (1) [This] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
6 SUBSECTION, THIS section applies to the procurement of SERVICES, EQUIPMENT, AND
7 supplies[, with an estimated contract value of \$1,000,000 or more,] by a primary
8 procurement unit.

9 (2) THIS SECTION DOES NOT APPLY TO CONSTRUCTION CONTRACTS OR
10 THE PROCUREMENT OF INFORMATION TECHNOLOGY SERVICES.

11 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
12 read as follows:

13 **Article - State Government**

14 15-508.

15 (a) An individual or a person that employs an individual who assists an
16 executive unit in the drafting of specifications, an invitation for bids, a request for
17 proposals for a procurement, or the selection or award made in response to an
18 invitation for bids or request for proposals may not:

19 (1) submit a bid or proposal for that procurement; or

20 (2) assist or represent another person, directly or indirectly, who is
21 submitting a bid or proposal for that procurement.

22 (b) For purposes of subsection (a) of this section, assisting in the drafting of
23 specifications, an invitation for bids, or a request for proposals for a procurement does
24 not include:

25 (1) providing descriptive literature such as catalogue sheets, brochures,
26 technical data sheets, or standard specification "samples", whether requested by an
27 executive agency or provided on an unsolicited basis;

28 (2) submitting written comments on a specification prepared by an
29 agency or on a solicitation for a bid or proposal when comments are solicited from two
30 or more persons as part of a request for information or a prebid or preproposal
31 process;

32 (3) providing specifications for a sole source procurement made in
33 accordance with § 13-107 of the State Finance and Procurement Article;

34 (4) providing architectural and engineering services for programming,
35 master planning, or other project planning services; [or]

1 (5) providing specifications for an unsolicited proposal procurement
2 made in accordance with § 13-107.1 of the State Finance and Procurement Article;

3 (6) PROVIDING AN EXECUTIVE UNIT WITH INFORMATION RELATING TO
4 COMMERCIAL PRODUCTS AND BEST INDUSTRY PRACTICES, INCLUDING NEW
5 CAPABILITIES, TECHNIQUES, OR INNOVATIONS; OR

6 (7) PROVIDING AN ANALYSIS OF STATE ACTIVITIES FREE OF CHARGE.

7 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **Article - State Government**

10 15-508.

11 (a) An individual or a person that employs an individual who assists an
12 executive unit in the drafting of specifications, an invitation for bids, a request for
13 proposals for a procurement, or the selection or award made in response to an
14 invitation for bids or request for proposals may not:

15 (1) submit a bid or proposal for that procurement; or

16 (2) assist or represent another person, directly or indirectly, who is
17 submitting a bid or proposal for that procurement.

18 (b) For purposes of subsection (a) of this section, assisting in the drafting of
19 specifications, an invitation for bids, or a request for proposals for a procurement does
20 not include:

21 (1) providing descriptive literature such as catalogue sheets, brochures,
22 technical data sheets, or standard specification "samples", whether requested by an
23 executive agency or provided on an unsolicited basis;

24 (2) submitting written comments on a specification prepared by an
25 agency or on a solicitation for a bid or proposal when comments are solicited from two
26 or more persons as part of a request for information or a prebid or preproposal
27 process;

28 (3) providing specifications for a sole source procurement made in
29 accordance with § 13-107 of the State Finance and Procurement Article; [or]

30 (4) providing architectural and engineering services for programming,
31 master planning, or other project planning services;

32 (5) PROVIDING AN EXECUTIVE UNIT WITH INFORMATION RELATING TO
33 COMMERCIAL PRODUCTS AND BEST INDUSTRY PRACTICES, INCLUDING NEW
34 CAPABILITIES, TECHNIQUES, OR INNOVATIONS; OR

35 (6) PROVIDING AN ANALYSIS OF STATE ACTIVITIES FREE OF CHARGE.

1 SECTION 4. AND BE IT FURTHER ENACTED, That:

2 (a) There is a Joint Task Force on Maryland's Procurement Law.

3 (b) The Task Force consists of the following members:

4 (1) five members of the Senate of Maryland, appointed by the President
5 of the Senate; and

6 (2) five members of the House of Delegates, appointed by the Speaker of
7 the House.

8 (c) The President and Speaker shall designate the co-chairmen of the Task
9 Force.

10 (d) The Office of the Attorney General, the Board of Public Works, and the
11 Department of Legislative Services shall provide staff for the Task Force.

12 (e) A member of the Task Force:

13 (1) may not receive compensation; but

14 (2) is entitled to reimbursement for expenses under the Standard State
15 Travel Regulations, as provided in the State budget.

16 (f) The Task Force shall:

17 (1) review the organizational structure and substantive provisions of
18 Maryland's procurement law, as they have evolved since the law was last
19 comprehensively revised;

20 (2) review the Model Procurement Code adopted by the American Bar
21 Association in 2000 and identify provisions which would improve Maryland's
22 procurement law and procurement process;

23 (3) identify areas in which Maryland's procurement law could be
24 updated, clarified, and reorganized; and

25 (4) develop any recommendations and proposed legislation it considers
26 appropriate for revising the procurement law.

27 (g) The Task Force shall report its findings and recommendations to the
28 Senate Education, Health, and Environmental Affairs Committee and the House
29 Health and Government Operations Committee, in accordance with § 2-1246 of the
30 State Government Article, on or before December 1, 2005.

31 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of
32 Legislative Services is requested to review and evaluate the impact on State
33 expenditures and administrative efficiency of the changes made by this Act to the
34 auction bid process as provided in § 13-111(a) of the State Finance and Procurement
35 Article. The Department shall submit a report to the Senate Education, Health, and

1 Environmental Affairs Committee and the House Health and Government Operations
2 Committee, in accordance with § 2-1246 of the State Government Article, on or before
3 January 1, 2007.

4 SECTION 6. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
5 take effect October 1, 2004. It shall remain effective for a period of 3 years and, at the
6 end of September 30, 2007, with no further action required by the General Assembly,
7 Section 1 of this Act shall be abrogated and of no further force and effect.

8 SECTION 7. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
9 take effect on the taking effect of the termination provision specified in Section 4 of
10 Chapter 482 of the Acts of the General Assembly of 2002. If that termination provision
11 takes effect, Section 2 of this Act shall be abrogated and of no further force and effect.
12 This Act may not be interpreted to have any effect on that termination provision.

13 SECTION 8. AND BE IT FURTHER ENACTED, That Section 4 of this Act shall
14 take effect July 1, 2004. It shall remain effective for a period of 1 year and 6 months
15 and, at the end of December 31, 2005, with no further action required by the General
16 Assembly, Section 4 of this Act shall be abrogated and of no further force and effect.

17 SECTION 9. AND BE IT FURTHER ENACTED, That, subject to the provisions
18 of Sections 7 and 8 of this Act, this Act shall take effect October 1, 2004.