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By: **Delegates Branch, Anderson, Benson, Brown, Burns, Cane, Carter, Conroy, Conway, C. Davis, D. Davis, Doory, Gaines, Goodwin, Griffith, Harrison, Haynes, Holmes, Howard, Jones, Kelley, Kirk, Marriott, McHale, Murray, Nathan-Pulliam, Oaks, Paige, Parker, Patterson, Petzold, Proctor, Pugh, Ramirez, Rosenberg, Ross, F. Turner, V. Turner, and Vaughn**

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 2, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Procurement - Commercial Nondiscrimination Policy**

3 FOR the purpose of establishing a "Commercial Nondiscrimination Policy" under the  
 4 State procurement law; specifying the purpose, intent, and scope of the policy;  
 5 defining terms; specifying rules of construction; establishing a period of  
 6 limitations during which a person must file a certain discrimination complaint;  
 7 authorizing certain persons to file certain complaints alleging discrimination;  
 8 specifying investigation procedures, duties, and responsibilities for handling  
 9 complaints; providing an opportunity for hearings and the adjudication of  
 10 complaints; specifying certain remedies and sanctions; providing for judicial  
 11 review of certain decisions; specifying certain contract clauses relating to  
 12 nondiscrimination; specifying certain disclosure requirements; ~~requiring the~~  
 13 ~~Attorney General to establish a certain expert pool;~~ providing for the debarment  
 14 of certain persons for certain violations of procurement law; providing for the  
 15 application of this Act; and generally relating to the "Commercial  
 16 Nondiscrimination Policy" under the State procurement law.

17 BY repealing and reenacting, with amendments,

18 Article - State Finance and Procurement

19 Section 16-203(a)

20 Annotated Code of Maryland

1 ~~(2001 Replacement Volume and 2005 Supplement)~~

2 (2006 Replacement Volume)

3 BY adding to

4 Article - State Finance and Procurement

5 Section 19-101 through ~~19-121~~ 19-120, inclusive, to be under the new title

6 "Title 19. Commercial Nondiscrimination Policy"

7 Annotated Code of Maryland

8 ~~(2001 Replacement Volume and 2005 Supplement)~~

9 (2006 Replacement Volume)

10 Preamble

11 WHEREAS, The purposes of this Act are:

12 (1) to establish a clear policy against discrimination in business on the  
13 basis of ~~sex, race, age, color, creed, or national origin~~, race, color, religion, ancestry or  
14 national origin, sex, age, marital status, sexual orientation, or on the basis of  
15 disability or any other form of unlawful discrimination;

16 (2) to establish a clear policy for the State not to enter into contracts  
17 with business entities that discriminate in the solicitation, selection, or commercial  
18 treatment of vendors, suppliers, subcontractors, or commercial customers; and

19 (3) to establish a formal complaint process and investigation process for  
20 alleged violations of this policy, providing due process for hearing evidence, rendering  
21 findings, and imposing sanctions for policy violations; and

22 WHEREAS, The General Assembly finds that in order to avoid becoming a  
23 passive participant in private sector commercial discrimination, and consistent with  
24 the requirements of the State procurement law, it is necessary to establish and firmly  
25 enforce a clear policy against discrimination in business on the basis of ~~sex, race, age,~~  
26 ~~color, creed, or national origin~~, race, color, religion, ancestry or national origin, sex,  
27 age, marital status, sexual orientation, or on the basis of disability or any other form  
28 of unlawful discrimination; and

29 WHEREAS, Under this policy, it is the intent of the State that it not contract  
30 with business entities that discriminate in the solicitation, selection, hiring, or  
31 treatment of vendors, suppliers, subcontractors, or commercial customers in  
32 contravention of the standards specified under the State procurement law; and

33 WHEREAS, Such a commercial nondiscrimination policy approach has been  
34 favorably commented on by the United States Supreme Court in City of Richmond v.  
35 J. A. Croson, 488 U.S. 469, 509-510 (1989), and by other federal courts; and

36 WHEREAS, The General Assembly has further determined that it has a  
37 compelling interest in assuring that public funds do not serve to finance private  
38 prejudice on the basis of ~~sex, race, age, color, creed, or national origin~~ race, color,

1 religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on  
2 the basis of disability or any other form of unlawful discrimination; and

3 WHEREAS, It is in the best interests of the State to enhance competition on  
4 State projects by promoting equal opportunity and the full participation of all  
5 segments of the community in a marketplace environment that is free from the effects  
6 of discrimination, in that the State is likely to benefit from a discrimination-free  
7 marketplace through increased business activity, lower prices, and higher State  
8 revenues; and

9 WHEREAS, Through enactment of this Act, the State provides a formal  
10 mechanism for receiving, investigating, and resolving complaints of discrimination  
11 filed against businesses that have submitted a bid or proposal for, have been selected  
12 to engage in, or are engaged in providing goods or services to the State; and

13 WHEREAS, The State also gives fuller meaning and effect to the goals and  
14 objectives of this Act by including enforcement provisions that may subject violators  
15 of the Act to possible contract termination, disqualification from participation in  
16 State contracts and projects, or other remedial actions; now, therefore,

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

19 **Article - State Finance and Procurement**

20 16-203.

21 (a) A person may be debarred from entering into a contract with the State if  
22 the person, an officer, partner, controlling stockholder or principal of that person, or  
23 any other person substantially involved in that person's contracting activities has:

24 (1) been convicted under the laws of the State, another state or the  
25 United States of:

26 (i) a criminal offense incident to obtaining, attempting to obtain, or  
27 performing a public or private contract, except as provided in § 16-202; or

28 (ii) fraud, embezzlement, theft, forgery, falsification or destruction  
29 of records, or receiving stolen property;

30 (2) been convicted of a criminal violation of an antitrust statute of the  
31 State, another state, or the United States;

32 (3) been convicted of a violation of the Racketeer Influenced and Corrupt  
33 Organization Act, or the Mail Fraud Act, for acts in connection with the submission of  
34 bids or proposals for a public or private contract;

35 (4) been convicted of a violation of § 14-308 of this article;

1 (5) been convicted of conspiracy to commit any act or omission that  
 2 would constitute grounds for conviction under any of the laws or statutes described in  
 3 paragraphs (1), (2), (3), or (4) of this subsection; [or]

4 (6) been found civilly liable under an antitrust statute of the State,  
 5 another state, or the United States for acts or omissions in connection with the  
 6 submission of bids or proposals for a public or private contract; OR

7 (7) BEEN FOUND IN A FINAL ~~ADMINISTRATIVE~~ ADJUDICATED DECISION  
 8 TO HAVE VIOLATED THE COMMERCIAL NONDISCRIMINATION POLICY UNDER TITLE  
 9 19 OF THIS ARTICLE WITH REGARD TO A PUBLIC OR PRIVATE CONTRACT.

10 TITLE 19. COMMERCIAL NONDISCRIMINATION POLICY.

11 19-101.

12 (A) IT IS THE POLICY OF THE STATE NOT TO ENTER INTO A CONTRACT WITH  
 13 ANY BUSINESS ENTITY THAT HAS DISCRIMINATED IN THE SOLICITATION,  
 14 SELECTION, HIRING, OR COMMERCIAL TREATMENT OF VENDORS, SUPPLIERS,  
 15 SUBCONTRACTORS, OR COMMERCIAL CUSTOMERS ON THE BASIS OF ~~SEX, RACE, AGE,~~  
 16 ~~COLOR, CREED, OR NATIONAL ORIGIN,~~ RACE, COLOR, RELIGION, ANCESTRY OR  
 17 NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL ORIENTATION, OR ON THE  
 18 BASIS OF DISABILITY OR ANY OTHERWISE UNLAWFUL USE OF CHARACTERISTICS  
 19 REGARDING THE VENDOR'S, SUPPLIER'S, OR COMMERCIAL CUSTOMER'S EMPLOYEES  
 20 OR OWNERS.

21 (B) NOTHING IN THIS TITLE SHALL BE CONSTRUED TO PROHIBIT OR LIMIT  
 22 OTHERWISE LAWFUL EFFORTS TO REMEDY THE EFFECTS OF DISCRIMINATION THAT  
 23 HAVE OCCURRED OR ARE OCCURRING IN THE MARKETPLACE.

24 ~~(C) CONDUCT THAT HAS OCCURRED MORE THAN 4 YEARS PRIOR TO THE~~  
 25 ~~FILING OF A COMPLAINT ABOUT CONDUCT THAT IS NOT ACTIONABLE UNDER THIS~~  
 26 ~~TITLE MAY NOT BE SUBJECT TO THE FILING OF A COMPLAINT NOR BE SUBJECT TO~~  
 27 ~~THE IMPOSITION OF SANCTIONS OR REMEDIES UNDER THIS TITLE.~~

28 (C) A COMPLAINT OF DISCRIMINATION SHALL BE FILED WITHIN 4 YEARS  
 29 AFTER THE DATE THE CAUSE OF ACTION ACCRUES.

30 19-102.

31 IT IS THE INTENT OF THE STATE TO AVOID BECOMING A PASSIVE PARTICIPANT  
 32 IN PRIVATE SECTOR COMMERCIAL DISCRIMINATION BY REFUSING TO PROCURE  
 33 GOODS AND SERVICES FROM BUSINESS ENTITIES THAT DISCRIMINATE IN THE  
 34 SOLICITATION, SELECTION, HIRING, OR COMMERCIAL TREATMENT OF VENDORS,  
 35 SUPPLIERS, SUBCONTRACTORS, OR COMMERCIAL CUSTOMERS ON THE BASIS OF ~~SEX,~~  
 36 ~~RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,~~ RACE, COLOR, RELIGION,  
 37 ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, SEXUAL  
 38 ORIENTATION, OR ON THE BASIS OF DISABILITY OR OTHER UNLAWFUL FORMS OF  
 39 DISCRIMINATION BY PROVIDING A PROCEDURE FOR RECEIVING, INVESTIGATING,

1 AND RESOLVING COMPLAINTS OF DISCRIMINATION FILED AGAINST BUSINESS  
2 ENTITIES THAT:

3 (1) HAVE SUBMITTED A BID OR PROPOSAL; OR

4 (2) HAVE BEEN SELECTED TO ENGAGE IN, OR ARE ENGAGED IN  
5 PROVIDING GOODS OR SERVICES TO THE STATE.

6 19-103.

7 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 (B) "ADMINISTRATIVE LAW JUDGE" MEANS THE INDIVIDUAL ASSIGNED BY  
9 THE OFFICE OF ADMINISTRATIVE HEARINGS TO CONDUCT A HEARING UNDER THIS  
10 TITLE.

11 ~~(C) "ATTORNEY GENERAL" MEANS THE ATTORNEY GENERAL OF MARYLAND,~~  
12 ~~OR A DESIGNEE OF THE ATTORNEY GENERAL.~~

13 ~~(D)~~ (C) (1) "BUSINESS ENTITY" MEANS ANY PERSON, FIRM, SOLE  
14 PROPRIETORSHIP, PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, OR  
15 OTHER BUSINESS ENTITY OR A COMBINATION OF ANY OF THESE ENTITIES,  
16 INCLUDING ANY FINANCIAL INSTITUTION, DEVELOPER, CONSULTANT, PRIME  
17 CONTRACTOR, SUBCONTRACTOR, SUPPLIER, OR VENDOR, THAT HAS SUBMITTED A  
18 BID OR PROPOSAL FOR, HAS BEEN SELECTED TO ENGAGE IN, OR IS ENGAGED IN  
19 PROVIDING GOODS OR SERVICES TO THE STATE.

20 (2) ~~"BUSINESS ENTITY" INCLUDES:~~

21 ~~(I) SELLING OR LEASING SUPPLIES OR GOODS, OR PROVIDING~~  
22 ~~CONSTRUCTION, REAL ESTATE DEVELOPMENT, FINANCIAL, INSURANCE,~~  
23 ~~PROFESSIONAL, OR OTHER SERVICES, IN RETURN FOR A FEE OR ANY OTHER FORM~~  
24 ~~OF COMPENSATION PAID OR PROVIDED BY THE STATE; AND~~

25 ~~(II) ANY SUBCONTRACTOR OF THE BUSINESS ENTITY.~~

26 ~~(3) "BUSINESS ENTITY" DOES NOT INCLUDE ANOTHER GOVERNMENTAL~~  
27 ~~ENTITY.~~

28 (2) "BUSINESS ENTITY" DOES NOT INCLUDE ANOTHER GOVERNMENTAL  
29 ENTITY THAT IS SUBJECT TO TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.

30 ~~(E)~~ (D) "COMMERCIAL CUSTOMER" MEANS A BUSINESS ENTITY THAT  
31 PROCURED OR ATTEMPTED TO PROCURE GOODS OR SERVICES FROM A BUSINESS  
32 ENTITY FOR BUSINESS AS OPPOSED TO PERSONAL, FAMILY, OR HOUSEHOLD USE.

33 ~~(F)~~ (E) "COMMERCIAL NONDISCRIMINATION POLICY" MEANS THE  
34 PROVISIONS CONTAINED UNDER THIS TITLE AND ANY REGULATIONS OR  
35 DOCUMENTATION REQUIREMENTS ADOPTED BY THE ~~ATTORNEY GENERAL~~

1 MARYLAND HUMAN RELATIONS COMMISSION FOR THE OFFICE OF MINORITY  
2 AFFAIRS IN ACCORDANCE WITH THIS TITLE.

3 (F) "COMMISSION" MEANS THE MARYLAND HUMAN RELATIONS COMMISSION.

4 (G) "CONTRACT" MEANS AN AGREEMENT WITH A BUSINESS ENTITY THAT IS  
5 LET BY OR ON BEHALF OF THE STATE FOR THAT BUSINESS ENTITY TO SELL OR  
6 LEASE SUPPLIES OR GOODS, OR TO PROVIDE CONSTRUCTION, REAL ESTATE  
7 DEVELOPMENT, FINANCIAL, INSURANCE, PROFESSIONAL, OR OTHER SERVICES TO  
8 THE STATE IN RETURN FOR A FEE OR ANY OTHER FORM OF COMPENSATION TO BE  
9 PAID OR PROVIDED BY THE STATE.

10 (H) (1) "DISCRIMINATION" MEANS ANY DISADVANTAGE, DIFFERENCE,  
11 DISTINCTION, OR PREFERENCE IN THE SOLICITATION, SELECTION, HIRING, OR  
12 COMMERCIAL TREATMENT OF A VENDOR, SUPPLIER, SUBCONTRACTOR, OR  
13 COMMERCIAL CUSTOMER ON THE BASIS OF ~~SEX, RACE, AGE, COLOR, CREED, OR~~  
14 ~~NATIONAL ORIGIN, RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX,~~  
15 AGE, MARITAL STATUS, SEXUAL ORIENTATION, OR ON THE BASIS OF DISABILITY OR  
16 ANY OTHERWISE UNLAWFUL USE OF CHARACTERISTICS REGARDING THE VENDOR'S,  
17 SUPPLIER'S, OR COMMERCIAL CUSTOMER'S EMPLOYEES OR OWNERS.

18 (2) "DISCRIMINATION" DOES NOT INCLUDE LAWFUL EFFORTS TO  
19 REMEDY THE EFFECTS OF DISCRIMINATION THAT HAVE OCCURRED OR ARE  
20 OCCURRING IN THE MARKETPLACE.

21 (I) "ECONOMIC DEVELOPMENT PROJECT" MEANS A REAL ESTATE  
22 DEVELOPMENT, CONSTRUCTION, OR RENOVATION PROJECT FOR WHICH THE STATE  
23 PROVIDES:

24 (1) FUNDING OR OTHER FINANCIAL ASSISTANCE, OTHER THAN  
25 PAYMENTS IN EXCHANGE FOR GOODS OR SERVICES;

26 (2) LAND;

27 (3) ROAD IMPROVEMENTS;

28 (4) TAX CREDITS; OR

29 (5) A BELOW MARKET PURCHASE PRICE.

30 (J) (1) "FINANCIAL INSTITUTION" MEANS A PERSON:

31 (I) ENGAGED IN THE BUSINESS OF LENDING MONEY,  
32 GUARANTEEING LOANS, EXTENDING CREDIT, SECURING BONDS, OR PROVIDING  
33 VENTURE OR EQUITY CAPITAL; OR

34 (II) THAT OFFERS FINANCIAL SERVICES IN CONNECTION WITH  
35 STATE PROJECTS OR THE ADMINISTRATION OF STATE GOVERNMENT.

1 (2) "FINANCIAL INSTITUTION" INCLUDES BANKS, SAVINGS AND LOANS,  
2 VENTURE CAPITAL COMPANIES, INSURANCE COMPANIES, BONDING COMPANIES,  
3 MORTGAGE COMPANIES, CREDIT UNIONS, AND BROKERS.

4 (K) "OFFICE" MEANS THE OFFICE OF THE ~~ATTORNEY GENERAL~~ EXECUTIVE  
5 DIRECTOR OF THE MARYLAND HUMAN RELATIONS COMMISSION OR THE EXECUTIVE  
6 DIRECTOR'S DESIGNEE.

7 (L) "PARTY" MEANS:

8 (1) THE PERSON WHO HAS FILED A COMPLAINT UNDER THIS TITLE;

9 (2) THE RESPONDENT BUSINESS ENTITY THAT HAS BEEN ALLEGED TO  
10 HAVE VIOLATED THIS TITLE; AND

11 (3) THE OFFICE THAT IS RESPONSIBLE FOR INVESTIGATING THE  
12 COMPLAINT AND RENDERING THE INITIAL FINDINGS.

13 (M) "RETALIATE" MEANS TO TAKE ANY ACTION THAT HAS A MATERIAL  
14 NEGATIVE EFFECT AGAINST ANY PERSON, BUSINESS OR OTHER ENTITY FOR  
15 REPORTING ANY INCIDENT OF DISCRIMINATION, TESTIFYING AS A WITNESS AT A  
16 HEARING, OR PROVIDING REQUESTED ASSISTANCE TO THE OFFICE IN ANY  
17 INVESTIGATION OF AN INCIDENT OF DISCRIMINATION UNDER THIS TITLE.

18 (N) "SERVICES" INCLUDES CONSTRUCTION, REAL ESTATE DEVELOPMENT,  
19 FINANCIAL, INSURANCE, PROFESSIONAL, AND OTHER SERVICES.

20 (O) "STATE SUBCONTRACT" MEANS AN AGREEMENT FOR THE PROVISION OF  
21 GOODS OR THE PERFORMANCE OF A PARTICULAR PORTION OF WORK TO BE  
22 PERFORMED UNDER A CONTRACT WITH THE STATE, WHERE:

23 (1) THE PARTY PROVIDING THE GOODS OR SERVICES IS ON  
24 REASONABLE NOTICE THAT THE WORK IS TO BE PERFORMED UNDER A STATE  
25 CONTRACT; AND

26 (2) THE AMOUNT TO BE PAID FOR SUCH SERVICE IS MATERIAL WITH  
27 RESPECT TO THE OVERALL AMOUNT OF THE CONTRACT.

28 (P) "STATE SUBCONTRACTOR" MEANS THE PARTY PROVIDING GOODS OR  
29 SERVICES UNDER A STATE SUBCONTRACT.

30 19-104.

31 (A) AS A CONDITION OF PARTICIPATING IN AN ECONOMIC DEVELOPMENT  
32 PROJECT, THE STATE SHALL REQUIRE THE GOVERNMENTAL ENTITY,  
33 QUASI-GOVERNMENTAL ENTITY, CORPORATION, DEVELOPER, OR CONTRACTOR THAT  
34 RECEIVES ASSISTANCE FROM THE STATE TO COMPLY WITH THIS TITLE:

35 (1) IN ADMINISTERING THE ECONOMIC DEVELOPMENT PROJECT; AND

1 (2) IN AWARDING CONTRACTS TO MANAGE OR PERFORM THE WORK  
2 ENTAILED IN THE ECONOMIC DEVELOPMENT PROJECT.

3 (B) (1) EACH CONTRACT AND SUBCONTRACT AWARDED IN CONNECTION  
4 WITH AN ECONOMIC DEVELOPMENT PROJECT SHALL CONTAIN THE  
5 NONDISCRIMINATION CLAUSE SET FORTH IN § 19-115 OF THIS TITLE.

6 (2) ANY CLAIM OF DISCRIMINATION RELATING TO THE ECONOMIC  
7 DEVELOPMENT PROJECT SHALL BE SUBJECT TO INVESTIGATION AND  
8 ADJUDICATION BY THE STATE IN ACCORDANCE WITH THIS TITLE.

9 (C) THIS TITLE ~~SHALL~~ DOES NOT APPLY TO:

10 (1) OTHER THAN A LEASE OF REAL ESTATE FOR THE STATE'S USE, ANY  
11 REAL PROPERTY ACQUISITION BY THE STATE, INCLUDING PROPERTY SUBJECT TO  
12 CONDEMNATION;

13 (2) SETTLEMENT OF LITIGATION;

14 (3) EXCEPT FOR PROCEEDINGS TO ENFORCE THIS TITLE, SETTLEMENT  
15 OF JUDICIAL OR ADMINISTRATIVE ENFORCEMENT PROCEEDINGS BY OR ON BEHALF  
16 OF THE STATE; AND

17 (4) AGREEMENTS CONCERNING STANDARDS FOR LOCATING FACILITIES  
18 IN A STATE RIGHT-OF-WAY WHEN A BUSINESS ENTITY HAS A STATUTORY RIGHT TO  
19 BE IN THE RIGHT-OF-WAY; ~~AND~~.

20 (5) ~~AGREEMENTS WITH NOT FOR PROFIT ENTITIES FOR THE PURPOSE~~  
21 ~~OF HAVING THE ENTITIES PERFORM FUNCTIONS THAT THE STATE IS AUTHORIZED~~  
22 ~~TO PERFORM.~~

23 19-105.

24 (A) THE PROVISIONS OF THIS TITLE ARE TO BE LIBERALLY CONSTRUED TO  
25 ACCOMPLISH ITS OBJECTIVES AND PURPOSES.

26 (B) FOR PURPOSES OF ADMINISTRATION, THE ~~ATTORNEY GENERAL~~  
27 COMMISSION SHALL CONSTRUE THE PROVISIONS OF THIS TITLE.

28 (C) A DECISION OF THE ~~ATTORNEY GENERAL~~ COMMISSION IS SUBJECT TO  
29 JUDICIAL REVIEW UNDER § 19-113 OF THIS TITLE.

30 19-106.

31 (A) ANY PERSON MAY FILE AN ADMINISTRATIVE COMPLAINT WITH THE  
32 ~~ATTORNEY GENERAL~~ COMMISSION WITHIN THE LIMITATIONS PERIOD SET FORTH IN  
33 § 19-101(C) OF THIS TITLE STATING FACTS SHOWING OR TENDING TO SHOW THAT A  
34 BUSINESS ENTITY HAS WITHIN THE PRECEDING ~~5-YEAR~~ 4-YEAR PERIOD ENGAGED  
35 IN DISCRIMINATION OR RETALIATION AGAINST THAT PERSON IN VIOLATION OF THIS  
36 TITLE.



1 (B) WITHIN 10 BUSINESS DAYS, THE ~~ATTORNEY GENERAL~~ COMMISSION SHALL  
2 NOTIFY THE BUSINESS ENTITY AGAINST WHOM THE COMPLAINT WAS FILED THAT A  
3 COMPLAINT HAS BEEN RECEIVED.

4 19-107.

5 (A) THE OFFICE SHALL BE RESPONSIBLE FOR INVESTIGATING  
6 DISCRIMINATION AND RETALIATION COMPLAINTS FILED UNDER THIS TITLE.

7 ~~(B) (1) IN CONDUCTING ITS INVESTIGATION, THE OFFICE MAY ENLIST THE~~  
8 ~~ASSISTANCE OF ONE OR MORE INDIVIDUALS WHO HAVE BEEN SELECTED BY THE~~  
9 ~~ATTORNEY GENERAL TO PARTICIPATE IN THE VOLUNTEER EXPERTS POOL~~  
10 ~~ESTABLISHED UNDER § 19-120 OF THIS TITLE.~~

11 ~~(2) THE ROLE OF ANY WITNESSES SELECTED FROM THE VOLUNTEER~~  
12 ~~EXPERTS POOL SHALL BE TO HELP THE OFFICE EVALUATE THE CLAIM BY~~  
13 ~~PROVIDING INFORMATION REGARDING INDUSTRY CUSTOM AND PRACTICE IN A~~  
14 ~~PARTICULAR AREA OF BUSINESS.~~

15 ~~(C) (B)~~ (B) THE OFFICE MAY REQUEST THAT THE ~~ATTORNEY GENERAL~~  
16 COMMISSION PROVIDE ADDITIONAL STATE PERSONNEL OR OUTSIDE CONSULTANTS  
17 AS MAY BE REASONABLY NECESSARY OR APPROPRIATE TO CONDUCT AN  
18 INVESTIGATION.

19 ~~(D) (C)~~ (C) (1) THE OFFICE SHALL EXERCISE REASONABLE JUDGMENT IN  
20 SEEKING RELEVANT EVIDENCE FROM THE COMPLAINANT, THE RESPONDENT  
21 BUSINESS ENTITY AND, AS NECESSARY, EXTERNAL SOURCES.

22 (2) THIS TITLE MAY NOT BE CONSTRUED TO REQUIRE THE STATE TO  
23 FUND THE COST OF:

24 (I) HAVING STATE STAFF OR OTHER INDIVIDUALS TRAVEL  
25 OUTSIDE THE ~~MARYLAND METROPOLITAN STATISTICAL AREA~~ STATE TO  
26 INVESTIGATE ANY CLAIM UNDER THIS TITLE; OR

27 (II) HAVING WITNESSES TRAVEL TO THE STATE FOR THE PURPOSE  
28 OF INVESTIGATING A CLAIM OR TESTIFYING AT A HEARING OR PROCEEDING UNDER  
29 THIS TITLE.

30 (D) (1) CONSISTENT WITH THE PUBLIC INFORMATION ACT AND THE OPEN  
31 MEETINGS ACT, THE OFFICE MAY ISSUE PROTECTIVE ORDERS FOR GOOD CAUSE TO  
32 LIMIT, OR OTHERWISE IMPOSE CONDITIONS ON, ACCESS BY ANY PERSON TO ANY  
33 DOCUMENT IN THE POSSESSION OF A PARTY.

34 (2) A PROTECTIVE ORDER ISSUED UNDER PARAGRAPH (1) OF THIS  
35 SUBSECTION MAY INCLUDE:

36 (I) A DOCUMENT IN THE POSSESSION OF THE STATE OR  
37 OTHERWISE IN THE RECORD THAT IS NOT A PUBLIC RECORD; AND

1 (II) INFORMATION DISCLOSED IN ACCORDANCE WITH § 19-116 OF  
2 THIS SUBTITLE.

3 (E) THE OFFICE SHALL EXERCISE REASONABLE DISCRETION IN  
4 DETERMINING THE EXTENT OF THE INVESTIGATION REQUIRED TO SUPPORT THE  
5 ~~ATTORNEY GENERAL'S COMMISSION'S~~ INITIAL FINDINGS AND RECOMMENDATIONS.

6 (F) ~~THE OFFICE SHALL HAVE NO OBLIGATION TO INVESTIGATE COMPLAINTS~~  
7 ~~RELATING TO DISCRIMINATION THAT OCCURRED OUTSIDE THE MARYLAND~~  
8 ~~METROPOLITAN STATISTICAL AREA, EXCEPT THAT THE OFFICE MAY DO SO IF THE~~  
9 ~~COMPLAINANT PROVIDES EVIDENCE OF A NEXUS BETWEEN THE DISCRIMINATION~~  
10 ~~THAT OCCURRED AND THE POTENTIAL FOR DISCRIMINATION IN THE MARYLAND~~  
11 ~~METROPOLITAN STATISTICAL AREA.~~

12 (G) ~~IN DETERMINING WHETHER DISCRIMINATION OCCURRED UNDER THIS~~  
13 ~~TITLE, AND IN EVALUATING THE FACTORS SET FORTH IN § 19-108(A) OF THIS TITLE,~~  
14 ~~THE OFFICE MAY CONSIDER EVIDENCE RELATING TO ACTS OR OMISSIONS THAT~~  
15 ~~OCCURRED DURING OR PRIOR TO THE 5-YEAR PERIOD BEFORE THE COMPLAINT WAS~~  
16 ~~FILED~~

17 (1) THE OFFICE MAY INVESTIGATE AND ADJUDICATE A CLAIM OF  
18 DISCRIMINATION UNDER THIS TITLE ONLY IF THE CLAIM ALLEGES THAT:

19 (I) THE DISCRIMINATION WAS COMMITTED BY A BUSINESS ENTITY  
20 WITHIN THE LIMITATIONS PERIOD SET FORTH IN § 19-101(C) OF THIS TITLE; AND

21 (II) THE DISCRIMINATION OCCURRED IN THE STATE.

22 (2) DISCRIMINATION IS DEEMED TO HAVE OCCURRED IN THE STATE  
23 ONLY IF:

24 (I) EACH PARTY OPERATED A PLACE OF BUSINESS IN, OR RESIDED  
25 IN, THE STATE AT THE TIME OF THE DISCRIMINATION; OR

26 (II) THE DISCRIMINATORY ACT WAS COMMITTED IN THE STATE.

27 19-108.

28 (A) IN DETERMINING WHETHER TO PROCEED FURTHER WITH AN  
29 INVESTIGATION AND IN MAKING FINDINGS, THE OFFICE MAY CONSIDER ANY  
30 EVIDENCE PROVIDED BY THE COMPLAINANT OR THE RESPONDENT BUSINESS  
31 ENTITY AS TO THE FOLLOWING FACTORS:

32 (1) WHETHER THERE WAS AN INTENT TO DISCRIMINATE ON THE PART  
33 OF THE RESPONDENT BUSINESS FIRM;

34 (2) WHETHER THERE WAS A PATTERN AND PRACTICE OF  
35 DISCRIMINATION ON THE PART OF THE RESPONDENT BUSINESS ENTITY;

1 (3) ANY ACTIONS TAKEN BY THE RESPONDENT BUSINESS ENTITY TO  
2 REMEDY THE ALLEGED DISCRIMINATION;

3 (4) THE EFFECTIVENESS OF ANY PRIOR ATTEMPTS BY THE  
4 RESPONDENT BUSINESS ENTITY TO REMEDY THE DISCRIMINATION;

5 (5) WHETHER THE RESPONDENT BUSINESS ENTITY HAS PROCURED  
6 GOODS OR SERVICES FROM OR OTHERWISE ENGAGED IN BUSINESS WITH PERSONS  
7 OR ENTITIES OF THE SAME PROTECTED CLASS AS THE COMPLAINANT TO AN EXTENT  
8 SUFFICIENT TO DEMONSTRATE THAT THE RESPONDENT BUSINESS ENTITY HAS NOT  
9 DISCRIMINATED AGAINST SUCH PROTECTED CLASS IN THE OVERALL CONTEXT OF  
10 ITS BUSINESS; AND

11 (6) ANY OTHER EVIDENCE DEEMED RELEVANT BY THE ~~ATTORNEY~~  
12 ~~GENERAL COMMISSION~~.

13 (B) BASED ON THE OFFICE'S REVIEW AND INVESTIGATION, THE OFFICE  
14 SHALL MAKE AN INITIAL FINDING OF EACH ALLEGATION STATED IN THE  
15 COMPLAINT, THAT EITHER:

16 (1) THE INVESTIGATION PRODUCED SUFFICIENT EVIDENCE TO FIND  
17 THAT THE ALLEGED DISCRIMINATION OR RETALIATION DID TAKE PLACE  
18 ("SUSTAINED");

19 (2) THE INVESTIGATION FAILED TO PRODUCE SUFFICIENT EVIDENCE  
20 TO FIND ~~WHETHER THAT~~ THE ALLEGED DISCRIMINATION OR RETALIATION TOOK  
21 PLACE ("NOT SUSTAINED");

22 ~~(3) THE INVESTIGATION PRODUCED SUFFICIENT EVIDENCE TO FIND~~  
23 ~~THAT THE ALLEGED DISCRIMINATION OR RETALIATION DID NOT TAKE PLACE~~  
24 ~~("UNFOUNDED");~~

25 ~~(4)~~ (3) THE INVESTIGATION PRODUCED SUFFICIENT EVIDENCE TO  
26 ESTABLISH THAT THE COMPLAINANT KNOWINGLY MADE ONE OR MORE FALSE OR  
27 FRIVOLOUS ALLEGATIONS, AND FURTHER INVESTIGATION DID NOT APPEAR LIKELY  
28 TO PRODUCE SUFFICIENT EVIDENCE THAT THE ALLEGED DISCRIMINATION OR  
29 RETALIATION DID TAKE PLACE ("FALSE OR FRIVOLOUS");

30 ~~(5)~~ (4) THE ALLEGATION HAS BEEN SETTLED OR OTHERWISE  
31 RESOLVED WITH THE AGREEMENT OF THE RESPONDENT BUSINESS ENTITY, THE  
32 COMPLAINANT, AND THE STATE ("SETTLED"); OR

33 ~~(6)~~ (5) THE ALLEGATION HAS BEEN WITHDRAWN ~~WITH THE~~  
34 ~~APPROVAL OF THE ATTORNEY GENERAL~~ ("WITHDRAWN").

35 ~~(C) THE ATTORNEY GENERAL SHALL APPROVE THE WITHDRAWAL OF AN~~  
36 ~~ALLEGATION BY THE COMPLAINANT UNLESS THE ATTORNEY GENERAL DETERMINES~~  
37 ~~THAT PERMITTING THE WITHDRAWAL IS NOT IN THE BEST INTERESTS OF THE~~  
38 ~~STATE.~~

1 ~~(D)~~ IF THE ATTORNEY GENERAL DETERMINES THAT THE COMPLAINANT'S  
2 WITHDRAWAL OF AN ALLEGATION IS NOT IN THE BEST INTERESTS OF THE STATE,  
3 THEN THE ATTORNEY GENERAL MAY CONTINUE THE INVESTIGATION WITHOUT THE  
4 COMPLAINANT'S PARTICIPATION AS A PARTY.

5 (C) THE OFFICE SHALL MAKE THE INITIAL FINDINGS UNDER SUBSECTION (B)  
6 OF THIS SECTION BASED ON A PREPONDERANCE OF THE EVIDENCE.

7 ~~(E)~~ (D) ON COMPLETION OF ITS INITIAL INVESTIGATION, THE OFFICE SHALL  
8 RECOMMEND TO THE ~~ATTORNEY GENERAL~~ COMMISSION THE APPROPRIATE ACTION  
9 TO BE TAKEN, INCLUDING:

10 (1) ADDITIONAL INVESTIGATION OF THE COMPLAINT;

11 (2) THE ~~ATTORNEY GENERAL'S~~ COMMISSION'S ADOPTION OF THE  
12 INITIAL FINDINGS RENDERED BY THE OFFICE;

13 (3) IMPOSITION OF SANCTIONS;

14 (4) IMPOSITION OF REMEDIES; OR

15 (5) OTHER ACTION CONSISTENT WITH THIS TITLE.

16 ~~(F)~~ (E) IN DETERMINING APPROPRIATE ACTION ON A DISCRIMINATION  
17 CLAIM, THE ~~ATTORNEY GENERAL~~ COMMISSION MAY TAKE INTO ACCOUNT ANY  
18 EVIDENCE PROVIDED OR UNCOVERED IN THE COURSE OF THE INVESTIGATION  
19 REGARDING:

20 (1) THE IMPACT OF THE DISCRIMINATION ON AFFECTED PARTIES;

21 (2) THE IMPACT OF ANY AUTHORIZED REMEDY ON THE STATE OR ANY  
22 OTHER PARTY;

23 (3) ACTIONS TAKEN BY THE RESPONDENT BUSINESS ENTITY TO  
24 REMEDY THE ALLEGED DISCRIMINATION;

25 (4) THE EFFECTIVENESS OF ANY PRIOR ATTEMPTS BY THE  
26 RESPONDENT BUSINESS ENTITY TO REMEDY THE DISCRIMINATION;

27 (5) WHETHER THE RESPONDENT BUSINESS ENTITY HAS PROCURED  
28 GOODS OR SERVICES FROM OR OTHERWISE ENGAGED IN BUSINESS WITH PERSONS  
29 OR ENTITIES OF THE SAME PROTECTED CLASS AS THE COMPLAINANT TO AN EXTENT  
30 SUFFICIENT TO DEMONSTRATE THAT THE RESPONDENT BUSINESS ENTITY HAS NOT  
31 DISCRIMINATED AGAINST SUCH PROTECTED CLASS IN THE OVERALL CONTEXT OF  
32 ITS BUSINESS;

33 (6) THE NUMBER AND SCOPE OF PRIOR VIOLATIONS OF THIS POLICY BY  
34 THE RESPONDENT BUSINESS ENTITY; AND

35 (7) ANY OTHER EVIDENCE DETERMINED TO BE RELEVANT BY THE  
36 ~~ATTORNEY GENERAL~~ COMMISSION.

1 ~~(G)~~ (F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
2 THE ~~ATTORNEY GENERAL COMMISSION~~ SHALL MAKE THE INITIAL FINDINGS AND  
3 ISSUE RECOMMENDATIONS FOR APPROPRIATE ACTION WITHIN 120 CALENDAR DAYS  
4 OF THE RECEIPT OF THE COMPLAINT.

5 (2) THE ~~ATTORNEY GENERAL COMMISSION~~ MAY:

6 (I) EXTEND THE TIME LIMIT SET FORTH IN PARAGRAPH (1) OF THIS  
7 SUBSECTION FOR GOOD CAUSE OR IF THE PARTIES AGREE TO MEDIATE A  
8 SETTLEMENT TO THE COMPLAINT; AND

9 (II) IF MEDIATION IS UNSUCCESSFUL, REFER THE MATTER TO THE  
10 OFFICE OF ADMINISTRATIVE HEARINGS.

11 ~~(H)~~ (G) THE ~~ATTORNEY GENERAL COMMISSION~~ SHALL NOTIFY THE  
12 COMPLAINANT AND THE BUSINESS ENTITY WITHIN 5 BUSINESS DAYS OF THE  
13 ISSUANCE OF THE INITIAL FINDINGS AND RECOMMENDATIONS, INCLUDING AN  
14 EXPLANATION OF THE REASONS JUSTIFYING THE INITIAL FINDINGS.

15 ~~(I)~~ (H) ~~FAILURE BY A PARTY TO PRODUCE DOCUMENTS OR OTHER~~  
16 ~~EVIDENCE RELEVANT TO AN INVESTIGATION UNDER THIS ARTICLE WITHIN 30 DAYS~~  
17 ~~AFTER THE DOCUMENTS ARE REQUESTED BY THE ATTORNEY GENERAL~~  
18 ~~CONSTITUTES A VIOLATION OF THIS TITLE.~~

19 ~~(2)~~ THE ~~ATTORNEY GENERAL~~ MAY RECOMMEND ANY REMEDY OR  
20 SANCTION AUTHORIZED BY THIS TITLE AGAINST ANY PARTY WHO VIOLATES THIS  
21 SUBSECTION.

22 19-109.

23 (A) IF THE ~~ATTORNEY GENERAL COMMISSION~~ DETERMINES THAT ONE OR  
24 MORE ALLEGATIONS ARE SUSTAINED OR THAT A COMPLAINANT HAS SUBMITTED A  
25 KNOWINGLY FALSE OR FRIVOLOUS COMPLAINT, THE BUSINESS ENTITY AGAINST  
26 WHOM THE ALLEGATIONS WERE MADE OR THE COMPLAINANT WHO IS CLAIMED TO  
27 HAVE SUBMITTED A KNOWINGLY FALSE OR FRIVOLOUS COMPLAINT SHALL BE  
28 ENTITLED TO REQUEST A CONTESTED CASE HEARING IN ACCORDANCE WITH THE  
29 PROCEDURES SPECIFIED IN THIS SECTION.

30 (B) (1) TO SUBMIT A MATTER TO AN ADMINISTRATIVE HEARING AS A  
31 CONTESTED CASE UNDER THIS TITLE, THE BUSINESS ENTITY OR THE COMPLAINANT  
32 MUST REQUEST A CONTESTED CASE HEARING BY FILING A WRITTEN NOTICE WITH  
33 THE ~~ATTORNEY GENERAL COMMISSION~~ AND THE COMPLAINANT WITHIN 15  
34 CALENDAR DAYS OF NOTICE OF THE INITIAL FINDINGS AND RECOMMENDATIONS.

35 (2) THE NOTICE MUST CONTAIN THE FOLLOWING INFORMATION:

36 (I) A DEMAND THAT THE MATTER BE REFERRED TO THE OFFICE  
37 OF ADMINISTRATIVE HEARINGS FOR A CONTESTED CASE HEARING IN ACCORDANCE  
38 WITH § 10-205(C)(2) OF THE STATE GOVERNMENT ARTICLE;

1 (II) THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF THE  
2 ~~ATTORNEY GENERAL COMMISSION, THE BUSINESS ENTITY'S REPRESENTATIVES,~~  
3 ~~AND THE COMPLAINANT OTHER PARTY;~~

4 (III) A REFERENCE TO THIS TITLE; AND

5 (IV) A SUMMARY OF THE ~~ATTORNEY GENERAL'S COMMISSION'S~~  
6 FINDINGS AND RECOMMENDATIONS THAT ARE BEING SUBMITTED FOR RESOLUTION  
7 TO THE ADMINISTRATIVE LAW JUDGE FOR THE CONTESTED CASE HEARING.

8 (C) IF THE BUSINESS ENTITY FAILS TO PROPERLY REQUEST A CONTESTED  
9 CASE HEARING, THE INITIAL FINDINGS AND RECOMMENDATIONS OF THE ~~ATTORNEY~~  
10 ~~GENERAL COMMISSION~~ SHALL BECOME THE FINAL ADMINISTRATIVE DECISION OF  
11 THE STATE, AND THE ~~ATTORNEY GENERAL COMMISSION~~ SHALL THEN BE  
12 AUTHORIZED TO ENTER ANY ORDER AND TO TAKE ANY ACTION REASONABLY  
13 NECESSARY OR CONVENIENT TO:

14 (1) IMPLEMENT REMEDIES UNDER § 19-110 OF THIS TITLE;

15 (2) IMPOSE SANCTIONS UNDER § 19-111 OF THIS TITLE; AND

16 (3) GOVERN THE CONDUCT OF THE PARTIES IN THE MANNER  
17 DESCRIBED UNDER § 19-112 OF THIS TITLE SO THAT THE PURPOSES OF THIS TITLE  
18 ARE ACHIEVED.

19 (D) (1) (I) FOR EACH CONTESTED CASE HEARING PROPERLY REQUESTED  
20 BY THE BUSINESS ENTITY OR BY THE COMPLAINANT, THE ATTORNEY GENERAL  
21 COMMISSION SHALL DELEGATE THE MATTER TO THE OFFICE OF ADMINISTRATIVE  
22 HEARINGS TO ASSIGN AN ADMINISTRATIVE LAW JUDGE TO CONDUCT A HEARING IN  
23 A MANNER CONSISTENT WITH THE REQUIREMENTS OF THIS SUBSECTION.

24 (II) AT THE CONTESTED CASE HEARING, THE COMMISSION SHALL  
25 HAVE THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE.

26 (2) THE OFFICE OF ADMINISTRATIVE HEARINGS SHALL CONDUCT ANY  
27 CONTESTED CASE HEARING IN ACCORDANCE WITH ITS RULES OF PROCEDURE  
28 UNDER COMAR 28.02.01.

29 (2) ~~WITHIN 30 DAYS AFTER NOTICE TO THE PARTIES OF THE~~  
30 ~~COMMENCEMENT OF THE CONTESTED CASE HEARING BY THE ADMINISTRATIVE LAW~~  
31 ~~JUDGE, THE BUSINESS ENTITY SHALL FILE A WRITTEN RESPONSE TO THE ATTORNEY~~  
32 ~~GENERAL'S FINDINGS AND RECOMMENDED ACTIONS, ALONG WITH ANY CLAIMS~~  
33 ~~THAT THE BUSINESS ENTITY MAY HAVE UNDER THIS TITLE.~~

34 (3) ~~THE RESPONSE OF THE BUSINESS ENTITY SHALL STATE IN DETAIL~~  
35 ~~ALL GROUNDS ON WHICH THE BUSINESS ENTITY CONTENDS THAT THE ATTORNEY~~  
36 ~~GENERAL'S FINDINGS OR RECOMMENDATIONS ARE NOT APPROPRIATE UNDER THIS~~  
37 ~~TITLE.~~

1           (4)     ~~AT LEAST 20 DAYS BEFORE THE HEARING, EACH PARTY SHALL~~  
2 ~~PROVIDE TO THE OTHER PARTIES COPIES OF ALL DOCUMENTS THAT THE PARTY~~  
3 ~~INTENDS TO INTRODUCE AS EVIDENCE AT THE HEARING.~~

4           (5)     ~~THE ADMINISTRATIVE LAW JUDGE MAY ENTER ANY ORDER THAT IS~~  
5 ~~DETERMINED TO BE REASONABLY NECESSARY OR CONVENIENT TO:~~

6           (1)     ~~GOVERN THE CONDUCT OF THE HEARING AND THE PARTIES SO~~  
7 ~~THAT THE PURPOSES OF THIS TITLE ARE ACHIEVED;~~

8           (II)    ~~CONCLUDE ANY HEARING AND ISSUE ANY DECISION WITHIN A~~  
9 ~~REASONABLE TIME; AND~~

10          (III)   ~~CONDUCT ANY HEARING IN A MANNER THAT IS CONSISTENT~~  
11 ~~WITH THIS TITLE AND ANY DUE PROCESS RIGHTS TO WHICH ANY PARTY IS~~  
12 ~~ENTITLED.~~

13          (6)     ~~THE HEARING SHALL AFFORD ALL PARTIES AN OPPORTUNITY TO~~  
14 ~~PRESENT WITNESSES, CONDUCT DIRECT AND CROSS EXAMINATION OF WITNESSES,~~  
15 ~~INTRODUCE RELEVANT EVIDENCE, SUBMIT BRIEFS, AND PRESENT ORAL ARGUMENT.~~

16          (7)     ~~THE ADMINISTRATIVE LAW JUDGE MAY ISSUE A PROTECTIVE ORDER~~  
17 ~~FOR GOOD CAUSE AS IS LAWFUL AND AS THE ADMINISTRATIVE LAW JUDGE~~  
18 ~~DETERMINES TO BE APPROPRIATE TO:~~

19          (1)     ~~LIMIT, OR OTHERWISE IMPOSE CONDITIONS ON, ACCESS BY~~  
20 ~~ANY PERSON TO ANY DOCUMENT IN THE POSSESSION OF A PARTY, INCLUDING ANY~~  
21 ~~DOCUMENT IN THE STATE'S POSSESSION OR IN THE RECORD OF THE HEARING THAT~~  
22 ~~IS NOT A PUBLIC RECORD; AND~~

23          (II)    ~~CLOSE ALL OR ANY PORTION OF THE HEARING OR OTHERWISE~~  
24 ~~IMPOSE CONDITIONS ON ACCESS TO THE HEARING BY ANY PERSON.~~

25          (8)     ~~WITHOUT LIMITING THE SCOPE OF THE ADMINISTRATIVE LAW~~  
26 ~~JUDGE'S AUTHORITY TO ISSUE PROTECTIVE ORDERS, IT IS UNDERSTOOD THAT THE~~  
27 ~~ADMINISTRATIVE LAW JUDGE MAY LIMIT, OR OTHERWISE IMPOSE CONDITIONS ON, A~~  
28 ~~PARTY'S ACCESS TO RECORDS OR PRESENCE DURING THE HEARING ONLY TO THE~~  
29 ~~EXTENT THE LIMITS OR CONDITIONS CAN BE IMPOSED IN A MANNER THAT IS~~  
30 ~~CONSISTENT WITH THE RIGHT, IF ANY, A PARTY MAY HAVE TO ACCESS THE RECORDS~~  
31 ~~OR BE PRESENT DURING THE HEARING UNDER APPLICABLE LAW, INCLUDING~~  
32 ~~EXPRESS PROVISIONS OF THIS TITLE.~~

33          (9)     ~~BASED ON THE EVIDENCE PRESENTED AT THE CONTESTED CASE~~  
34 ~~HEARING, AND WITHIN 30 CALENDAR DAYS AFTER THE HEARING, THE~~  
35 ~~ADMINISTRATIVE LAW JUDGE SHALL PREPARE A WRITTEN DECISION.~~

36          (10)    (3)    (1)    AT THE CONCLUSION OF THE CONTESTED CASE HEARING,  
37 THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE A WRITTEN DECISION.

38                 (II)    THE ADMINISTRATIVE LAW JUDGE'S WRITTEN DECISION MAY:

1                   (+)    1.       AFFIRM OR REJECT THE INITIAL FINDINGS AND  
2 RECOMMENDATIONS;

3                   (+)    2.       SUBSTITUTE DIFFERENT FINDINGS OR RECOMMEND  
4 APPROPRIATE REMEDIES; OR

5                   (+)    3.       CONTINUE THE HEARING AND RETURN THE CASE TO THE  
6 ~~ATTORNEY GENERAL COMMISSION~~ FOR FURTHER INVESTIGATION AND FINDINGS  
7 AND TO REPORT TO THE ADMINISTRATIVE LAW JUDGE ON THE RESULTS OF THE  
8 INVESTIGATION WITHIN THE TIME FRAME THE ADMINISTRATIVE LAW JUDGE MAY  
9 SPECIFY.

10                (+)    (4)       THE ADMINISTRATIVE LAW JUDGE'S WRITTEN DECISION SHALL  
11 BE SOLELY BASED ON A PREPONDERANCE OF THE EVIDENCE CONTAINED IN THE  
12 RECORD OF THE CONTESTED CASE HEARING AND SHALL REFLECT THE  
13 EVIDENTIARY BASIS FOR ITS FINDINGS.

14       (E)       NOTWITHSTANDING ANY CONTRARY PROVISION IN THIS TITLE, UNLESS  
15 THE ADMINISTRATIVE LAW JUDGE FINDS THAT ONE OR MORE ALLEGATIONS GIVING  
16 RISE TO THE ~~ATTORNEY GENERAL'S COMMISSION'S~~ FINDINGS OR THE BUSINESS  
17 ENTITY'S CHALLENGE TO THE FINDINGS WERE FRIVOLOUS OR KNOWINGLY FALSE  
18 WHEN MADE, EACH PARTY SHALL BEAR THE COST OF ITS OWN LEGAL  
19 REPRESENTATION AND EXPERT WITNESS FEES.

20       (F)       IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT ONE OR MORE  
21 ALLEGATIONS GIVING RISE TO THE ~~ATTORNEY GENERAL'S COMMISSION'S~~ FINDINGS  
22 OR THE BUSINESS ENTITY'S CHALLENGE TO THE FINDINGS WAS FRIVOLOUS OR  
23 KNOWINGLY FALSE WHEN MADE, THE ADMINISTRATIVE LAW JUDGE MAY REQUIRE  
24 THE PARTY WHO MADE THE FRIVOLOUS OR KNOWINGLY FALSE ALLEGATIONS TO  
25 BEAR ALL OR A PORTION OF THE OTHER PARTY'S LEGAL FEES AND EXPERT WITNESS  
26 FEES.

27       (G)       THE BUSINESS ENTITY, THE ~~ATTORNEY GENERAL COMMISSION~~, AND THE  
28 COMPLAINANT SHALL COOPERATE IN GOOD FAITH TO HAVE THE CONTESTED CASE  
29 HEARING CONCLUDED WITHIN ~~90~~ 180 DAYS AFTER THE BUSINESS ENTITY ISSUES ITS  
30 NOTICE FOR A CONTESTED CASE HEARING.

31       (+)       ~~DURING THE CONTESTED CASE HEARING, THE ATTORNEY GENERAL OR  
32 THE ADMINISTRATIVE LAW JUDGE MAY CALL AS WITNESSES ONE OR MORE  
33 INDIVIDUALS WHO HAVE BEEN SELECTED BY THE ATTORNEY GENERAL TO  
34 PARTICIPATE IN THE VOLUNTEER EXPERT POOL AS DESCRIBED IN § 19-120 OF THIS  
35 TITLE FOR THE PURPOSE OF PROVIDING TESTIMONY REGARDING INDUSTRY  
36 CUSTOM AND PRACTICE IN A PARTICULAR AREA OF BUSINESS.~~

37       (+)       (H)       IF THE ~~ATTORNEY GENERAL COMMISSION~~ DETERMINES THAT ONE  
38 OR MORE ALLEGATIONS ARE FALSE OR FRIVOLOUS, THE COMPLAINANT MAKING THE  
39 ALLEGATIONS SHALL BE ENTITLED TO A CONTESTED CASE HEARING ON THE  
40 ALLEGATIONS THAT ARE DETERMINED TO BE FALSE OR FRIVOLOUS IN ACCORDANCE  
41 WITH THE PROCEDURES SET FORTH IN THIS SECTION, EXCEPT THAT ALL



1 REFERENCES TO THE BUSINESS ENTITY WITH RESPECT TO MATTERS OF CONTESTED  
2 CASE HEARING RULES AND PROCEDURE SHALL APPLY TO THE COMPLAINANT.

3 ~~(H)~~ (I) IF THE COMPLAINANT FAILS TO PROPERLY REQUEST A CONTESTED  
4 CASE HEARING REGARDING A DETERMINATION OF A FALSE OR FRIVOLOUS  
5 ALLEGATION AS PROVIDED IN THIS TITLE, THE INITIAL FINDINGS AND  
6 RECOMMENDATIONS SHALL BECOME THE FINAL ADMINISTRATIVE DECISION OF THE  
7 STATE IN ACCORDANCE WITH § 19-112 OF THIS TITLE.

8 ~~(K)~~ ~~ABSENT GOOD CAUSE, FAILURE BY A PARTY TO PRODUCE RELEVANT~~  
9 ~~DOCUMENTS OR OTHER EVIDENCE IN ACCORDANCE WITH AN INITIAL~~  
10 ~~INVESTIGATION OR TO A CONTESTED CASE HEARING UNDER THIS TITLE WITHIN 30~~  
11 ~~DAYS AFTER THE DOCUMENTS ARE REQUESTED BY THE ATTORNEY GENERAL OR~~  
12 ~~THE ADMINISTRATIVE LAW JUDGE SHALL CONSTITUTE A VIOLATION OF THIS TITLE,~~  
13 ~~AND IN THE EVENT OF A VIOLATION THE ADMINISTRATIVE LAW JUDGE MAY ORDER~~  
14 ~~ANY REMEDY, SANCTION, OR ANY COMBINATION OF BOTH AUTHORIZED BY THIS~~  
15 ~~TITLE.~~

16 ~~(L)~~ (J) (1) IF A TIMELY CONTESTED CASE HEARING IS NOT REQUESTED,  
17 ~~THE ATTORNEY GENERAL~~ COMMISSION MAY VACATE THE OFFICE'S RECOMMENDED  
18 REMEDY ON WRITTEN NOTICE TO ALL PARTIES WITHIN 5 BUSINESS DAYS AFTER THE  
19 TIME FOR REQUESTING A CONTESTED CASE HEARING HAS EXPIRED.

20 (2) IN THE ABSENCE OF NOTICE, ~~THE ATTORNEY GENERAL~~ COMMISSION  
21 SHALL BE DEEMED TO HAVE APPROVED THE OFFICE'S RECOMMENDED REMEDY.

22 ~~(M)~~ (K) IF ~~THE ATTORNEY GENERAL~~ COMMISSION VACATES THE OFFICE'S  
23 PROPOSED REMEDY, ~~THE ATTORNEY GENERAL~~ COMMISSION SHALL INITIATE A  
24 CONTESTED CASE HEARING BY FILING A REQUEST FOR A CONTESTED CASE  
25 HEARING WITH THE OFFICE OF ADMINISTRATIVE HEARINGS IN COMPLIANCE WITH  
26 THE REQUIREMENTS OF THIS TITLE.

27 ~~(N)~~ ~~THE SCOPE OF THE CONTESTED CASE HEARING PROVIDED UNDER THIS~~  
28 ~~POLICY SHALL BE LIMITED TO WHETHER THIS TITLE HAS BEEN PROPERLY APPLIED,~~  
29 ~~AND ANY CHALLENGES TO THE LEGALITY OF THE TITLE ITSELF MUST BE BROUGHT~~  
30 ~~IN A COURT OF COMPETENT JURISDICTION.~~

31 ~~(O)~~ (L) TO THE EXTENT THAT PROCEDURES AND STANDARDS STATED IN  
32 THIS TITLE DIFFER FROM THOSE CONTAINED IN TITLE 10, SUBTITLE 2 OF THE STATE  
33 GOVERNMENT ARTICLE, THIS TITLE SHALL GOVERN BUT IN ALL OTHER RESPECTS,  
34 THE PROVISIONS OF THE STATE GOVERNMENT ARTICLE SHALL GOVERN.

35 19-110.

36 (A) WHEN AN ALLEGATION IS SUSTAINED BY AN ADMINISTRATIVE LAW  
37 JUDGE UNDER THIS TITLE, THE ADMINISTRATIVE LAW JUDGE MAY TAKE  
38 ADDITIONAL EVIDENCE ON THE APPROPRIATE REMEDY TO BE RECOMMENDED,  
39 INCLUDING EVIDENCE RELATING TO FACTORS SET FORTH IN § 19-108(F) OF THIS  
40 SUBTITLE AND ANY OTHER EVIDENCE DEEMED RELEVANT BY THE ADMINISTRATIVE  
41 LAW JUDGE.

1 (B) IF THE ADMINISTRATIVE LAW JUDGE SUSTAINS AN ALLEGATION, THE  
2 ADMINISTRATIVE LAW JUDGE ~~SHALL~~ MAY ORDER ANY ONE OR MORE OF THE  
3 FOLLOWING ACTIONS:

4 (1) ANY REMEDY THAT IS AGREED TO BY THE RESPONDENT BUSINESS  
5 ENTITY, THE COMPLAINANT, AND THE ~~ATTORNEY GENERAL COMMISSION~~;  
6 ~~PROVIDED THAT, IF THE COMPLAINANT OBJECTS TO THE REMEDY AGREED TO BY~~  
7 ~~THE RESPONDENT BUSINESS ENTITY AND THE ATTORNEY GENERAL, THE REMEDY~~  
8 ~~MAY BE CONSIDERED AS APPROVED BY THE STATE ONLY IF THE ATTORNEY~~  
9 ~~GENERAL APPROVES THE REMEDY AFTER AFFORDING THE COMPLAINANT AN~~  
10 ~~OPPORTUNITY TO ADDRESS THE ATTORNEY GENERAL ORALLY OR IN WRITING~~  
11 ~~REGARDING THE MERITS OR LACK OF MERIT OF THE PROPOSED REMEDY;~~

12 (2) REFERRAL OF THE RESPONDENT BUSINESS ENTITY TO THE BOARD  
13 OF PUBLIC WORKS FOR A DETERMINATION OF DEBARMENT PURSUANT TO §§ 16-306  
14 AND 16-307 OF THIS ARTICLE TO PRECLUDE THE BUSINESS ENTITY FROM:

15 (I) BIDDING ON OR RECEIVING CONTRACT AWARDS ON STATE  
16 PROJECTS; AND

17 (II) PARTICIPATING IN STATE CONTRACTS AS A SUBCONTRACTOR,  
18 VENDOR, OR SUPPLIER FOR A PERIOD OF NOT MORE THAN 3 YEARS;

19 (3) RESCISSION, SUSPENSION, OR TERMINATION OF ANY CURRENT  
20 CONTRACT BETWEEN THE RESPONDENT BUSINESS ENTITY AND THE STATE UNDER  
21 THE TERMS OF THAT CONTRACT;

22 (4) EXERCISE OF ANY OTHER RIGHTS OR REMEDIES AVAILABLE TO THE  
23 STATE UNDER ANY CURRENT CONTRACT BETWEEN THE RESPONDENT BUSINESS  
24 ENTITY AND THE STATE, ~~INCLUDING, BUT NOT LIMITED TO, LIQUIDATED DAMAGES;~~

25 (5) FINDING THAT THE RESPONDENT BUSINESS ENTITY IS NOT A  
26 "RESPONSIBLE BIDDER" WITHIN THE MEANING OF THIS ARTICLE WITH RESPECT TO  
27 SPECIFIC CONTRACTS THAT THE STATE HAS PUT OUT FOR BIDS OR INTENDS TO PUT  
28 OUT FOR BIDS; ~~OR~~

29 (6) REFERRAL OF THE MATTER FOR CRIMINAL PROSECUTION OF FRAUD  
30 AND OTHER VIOLATIONS UNDER STATE LAW IF APPROPRIATE UNDER THE  
31 CIRCUMSTANCES; ~~OR~~

32 (7) MEDIATION.

33 19-111.

34 (A) IF THE ~~ATTORNEY GENERAL COMMISSION~~ DETERMINES THAT ONE OR  
35 MORE ALLEGATIONS OF A COMPLAINT FILED UNDER THIS TITLE ARE FALSE AND  
36 THAT THE COMPLAINANT KNEW THEM TO BE FALSE WHEN FILED, OR THAT ONE OR  
37 MORE OF THE ALLEGATIONS OF A COMPLAINT ARE ~~SO FRIVOLOUS THAT THEY ARE~~  
38 ~~WHOLLY~~ AND WITHOUT MERIT, THE ~~ATTORNEY GENERAL COMMISSION~~ MAY REFUSE

1 TO REVIEW OR INVESTIGATE ANY SUBSEQUENT COMPLAINT FILED BY THAT  
2 COMPLAINANT FOR A PERIOD OF UP TO 3 YEARS.

3 (B) WHEN THE TOTALITY OF THE EVIDENCE ~~CLEARLY~~ WARRANTS  
4 ~~EXTRAORDINARY~~ ACTION TO DETER FUTURE ABUSE OF THE PROTECTIONS MADE  
5 AVAILABLE UNDER THIS TITLE, THE ~~ATTORNEY GENERAL~~ COMMISSION MAY ALSO  
6 RECOMMEND TO THE ADMINISTRATIVE LAW JUDGE:

7 (1) THAT MONETARY SANCTIONS BE IMPOSED AGAINST THE  
8 COMPLAINANT IN THE AMOUNT OF THE COSTS INCURRED BY THE STATE AND THE  
9 BUSINESS ENTITY IN THE INVESTIGATION AND REVIEW OF THE FALSE OR  
10 FRIVOLOUS COMPLAINT, INCLUDING REASONABLE ATTORNEYS' FEES; AND

11 (2) THAT THE COMPLAINANT BE DISQUALIFIED FROM BIDDING AND  
12 CONTRACT AWARDS ON STATE PROJECTS FOR A PERIOD OF NOT MORE THAN 3  
13 YEARS.

14 19-112.

15 (A) ABSENT A REQUEST FOR A CONTESTED CASE HEARING, THE ~~ATTORNEY~~  
16 ~~GENERAL'S COMMISSION'S~~ FINDINGS AND RECOMMENDATIONS SHALL BECOME THE  
17 FINAL ADMINISTRATIVE DECISION OF THE STATE, SUBJECT TO SUCH JUDICIAL  
18 REVIEW AS IS PROVIDED FOR IN A CONTESTED CASE UNDER § 10-222 OF THE STATE  
19 GOVERNMENT ARTICLE.

20 (B) IN CASES WHERE A CONTESTED CASE HEARING HAS BEEN REQUESTED,  
21 THE ADMINISTRATIVE LAW JUDGE'S WRITTEN DECISION SHALL BECOME THE FINAL  
22 ADMINISTRATIVE DECISION OF THE STATE SUBJECT TO JUDICIAL REVIEW AS  
23 PROVIDED FOR IN A CONTESTED CASE UNDER § 10-222 OF THE STATE GOVERNMENT  
24 ARTICLE.

25 (C) ON ISSUANCE OF A FINAL DECISION, THE ~~ATTORNEY GENERAL~~  
26 COMMISSION OR THE ADMINISTRATIVE LAW JUDGE MAY ENTER ANY ORDER  
27 REASONABLY NECESSARY OR CONVENIENT TO GOVERN THE CONDUCT OF THE  
28 STATE AND THE PARTIES SO THAT THE PURPOSES OF THIS TITLE ARE ACHIEVED.

29 19-113.

30 ANY PARTY WHO, AFTER HAVING EXHAUSTED ALL ADMINISTRATIVE REMEDIES  
31 AVAILABLE, IS AGGRIEVED BY A FINAL DECISION OF THE ~~ATTORNEY GENERAL~~  
32 COMMISSION OR THE ADMINISTRATIVE LAW JUDGE MAY SEEK JUDICIAL REVIEW OF  
33 SUCH DECISION UNDER § 10-222 OF THE STATE GOVERNMENT ARTICLE.

34 19-114.

35 EVERY CONTRACT AND SUBCONTRACT SHALL CONTAIN A NONDISCRIMINATION  
36 CLAUSE THAT READS AS FOLLOWS:

37 "AS A CONDITION OF ENTERING INTO THIS AGREEMENT, THE COMPANY  
38 REPRESENTS AND WARRANTS THAT IT WILL ~~FULLY~~ COMPLY WITH THE STATE'S

1 COMMERCIAL NONDISCRIMINATION POLICY, AS DESCRIBED UNDER TITLE 19 OF THE  
2 STATE FINANCE AND PROCUREMENT ARTICLE OF THE ANNOTATED CODE OF  
3 MARYLAND, ~~AND CONSENTS TO BE BOUND BY ANY FINAL DECISION RENDERED~~  
4 ~~THEREUNDER.~~ AS PART OF SUCH COMPLIANCE, THE COMPANY MAY NOT  
5 DISCRIMINATE ON THE BASIS OF ~~SEX, RACE, AGE, COLOR, CREED, OR NATIONAL~~  
6 ~~ORIGIN, RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE,~~  
7 ~~MARITAL STATUS, SEXUAL ORIENTATION,~~ OR ON THE BASIS OF DISABILITY OR  
8 OTHER UNLAWFUL FORMS OF DISCRIMINATION IN THE SOLICITATION, SELECTION,  
9 HIRING, OR COMMERCIAL TREATMENT OF SUBCONTRACTORS, VENDORS, SUPPLIERS,  
10 OR COMMERCIAL CUSTOMERS, NOR SHALL THE COMPANY RETALIATE AGAINST ANY  
11 PERSON FOR REPORTING INSTANCES OF SUCH DISCRIMINATION. THE COMPANY  
12 SHALL PROVIDE EQUAL OPPORTUNITY FOR SUBCONTRACTORS, VENDORS, AND  
13 SUPPLIERS TO PARTICIPATE IN ALL OF ITS PUBLIC SECTOR AND PRIVATE SECTOR  
14 SUBCONTRACTING AND SUPPLY OPPORTUNITIES, PROVIDED THAT NOTHING  
15 CONTAINED IN THIS CLAUSE SHALL PROHIBIT OR LIMIT OTHERWISE LAWFUL  
16 EFFORTS TO REMEDY THE EFFECTS OF MARKETPLACE DISCRIMINATION THAT HAVE  
17 OCCURRED OR ARE OCCURRING IN THE MARKETPLACE. THE COMPANY  
18 UNDERSTANDS AND AGREES THAT A MATERIAL VIOLATION OF THIS CLAUSE SHALL  
19 BE CONSIDERED A MATERIAL BREACH OF THIS AGREEMENT AND MAY RESULT IN  
20 TERMINATION OF THIS AGREEMENT, DISQUALIFICATION OF THE COMPANY FROM  
21 PARTICIPATING IN STATE CONTRACTS, OR OTHER SANCTIONS. THIS CLAUSE IS NOT  
22 ENFORCEABLE BY OR FOR THE BENEFIT OF, AND CREATES NO OBLIGATION TO, ANY  
23 THIRD PARTY."

24 19-115.

25 ALL REQUESTS FOR BIDS OR PROPOSALS ISSUED FOR STATE CONTRACTS SHALL  
26 INCLUDE THE FOLLOWING CERTIFICATION TO BE COMPLETED BY THE BIDDER:

27 "THE UNDERSIGNED BIDDER HEREBY CERTIFIES AND AGREES THAT THE  
28 FOLLOWING INFORMATION IS CORRECT:

29 IN PREPARING ITS BID ON THIS PROJECT, THE BIDDER HAS CONSIDERED ALL  
30 PROPOSALS SUBMITTED FROM QUALIFIED, POTENTIAL SUBCONTRACTORS AND  
31 SUPPLIERS, AND HAS NOT ENGAGED IN "DISCRIMINATION" AS DEFINED IN § 19-103  
32 OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND; TO  
33 WIT: DISCRIMINATION IN THE SOLICITATION, SELECTION, OR COMMERCIAL  
34 TREATMENT OF ANY SUBCONTRACTOR, VENDOR, SUPPLIER, OR COMMERCIAL  
35 CUSTOMER ON THE BASIS OF ~~SEX, RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,~~  
36 ~~RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL~~  
37 ~~STATUS, SEXUAL ORIENTATION,~~ OR ON THE BASIS OF DISABILITY OR OTHER  
38 UNLAWFUL FORMS OF DISCRIMINATION. WITHOUT LIMITING THE FOREGOING,  
39 "DISCRIMINATION" ALSO INCLUDES RETALIATING AGAINST ANY PERSON OR OTHER  
40 ENTITY FOR REPORTING ANY INCIDENT OF "DISCRIMINATION". WITHOUT LIMITING  
41 ANY OTHER PROVISION OF THE SOLICITATION FOR BIDS ON THIS PROJECT, IT IS  
42 UNDERSTOOD AND AGREED THAT, IF THIS CERTIFICATION IS FALSE, SUCH FALSE  
43 CERTIFICATION WILL CONSTITUTE GROUNDS FOR THE STATE TO REJECT THE BID  
44 SUBMITTED BY THE BIDDER ON THIS PROJECT, AND TERMINATE ANY CONTRACT  
45 AWARDED BASED ON THE BID. ~~AS A CONDITION OF CONTRACTING WITH THE STATE,~~

~~1 THE BIDDER AGREES TO PROMPTLY PROVIDE TO THE STATE ALL INFORMATION AND  
2 DOCUMENTATION THAT MAY BE REQUESTED BY THE STATE FROM TIME TO TIME  
3 REGARDING THE SOLICITATION AND SELECTION OF SUBCONTRACTORS. FAILURE TO  
4 MAINTAIN OR FAILURE TO PROVIDE THE INFORMATION CONSTITUTES GROUNDS  
5 FOR THE STATE TO REJECT THE BID SUBMITTED BY THE BIDDER AND TERMINATE  
6 ANY CONTRACT AWARDED ON THE BID. AS PART OF ITS BID OR PROPOSAL, THE  
7 BIDDER SHALL PROVIDE TO THE STATE A LIST OF ALL INSTANCES WITHIN THE  
8 IMMEDIATE PAST 5 4 YEARS WHERE A COMPLAINT WAS FILED OR PENDING AGAINST  
9 THE BIDDER THERE HAS BEEN A FINAL ADJUDICATED DETERMINATION IN A LEGAL  
10 OR ADMINISTRATIVE PROCEEDING ALLEGING IN THE STATE OF MARYLAND THAT  
11 THE BIDDER DISCRIMINATED AGAINST ITS SUBCONTRACTORS, VENDORS,  
12 SUPPLIERS, OR COMMERCIAL CUSTOMERS, AND A DESCRIPTION OF THE STATUS OR  
13 RESOLUTION OF THAT COMPLAINT, INCLUDING ANY REMEDIAL ACTION TAKEN. AS A  
14 CONDITION OF SUBMITTING A BID OR PROPOSAL TO THE STATE, THE BIDDER  
15 AGREES TO COMPLY WITH THE STATE'S COMMERCIAL NONDISCRIMINATION POLICY  
16 AS DESCRIBED UNDER TITLE 19 OF THE STATE FINANCE AND PROCUREMENT  
17 ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AND CONSENTS TO BE BOUND BY  
18 ANY FINAL DECISION ISSUED THEREUNDER."~~

19 19-116.

20 EVERY CONTRACT THAT THE STATE ENTERS INTO SHALL INCLUDE THE  
21 FOLLOWING LANGUAGE:

22 "AS A CONDITION OF ENTERING INTO THIS AGREEMENT, UPON THE MARYLAND  
23 HUMAN RELATIONS COMMISSION'S REQUEST, AND ONLY AFTER THE FILING OF A  
24 COMPLAINT AGAINST THE COMPANY UNDER TITLE 19 OF THE STATE FINANCE AND  
25 PROCUREMENT ARTICLE, AS AMENDED FROM TIME TO TIME, THE COMPANY AGREES  
26 TO: (A) PROMPTLY PROVIDE TO THE STATE ALL INFORMATION AND DOCUMENTATION  
27 THAT MAY BE REQUESTED BY THE STATE FROM TIME TO TIME REGARDING THE  
28 SOLICITATION, SELECTION, TREATMENT AND PAYMENT OF SUBCONTRACTORS IN  
29 CONNECTION WITH THIS AGREEMENT; AND (B) IF REQUESTED, PROVIDE TO THE  
30 STATE WITHIN 60 DAYS AFTER THE REQUEST A TRUTHFUL AND COMPLETE LIST OF  
31 THE NAMES OF ALL SUBCONTRACTORS, VENDORS, AND SUPPLIERS THAT THE  
32 COMPANY HAS USED IN THE PAST 5 4 YEARS ON ANY OF ITS CONTRACTS THAT WERE  
33 UNDERTAKEN WITHIN THE STATE OF MARYLAND STATE METROPOLITAN  
34 STATISTICAL AREA, INCLUDING THE TOTAL DOLLAR AMOUNT PAID BY THE  
35 CONTRACTOR ON EACH SUBCONTRACT OR SUPPLY CONTRACT. THE COMPANY  
36 FURTHER AGREES TO FULLY COOPERATE IN ANY INVESTIGATION CONDUCTED BY  
37 THE STATE PURSUANT TO THE STATE'S COMMERCIAL NONDISCRIMINATION POLICY  
38 AS SET FORTH UNDER TITLE 19 OF THE STATE FINANCE AND PROCUREMENT  
39 ARTICLE OF THE ANNOTATED CODE OF MARYLAND, TO PROVIDE ANY DOCUMENTS  
40 RELEVANT TO ANY INVESTIGATION THAT IS REQUESTED BY THE STATE, AND TO BE  
41 BOUND BY ANY FINAL DECISION ISSUED UNDER THAT POLICY. THE COMPANY  
42 UNDERSTANDS AND AGREES THAT VIOLATION OF THIS CLAUSE SHALL BE  
43 CONSIDERED A MATERIAL BREACH OF THIS AGREEMENT AND MAY RESULT IN  
44 CONTRACT TERMINATION, DISQUALIFICATION BY THE STATE FROM PARTICIPATING  
45 IN STATE CONTRACTS, AND OTHER SANCTIONS."

1 19-117.

2 THE REMEDIES PROVIDED BY THIS TITLE ARE IN ADDITION TO ANY OTHER  
3 STATUTORY, LEGAL, OR EQUITABLE REMEDIES THAT MAY BE AVAILABLE AND ARE  
4 NOT INTENDED TO BE PREREQUISITE TO OR EXCLUSIVE OF ANY OTHER REMEDIES.

5 19-118.

6 THE FILING, INVESTIGATION, HEARING, AND APPEAL OF A COMPLAINT UNDER  
7 THIS TITLE MAY NOT HINDER OR AFFECT THE ELIGIBILITY FOR BIDDING, AWARD OF,  
8 PERFORMANCE OF, OR PAYMENT ON A CONTRACT PRIOR TO A FINAL  
9 ~~ADMINISTRATIVE~~ ADJUDICATED DECISION THAT ESTABLISHES A VIOLATION.

10 19-119.

11 (A) ~~THE ATTORNEY GENERAL COMMISSION~~ SHALL RECOMMEND  
12 REGULATIONS AS MAY BE REQUIRED FROM TIME TO TIME TO IMPLEMENT THIS  
13 TITLE.

14 (B) ~~THE ATTORNEY GENERAL COMMISSION~~ MAY ESTABLISH  
15 DOCUMENTATION AND REPORTING REQUIREMENTS TO FURTHER THE PURPOSES  
16 AND INTENT OF THIS TITLE.

17 19-120.

18 (A) (1) ~~WITHIN 60 DAYS AFTER THIS TITLE BECOMES LAW, THE ATTORNEY~~  
19 ~~GENERAL SHALL APPOINT A VOLUNTEER EXPERTS POOL TO SERVE AS ADVISORS TO~~  
20 ~~THE ATTORNEY GENERAL IN INVESTIGATING DISCRIMINATION CLAIMS AND AS~~  
21 ~~EXPERT WITNESSES IN HEARINGS UNDER THIS TITLE.~~

22 (2) ~~AS REQUESTED BY THE ATTORNEY GENERAL OR THE~~  
23 ~~ADMINISTRATIVE LAW JUDGE, THE VOLUNTEER EXPERT POOL SHALL:~~

24 (I) ~~ASSIST THE OFFICE IN EVALUATING ALLEGED VIOLATIONS OF~~  
25 ~~THIS TITLE; AND~~

26 (II) ~~PROVIDE TESTIMONY AT HEARINGS UNDER THIS TITLE ON~~  
27 ~~MATTERS RELATING TO INDUSTRY CUSTOM AND PRACTICE IN A PARTICULAR LINE~~  
28 ~~OF BUSINESS.~~

29 (B) (1) ~~NOTICE OF VOLUNTEER OPPORTUNITIES IN THE VOLUNTEER~~  
30 ~~EXPERT POOL SHALL BE POSTED IN LOCAL NEWSPAPERS AT LEAST 15 DAYS PRIOR TO~~  
31 ~~THE DEADLINE FOR SUBMITTING APPLICATIONS.~~

32 (2) ~~THE VOLUNTEER EXPERT POOL SHALL BE LIMITED TO 15~~  
33 ~~INDIVIDUALS, PROVIDED THAT THE ATTORNEY GENERAL MAY INCREASE THE~~  
34 ~~NUMBER OF INDIVIDUALS IN THE POOL FROM TIME TO TIME TO PROVIDE SPECIFIC~~  
35 ~~EXPERTISE THAT MAY POTENTIALLY BE NEEDED TO ASSIST IN EVALUATING A~~  
36 ~~DISCRIMINATION CLAIM IN A MATTER UNDER THIS TITLE.~~

1 ~~19-121.~~

2 THIS TITLE AND ANY REGULATIONS ADOPTED UNDER THIS TITLE MAY BE  
3 CITED AS THE "COMMERCIAL NONDISCRIMINATION POLICY".

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
5 construed to apply only prospectively and may not be applied or interpreted to have  
6 any effect on or application to any conduct that has occurred before the effective date  
7 of this Act.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 ~~July 1, 2006~~ October 1, 2006.