
By: **Senators Lawlah, Britt, Conway, Currie, Exum, Gladden, Hughes,
Jones, Kelley, and McFadden**

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Senate action: Adopted

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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
21 ~~(2001 Replacement Volume and 2005 Supplement)~~ (2006 Replacement Volume)

22 BY adding to
23 Article - State Finance and Procurement

1 Section 19-101 through ~~19-121~~ 19-120, inclusive, to be under the new title
2 "Title 19. Commercial Nondiscrimination Policy"
3 Annotated Code of Maryland
4 (~~2001 Replacement Volume and 2005 Supplement~~) (2006 Replacement Volume)

5 Preamble

6 WHEREAS, The purposes of this Act are:

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

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

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

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

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

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

31 WHEREAS, The General Assembly has further determined that it has a
32 compelling interest in assuring that public funds do not serve to finance private
33 prejudice on the basis of ~~sex, race, age, color, creed, or national origin~~ race, color,
34 religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on
35 the basis of disability or any other form of unlawful discrimination; and

36 WHEREAS, It is in the best interests of the State to enhance competition on
37 State projects by promoting equal opportunity and the full participation of all
38 segments of the community in a marketplace environment that is free from the effects
39 of discrimination, in that the State is likely to benefit from a discrimination-free

1 marketplace through increased business activity, lower prices, and higher State
2 revenues; and

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

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

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

13 **Article - State Finance and Procurement**

14 16-203.

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

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

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

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

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

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

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

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

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

1 (7) BEEN FOUND IN A FINAL ~~ADMINISTRATIVE~~ ADJUDICATED DECISION
2 TO HAVE VIOLATED THE COMMERCIAL NONDISCRIMINATION POLICY UNDER TITLE
3 19 OF THIS ARTICLE WITH REGARD TO A PUBLIC OR PRIVATE CONTRACT.

4 TITLE 19. COMMERCIAL NONDISCRIMINATION POLICY.

5 19-101.

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

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

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

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

24 19-102.

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

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

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

1 19-103.

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

3 (B) "ADMINISTRATIVE LAW JUDGE" MEANS THE INDIVIDUAL ASSIGNED BY
4 THE OFFICE OF ADMINISTRATIVE HEARINGS TO CONDUCT A HEARING UNDER THIS
5 TITLE.

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

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

15 ~~(E) "BUSINESS ENTITY" INCLUDES:~~

16 ~~(F) SELLING OR LEASING SUPPLIES OR GOODS, OR PROVIDING
17 CONSTRUCTION, REAL ESTATE DEVELOPMENT, FINANCIAL, INSURANCE,
18 PROFESSIONAL, OR OTHER SERVICES, IN RETURN FOR A FEE OR ANY OTHER FORM
19 OF COMPENSATION PAID OR PROVIDED BY THE STATE; AND~~

20 ~~(H) ANY SUBCONTRACTOR OF THE BUSINESS ENTITY.~~

21 ~~(3) "BUSINESS ENTITY" DOES NOT INCLUDE ANOTHER GOVERNMENTAL
22 ENTITY.~~

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

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

28 ~~(F)~~ (E) "COMMERCIAL NONDISCRIMINATION POLICY" MEANS THE
29 PROVISIONS CONTAINED UNDER THIS TITLE AND ANY REGULATIONS OR
30 DOCUMENTATION REQUIREMENTS ADOPTED BY THE ~~ATTORNEY GENERAL~~
31 MARYLAND HUMAN RELATIONS COMMISSION FOR THE OFFICE OF MINORITY
32 AFFAIRS IN ACCORDANCE WITH THIS TITLE.

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

34 (G) "CONTRACT" MEANS AN AGREEMENT WITH A BUSINESS ENTITY THAT IS
35 LET BY OR ON BEHALF OF THE STATE FOR THAT BUSINESS ENTITY TO SELL OR
36 LEASE SUPPLIES OR GOODS, OR TO PROVIDE CONSTRUCTION, REAL ESTATE
37 DEVELOPMENT, FINANCIAL, INSURANCE, PROFESSIONAL, OR OTHER SERVICES TO

1 THE STATE IN RETURN FOR A FEE OR ANY OTHER FORM OF COMPENSATION TO BE
2 PAID OR PROVIDED BY THE STATE.

3 (H) (1) "DISCRIMINATION" MEANS ANY DISADVANTAGE, DIFFERENCE,
4 DISTINCTION, OR PREFERENCE IN THE SOLICITATION, SELECTION, HIRING, OR
5 COMMERCIAL TREATMENT OF A VENDOR, SUPPLIER, SUBCONTRACTOR, OR
6 COMMERCIAL CUSTOMER ON THE BASIS OF ~~SEX, RACE, AGE, COLOR, CREED, OR~~
7 ~~NATIONAL ORIGIN, RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX,~~
8 ~~AGE, MARITAL STATUS, SEXUAL ORIENTATION,~~ OR ON THE BASIS OF DISABILITY OR
9 ANY OTHERWISE UNLAWFUL USE OF CHARACTERISTICS REGARDING THE VENDOR'S,
10 SUPPLIER'S, OR COMMERCIAL CUSTOMER'S EMPLOYEES OR OWNERS.

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

14 (I) "ECONOMIC DEVELOPMENT PROJECT" MEANS A REAL ESTATE
15 DEVELOPMENT, CONSTRUCTION, OR RENOVATION PROJECT FOR WHICH THE STATE
16 PROVIDES:

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

19 (2) LAND;

20 (3) ROAD IMPROVEMENTS;

21 (4) TAX CREDITS; OR

22 (5) A BELOW MARKET PURCHASE PRICE.

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

24 (I) ENGAGED IN THE BUSINESS OF LENDING MONEY,
25 GUARANTEEING LOANS, EXTENDING CREDIT, SECURING BONDS, OR PROVIDING
26 VENTURE OR EQUITY CAPITAL; OR

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

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

32 (K) "OFFICE" MEANS THE OFFICE OF THE ~~ATTORNEY GENERAL~~ EXECUTIVE
33 DIRECTOR OF THE MARYLAND HUMAN RELATIONS COMMISSION OR THE EXECUTIVE
34 DIRECTOR'S DESIGNEE.

35 (L) "PARTY" MEANS:

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

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

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

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

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

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

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

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

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

22 19-104.

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

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

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

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

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

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

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

4 (2) SETTLEMENT OF LITIGATION;

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

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

11 ~~(5) AGREEMENTS WITH NOT FOR PROFIT ENTITIES FOR THE PURPOSE~~
12 ~~OF HAVING THE ENTITIES PERFORM FUNCTIONS THAT THE STATE IS AUTHORIZED~~
13 ~~TO PERFORM.~~

14 19-105.

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

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

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

21 19-106.

22 (A) ANY PERSON MAY FILE AN ADMINISTRATIVE COMPLAINT WITH THE
23 ~~ATTORNEY GENERAL COMMISSION~~ WITHIN THE LIMITATIONS PERIOD SET FORTH IN
24 § 19-101(C) OF THIS TITLE STATING FACTS SHOWING OR TENDING TO SHOW THAT A
25 BUSINESS ENTITY HAS WITHIN THE PRECEDING ~~5-YEAR~~ 4-YEAR PERIOD ENGAGED
26 IN DISCRIMINATION OR RETALIATION AGAINST THAT PERSON IN VIOLATION OF THIS
27 TITLE.

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

31 19-107.

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

34 ~~(B) (1) IN CONDUCTING ITS INVESTIGATION, THE OFFICE MAY ENLIST THE~~
35 ~~ASSISTANCE OF ONE OR MORE INDIVIDUALS WHO HAVE BEEN SELECTED BY THE~~

~~1 ATTORNEY GENERAL TO PARTICIPATE IN THE VOLUNTEER EXPERTS POOL
2 ESTABLISHED UNDER § 19-120 OF THIS TITLE.~~

~~3 (2) THE ROLE OF ANY WITNESSES SELECTED FROM THE VOLUNTEER
4 EXPERTS POOL SHALL BE TO HELP THE OFFICE EVALUATE THE CLAIM BY
5 PROVIDING INFORMATION REGARDING INDUSTRY CUSTOM AND PRACTICE IN A
6 PARTICULAR AREA OF BUSINESS.~~

~~7 (C) (B) THE OFFICE MAY REQUEST THAT THE ATTORNEY GENERAL
8 COMMISSION PROVIDE ADDITIONAL STATE PERSONNEL OR OUTSIDE CONSULTANTS
9 AS MAY BE REASONABLY NECESSARY OR APPROPRIATE TO CONDUCT AN
10 INVESTIGATION.~~

~~11 (D) (C) (1) THE OFFICE SHALL EXERCISE REASONABLE JUDGMENT IN
12 SEEKING RELEVANT EVIDENCE FROM THE COMPLAINANT, THE RESPONDENT
13 BUSINESS ENTITY AND, AS NECESSARY, EXTERNAL SOURCES.~~

~~14 (2) THIS TITLE MAY NOT BE CONSTRUED TO REQUIRE THE STATE TO
15 FUND THE COST OF:~~

~~16 (I) HAVING STATE STAFF OR OTHER INDIVIDUALS TRAVEL
17 OUTSIDE THE MARYLAND METROPOLITAN STATISTICAL AREA STATE TO
18 INVESTIGATE ANY CLAIM UNDER THIS TITLE; OR~~

~~19 (II) HAVING WITNESSES TRAVEL TO THE STATE FOR THE PURPOSE
20 OF INVESTIGATING A CLAIM OR TESTIFYING AT A HEARING OR PROCEEDING UNDER
21 THIS TITLE.~~

~~22 (D) (1) CONSISTENT WITH THE PUBLIC INFORMATION ACT AND THE OPEN
23 MEETINGS ACT, THE OFFICE MAY ISSUE PROTECTIVE ORDERS FOR GOOD CAUSE TO
24 LIMIT, OR OTHERWISE IMPOSE CONDITIONS ON, ACCESS BY ANY PERSON TO ANY
25 DOCUMENT IN THE POSSESSION OF A PARTY.~~

~~26 (2) A PROTECTIVE ORDER ISSUED UNDER PARAGRAPH (1) OF THIS
27 SUBSECTION MAY INCLUDE:~~

~~28 (I) A DOCUMENT IN THE POSSESSION OF THE STATE OR
29 OTHERWISE IN THE RECORD THAT IS NOT A PUBLIC RECORD; AND~~

~~30 (II) INFORMATION DISCLOSED IN ACCORDANCE WITH § 19-116 OF
31 THIS SUBTITLE.~~

~~32 (E) THE OFFICE SHALL EXERCISE REASONABLE DISCRETION IN
33 DETERMINING THE EXTENT OF THE INVESTIGATION REQUIRED TO SUPPORT THE
34 ATTORNEY GENERAL'S COMMISSION'S INITIAL FINDINGS AND RECOMMENDATIONS.~~

~~35 (F) THE OFFICE SHALL HAVE NO OBLIGATION TO INVESTIGATE COMPLAINTS
36 RELATING TO DISCRIMINATION THAT OCCURRED OUTSIDE THE MARYLAND
37 METROPOLITAN STATISTICAL AREA, EXCEPT THAT THE OFFICE MAY DO SO IF THE
38 COMPLAINANT PROVIDES EVIDENCE OF A NEXUS BETWEEN THE DISCRIMINATION~~

~~1 THAT OCCURRED AND THE POTENTIAL FOR DISCRIMINATION IN THE MARYLAND
2 METROPOLITAN STATISTICAL AREA.~~

~~3 (G) IN DETERMINING WHETHER DISCRIMINATION OCCURRED UNDER THIS
4 TITLE, AND IN EVALUATING THE FACTORS SET FORTH IN § 19-108(A) OF THIS TITLE,
5 THE OFFICE MAY CONSIDER EVIDENCE RELATING TO ACTS OR OMISSIONS THAT
6 OCCURRED DURING OR PRIOR TO THE 5-YEAR PERIOD BEFORE THE COMPLAINT WAS
7 FILED.~~

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

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

12 (II) THE DISCRIMINATION OCCURRED IN THE STATE.

13 (2) DISCRIMINATION IS DEEMED TO HAVE OCCURRED IN THE STATE
14 ONLY IF:

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

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

18 19-108.

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

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

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

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

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

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

1 (6) ANY OTHER EVIDENCE DEEMED RELEVANT BY THE ATTORNEY
2 ~~GENERAL COMMISSION.~~

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

6 (1) THE INVESTIGATION PRODUCED SUFFICIENT EVIDENCE TO FIND
7 THAT THE ALLEGED DISCRIMINATION OR RETALIATION DID TAKE PLACE
8 ("SUSTAINED");

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

12 ~~(3) THE INVESTIGATION PRODUCED SUFFICIENT EVIDENCE TO FIND~~
13 ~~THAT THE ALLEGED DISCRIMINATION OR RETALIATION DID NOT TAKE PLACE~~
14 ~~("UNFOUNDED");~~

15 ~~(4)~~ (3) THE INVESTIGATION PRODUCED SUFFICIENT EVIDENCE TO
16 ESTABLISH THAT THE COMPLAINANT KNOWINGLY MADE ONE OR MORE FALSE OR
17 FRIVOLOUS ALLEGATIONS, AND FURTHER INVESTIGATION DID NOT APPEAR LIKELY
18 TO PRODUCE SUFFICIENT EVIDENCE THAT THE ALLEGED DISCRIMINATION OR
19 RETALIATION DID TAKE PLACE ("FALSE OR FRIVOLOUS");

20 ~~(5)~~ (4) THE ALLEGATION HAS BEEN SETTLED OR OTHERWISE
21 RESOLVED WITH THE AGREEMENT OF THE RESPONDENT BUSINESS ENTITY, THE
22 COMPLAINANT, AND THE STATE ("SETTLED"); OR

23 ~~(6)~~ (5) THE ALLEGATION HAS BEEN WITHDRAWN ~~WITH THE~~
24 ~~APPROVAL OF THE ATTORNEY GENERAL~~ ("WITHDRAWN").

25 ~~(C) THE ATTORNEY GENERAL SHALL APPROVE THE WITHDRAWAL OF AN~~
26 ~~ALLEGATION BY THE COMPLAINANT UNLESS THE ATTORNEY GENERAL DETERMINES~~
27 ~~THAT PERMITTING THE WITHDRAWAL IS NOT IN THE BEST INTERESTS OF THE~~
28 ~~STATE.~~

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

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

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

38 (1) ADDITIONAL INVESTIGATION OF THE COMPLAINT;

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

3 (3) IMPOSITION OF SANCTIONS;

4 (4) IMPOSITION OF REMEDIES; OR

5 (5) OTHER ACTION CONSISTENT WITH THIS TITLE.

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

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

11 (2) THE IMPACT OF ANY AUTHORIZED REMEDY ON THE STATE OR ANY
12 OTHER PARTY;

13 (3) ACTIONS TAKEN BY THE RESPONDENT BUSINESS ENTITY TO
14 REMEDY THE ALLEGED DISCRIMINATION;

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

17 (5) WHETHER THE RESPONDENT BUSINESS ENTITY HAS PROCURED
18 GOODS OR SERVICES FROM OR OTHERWISE ENGAGED IN BUSINESS WITH PERSONS
19 OR ENTITIES OF THE SAME PROTECTED CLASS AS THE COMPLAINANT TO AN EXTENT
20 SUFFICIENT TO DEMONSTRATE THAT THE RESPONDENT BUSINESS ENTITY HAS NOT
21 DISCRIMINATED AGAINST SUCH PROTECTED CLASS IN THE OVERALL CONTEXT OF
22 ITS BUSINESS;

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

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

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

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

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

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

1 ~~(H)~~ (G) THE ~~ATTORNEY GENERAL COMMISSION~~ SHALL NOTIFY THE
2 COMPLAINANT AND THE BUSINESS ENTITY WITHIN 5 BUSINESS DAYS OF THE
3 ISSUANCE OF THE INITIAL FINDINGS AND RECOMMENDATIONS, INCLUDING AN
4 EXPLANATION OF THE REASONS JUSTIFYING THE INITIAL FINDINGS.

5 ~~(I)~~ ~~(1)~~ ~~FAILURE BY A PARTY TO PRODUCE DOCUMENTS OR OTHER~~
6 ~~EVIDENCE RELEVANT TO AN INVESTIGATION UNDER THIS ARTICLE WITHIN 30 DAYS~~
7 ~~AFTER THE DOCUMENTS ARE REQUESTED BY THE ATTORNEY GENERAL~~
8 ~~CONSTITUTES A VIOLATION OF THIS TITLE.~~

9 ~~(2)~~ ~~THE ATTORNEY GENERAL MAY RECOMMEND ANY REMEDY OR~~
10 ~~SANCTION AUTHORIZED BY THIS TITLE AGAINST ANY PARTY WHO VIOLATES THIS~~
11 ~~SUBSECTION.~~

12 19-109.

13 (A) IF THE ~~ATTORNEY GENERAL COMMISSION~~ DETERMINES THAT ONE OR
14 MORE ALLEGATIONS ARE SUSTAINED OR THAT A COMPLAINANT HAS SUBMITTED A
15 KNOWINGLY FALSE OR FRIVOLOUS COMPLAINT, THE BUSINESS ENTITY AGAINST
16 WHOM THE ALLEGATIONS WERE MADE OR THE COMPLAINANT WHO IS CLAIMED TO
17 HAVE SUBMITTED A KNOWINGLY FALSE OR FRIVOLOUS COMPLAINT SHALL BE
18 ENTITLED TO REQUEST A CONTESTED CASE HEARING IN ACCORDANCE WITH THE
19 PROCEDURES SPECIFIED IN THIS SECTION.

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

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

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

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

32 (III) A REFERENCE TO THIS TITLE; AND

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

36 (C) IF THE BUSINESS ENTITY FAILS TO PROPERLY REQUEST A CONTESTED
37 CASE HEARING, THE INITIAL FINDINGS AND RECOMMENDATIONS OF THE ~~ATTORNEY~~
38 ~~GENERAL COMMISSION~~ SHALL BECOME THE FINAL ADMINISTRATIVE DECISION OF
39 THE STATE, AND THE ~~ATTORNEY GENERAL COMMISSION~~ SHALL THEN BE

1 AUTHORIZED TO ENTER ANY ORDER AND TO TAKE ANY ACTION REASONABLY
2 NECESSARY OR CONVENIENT TO:

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

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

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

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

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

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

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

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

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

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

32 ~~(I) GOVERN THE CONDUCT OF THE HEARING AND THE PARTIES SO~~
33 ~~THAT THE PURPOSES OF THIS TITLE ARE ACHIEVED;~~

34 ~~(II) CONCLUDE ANY HEARING AND ISSUE ANY DECISION WITHIN A~~
35 ~~REASONABLE TIME; AND~~

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

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

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

10 ~~(4)~~ LIMIT, OR OTHERWISE IMPOSE CONDITIONS ON, ACCESS BY
11 ANY PERSON TO ANY DOCUMENT IN THE POSSESSION OF A PARTY, INCLUDING ANY
12 DOCUMENT IN THE STATE'S POSSESSION OR IN THE RECORD OF THE HEARING THAT
13 IS NOT A PUBLIC RECORD; AND

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

16 ~~(8)~~ WITHOUT LIMITING THE SCOPE OF THE ADMINISTRATIVE LAW
17 JUDGE'S AUTHORITY TO ISSUE PROTECTIVE ORDERS, IT IS UNDERSTOOD THAT THE
18 ADMINISTRATIVE LAW JUDGE MAY LIMIT, OR OTHERWISE IMPOSE CONDITIONS ON, A
19 PARTY'S ACCESS TO RECORDS OR PRESENCE DURING THE HEARING ONLY TO THE
20 EXTENT THE LIMITS OR CONDITIONS CAN BE IMPOSED IN A MANNER THAT IS
21 CONSISTENT WITH THE RIGHT, IF ANY, A PARTY MAY HAVE TO ACCESS THE RECORDS
22 OR BE PRESENT DURING THE HEARING UNDER APPLICABLE LAW, INCLUDING
23 EXPRESS PROVISIONS OF THIS TITLE.

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

27 ~~(10)~~ ~~(3)~~ ~~(I)~~ AT THE CONCLUSION OF THE CONTESTED CASE HEARING,
28 THE ADMINISTRATIVE LAW JUDGE SHALL ISSUE A WRITTEN DECISION.

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

30 ~~(4)~~ 1. AFFIRM OR REJECT THE INITIAL FINDINGS AND
31 RECOMMENDATIONS;

32 ~~(4)~~ 2. SUBSTITUTE DIFFERENT FINDINGS OR RECOMMEND
33 APPROPRIATE REMEDIES; OR

34 ~~(III)~~ 3. CONTINUE THE HEARING AND RETURN THE CASE TO THE
35 ATTORNEY GENERAL COMMISSION FOR FURTHER INVESTIGATION AND FINDINGS
36 AND TO REPORT TO THE ADMINISTRATIVE LAW JUDGE ON THE RESULTS OF THE
37 INVESTIGATION WITHIN THE TIME FRAME THE ADMINISTRATIVE LAW JUDGE MAY
38 SPECIFY.

1 ~~(H)~~ (4) THE ADMINISTRATIVE LAW JUDGE'S WRITTEN DECISION SHALL
2 BE SOLELY BASED ON A PREPONDERANCE OF THE EVIDENCE CONTAINED IN THE
3 RECORD OF THE CONTESTED CASE HEARING AND SHALL REFLECT THE
4 EVIDENTIARY BASIS FOR ITS FINDINGS.

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

11 (F) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT ONE OR MORE
12 ALLEGATIONS GIVING RISE TO THE ~~ATTORNEY GENERAL'S~~ COMMISSION'S FINDINGS
13 OR THE BUSINESS ENTITY'S CHALLENGE TO THE FINDINGS WAS FRIVOLOUS OR
14 KNOWINGLY FALSE WHEN MADE, THE ADMINISTRATIVE LAW JUDGE MAY REQUIRE
15 THE PARTY WHO MADE THE FRIVOLOUS OR KNOWINGLY FALSE ALLEGATIONS TO
16 BEAR ALL OR A PORTION OF THE OTHER PARTY'S LEGAL FEES AND EXPERT WITNESS
17 FEES.

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

22 ~~(H)~~ ~~DURING THE CONTESTED CASE HEARING, THE ATTORNEY GENERAL OR~~
23 ~~THE ADMINISTRATIVE LAW JUDGE MAY CALL AS WITNESSES ONE OR MORE~~
24 ~~INDIVIDUALS WHO HAVE BEEN SELECTED BY THE ATTORNEY GENERAL TO~~
25 ~~PARTICIPATE IN THE VOLUNTEER EXPERT POOL AS DESCRIBED IN § 19-120 OF THIS~~
26 ~~TITLE FOR THE PURPOSE OF PROVIDING TESTIMONY REGARDING INDUSTRY~~
27 ~~CUSTOM AND PRACTICE IN A PARTICULAR AREA OF BUSINESS.~~

28 ~~(H)~~ (H) IF THE ~~ATTORNEY GENERAL~~ COMMISSION DETERMINES THAT ONE
29 OR MORE ALLEGATIONS ARE FALSE OR FRIVOLOUS, THE COMPLAINANT MAKING THE
30 ALLEGATIONS SHALL BE ENTITLED TO A CONTESTED CASE HEARING ON THE
31 ALLEGATIONS THAT ARE DETERMINED TO BE FALSE OR FRIVOLOUS IN ACCORDANCE
32 WITH THE PROCEDURES SET FORTH IN THIS SECTION, EXCEPT THAT ALL
33 REFERENCES TO THE BUSINESS ENTITY WITH RESPECT TO MATTERS OF CONTESTED
34 CASE HEARING RULES AND PROCEDURE SHALL APPLY TO THE COMPLAINANT.

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

40 ~~(K)~~ ~~ABSENT GOOD CAUSE, FAILURE BY A PARTY TO PRODUCE RELEVANT~~
41 ~~DOCUMENTS OR OTHER EVIDENCE IN ACCORDANCE WITH AN INITIAL~~
42 ~~INVESTIGATION OR TO A CONTESTED CASE HEARING UNDER THIS TITLE WITHIN 30~~

~~1 DAYS AFTER THE DOCUMENTS ARE REQUESTED BY THE ATTORNEY GENERAL OR
2 THE ADMINISTRATIVE LAW JUDGE SHALL CONSTITUTE A VIOLATION OF THIS TITLE,
3 AND IN THE EVENT OF A VIOLATION THE ADMINISTRATIVE LAW JUDGE MAY ORDER
4 ANY REMEDY, SANCTION, OR ANY COMBINATION OF BOTH AUTHORIZED BY THIS
5 TITLE.~~

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

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

12 ~~(M)~~ (K) IF THE ~~ATTORNEY GENERAL~~ COMMISSION VACATES THE OFFICE'S
13 PROPOSED REMEDY, THE ~~ATTORNEY GENERAL~~ COMMISSION SHALL INITIATE A
14 CONTESTED CASE HEARING BY FILING A REQUEST FOR A CONTESTED CASE
15 HEARING WITH THE OFFICE OF ADMINISTRATIVE HEARINGS IN COMPLIANCE WITH
16 THE REQUIREMENTS OF THIS TITLE.

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

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

25 19-110.

26 (A) WHEN AN ALLEGATION IS SUSTAINED BY AN ADMINISTRATIVE LAW
27 JUDGE UNDER THIS TITLE, THE ADMINISTRATIVE LAW JUDGE MAY TAKE
28 ADDITIONAL EVIDENCE ON THE APPROPRIATE REMEDY TO BE RECOMMENDED,
29 INCLUDING EVIDENCE RELATING TO FACTORS SET FORTH IN § 19-108(F) OF THIS
30 SUBTITLE AND ANY OTHER EVIDENCE DEEMED RELEVANT BY THE ADMINISTRATIVE
31 LAW JUDGE.

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

35 (1) ANY REMEDY THAT IS AGREED TO BY THE RESPONDENT BUSINESS
36 ENTITY, THE COMPLAINANT, AND THE ~~ATTORNEY GENERAL~~ COMMISSION;
37 ~~PROVIDED THAT, IF THE COMPLAINANT OBJECTS TO THE REMEDY AGREED TO BY
38 THE RESPONDENT BUSINESS ENTITY AND THE ATTORNEY GENERAL, THE REMEDY
39 MAY BE CONSIDERED AS APPROVED BY THE STATE ONLY IF THE ATTORNEY
40 GENERAL APPROVES THE REMEDY AFTER AFFORDING THE COMPLAINANT AN~~

1 ~~OPPORTUNITY TO ADDRESS THE ATTORNEY GENERAL ORALLY OR IN WRITING~~
2 ~~REGARDING THE MERITS OR LACK OF MERIT OF THE PROPOSED REMEDY;~~

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

6 (I) BIDDING ON OR RECEIVING CONTRACT AWARDS ON STATE
7 PROJECTS; AND

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

10 (3) RESCISSION, SUSPENSION, OR TERMINATION OF ANY CURRENT
11 CONTRACT BETWEEN THE RESPONDENT BUSINESS ENTITY AND THE STATE UNDER
12 THE TERMS OF THAT CONTRACT;

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

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

20 (6) REFERRAL OF THE MATTER FOR CRIMINAL PROSECUTION OF FRAUD
21 AND OTHER VIOLATIONS UNDER STATE LAW IF APPROPRIATE UNDER THE
22 CIRCUMSTANCES; OR

23 (7) MEDIATION.

24 19-111.

25 (A) IF THE ~~ATTORNEY GENERAL~~ COMMISSION DETERMINES THAT ONE OR
26 MORE ALLEGATIONS OF A COMPLAINT FILED UNDER THIS TITLE ARE FALSE AND
27 THAT THE COMPLAINANT KNEW THEM TO BE FALSE WHEN FILED, OR THAT ONE OR
28 MORE OF THE ALLEGATIONS OF A COMPLAINT ARE ~~SO FRIVOLOUS THAT THEY ARE~~
29 WHOLLY AND WITHOUT MERIT, THE ~~ATTORNEY GENERAL~~ COMMISSION MAY REFUSE
30 TO REVIEW OR INVESTIGATE ANY SUBSEQUENT COMPLAINT FILED BY THAT
31 COMPLAINANT FOR A PERIOD OF UP TO 3 YEARS.

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

36 (1) THAT MONETARY SANCTIONS BE IMPOSED AGAINST THE
37 COMPLAINANT IN THE AMOUNT OF THE COSTS INCURRED BY THE STATE AND THE

1 BUSINESS ENTITY IN THE INVESTIGATION AND REVIEW OF THE FALSE OR
2 FRIVOLOUS COMPLAINT, INCLUDING REASONABLE ATTORNEYS' FEES; AND

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

6 19-112.

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

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

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

21 19-113.

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

26 19-114.

27 EVERY CONTRACT AND SUBCONTRACT SHALL CONTAIN A NONDISCRIMINATION
28 CLAUSE THAT READS AS FOLLOWS:

29 "AS A CONDITION OF ENTERING INTO THIS AGREEMENT, THE COMPANY
30 REPRESENTS AND WARRANTS THAT IT WILL FULLY COMPLY WITH THE STATE'S
31 COMMERCIAL NONDISCRIMINATION POLICY, AS DESCRIBED UNDER TITLE 19 OF THE
32 STATE FINANCE AND PROCUREMENT ARTICLE OF THE ANNOTATED CODE OF
33 MARYLAND, ~~AND CONSENTS TO BE BOUND BY ANY FINAL DECISION RENDERED~~
34 ~~THEREUNDER~~. AS PART OF SUCH COMPLIANCE, THE COMPANY MAY NOT
35 DISCRIMINATE ON THE BASIS OF ~~SEX, RACE, AGE, COLOR, CREED, OR NATIONAL~~
36 ~~ORIGIN, RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE,~~
37 MARITAL STATUS, SEXUAL ORIENTATION, OR ON THE BASIS OF DISABILITY OR
38 OTHER UNLAWFUL FORMS OF DISCRIMINATION IN THE SOLICITATION, SELECTION,
39 HIRING, OR COMMERCIAL TREATMENT OF SUBCONTRACTORS, VENDORS, SUPPLIERS,
40 OR COMMERCIAL CUSTOMERS, NOR SHALL THE COMPANY RETALIATE AGAINST ANY

1 PERSON FOR REPORTING INSTANCES OF SUCH DISCRIMINATION. THE COMPANY
2 SHALL PROVIDE EQUAL OPPORTUNITY FOR SUBCONTRACTORS, VENDORS, AND
3 SUPPLIERS TO PARTICIPATE IN ALL OF ITS PUBLIC SECTOR AND PRIVATE SECTOR
4 SUBCONTRACTING AND SUPPLY OPPORTUNITIES, PROVIDED THAT NOTHING
5 CONTAINED IN THIS CLAUSE SHALL PROHIBIT OR LIMIT OTHERWISE LAWFUL
6 EFFORTS TO REMEDY THE EFFECTS OF MARKETPLACE DISCRIMINATION THAT HAVE
7 OCCURRED OR ARE OCCURRING IN THE MARKETPLACE. THE COMPANY
8 UNDERSTANDS AND AGREES THAT A MATERIAL VIOLATION OF THIS CLAUSE SHALL
9 BE CONSIDERED A MATERIAL BREACH OF THIS AGREEMENT AND MAY RESULT IN
10 TERMINATION OF THIS AGREEMENT, DISQUALIFICATION OF THE COMPANY FROM
11 PARTICIPATING IN STATE CONTRACTS, OR OTHER SANCTIONS. THIS CLAUSE IS NOT
12 ENFORCEABLE BY OR FOR THE BENEFIT OF, AND CREATES NO OBLIGATION TO, ANY
13 THIRD PARTY."

14 19-115.

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

17 "THE UNDERSIGNED BIDDER HEREBY CERTIFIES AND AGREES THAT THE
18 FOLLOWING INFORMATION IS CORRECT:

19 IN PREPARING ITS BID ON THIS PROJECT, THE BIDDER HAS CONSIDERED ALL
20 PROPOSALS SUBMITTED FROM QUALIFIED, POTENTIAL SUBCONTRACTORS AND
21 SUPPLIERS, AND HAS NOT ENGAGED IN "DISCRIMINATION" AS DEFINED IN § 19-103
22 OF THE STATE GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND; TO
23 WIT: DISCRIMINATION IN THE SOLICITATION, SELECTION, OR COMMERCIAL
24 TREATMENT OF ANY SUBCONTRACTOR, VENDOR, SUPPLIER, OR COMMERCIAL
25 CUSTOMER ON THE BASIS OF SEX, RACE, AGE, COLOR, CREED, OR NATIONAL ORIGIN,
26 RACE, COLOR, RELIGION, ANCESTRY OR NATIONAL ORIGIN, SEX, AGE, MARITAL
27 STATUS, SEXUAL ORIENTATION, OR ON THE BASIS OF DISABILITY OR OTHER
28 UNLAWFUL FORMS OF DISCRIMINATION. WITHOUT LIMITING THE FOREGOING,
29 "DISCRIMINATION" ALSO INCLUDES RETALIATING AGAINST ANY PERSON OR OTHER
30 ENTITY FOR REPORTING ANY INCIDENT OF "DISCRIMINATION". WITHOUT LIMITING
31 ANY OTHER PROVISION OF THE SOLICITATION FOR BIDS ON THIS PROJECT, IT IS
32 UNDERSTOOD AND AGREED THAT, IF THIS CERTIFICATION IS FALSE, SUCH FALSE
33 CERTIFICATION WILL CONSTITUTE GROUNDS FOR THE STATE TO REJECT THE BID
34 SUBMITTED BY THE BIDDER ON THIS PROJECT, AND TERMINATE ANY CONTRACT
35 AWARDED BASED ON THE BID. AS A CONDITION OF CONTRACTING WITH THE STATE,
36 THE BIDDER AGREES TO PROMPTLY PROVIDE TO THE STATE ALL INFORMATION AND
37 DOCUMENTATION THAT MAY BE REQUESTED BY THE STATE FROM TIME TO TIME
38 REGARDING THE SOLICITATION AND SELECTION OF SUBCONTRACTORS. FAILURE TO
39 MAINTAIN OR FAILURE TO PROVIDE THE INFORMATION CONSTITUTES GROUNDS
40 FOR THE STATE TO REJECT THE BID SUBMITTED BY THE BIDDER AND TERMINATE
41 ANY CONTRACT AWARDED ON THE BID. AS PART OF ITS BID OR PROPOSAL, THE
42 BIDDER SHALL PROVIDE TO THE STATE A LIST OF ALL INSTANCES WITHIN THE
43 IMMEDIATE PAST 5 4 YEARS WHERE A COMPLAINT WAS FILED OR PENDING AGAINST
44 THE BIDDER THERE HAS BEEN A FINAL ADJUDICATED DETERMINATION IN A LEGAL
45 OR ADMINISTRATIVE PROCEEDING ALLEGING IN THE STATE OF MARYLAND THAT

1 THE BIDDER DISCRIMINATED AGAINST ITS SUBCONTRACTORS, VENDORS,
2 SUPPLIERS, OR COMMERCIAL CUSTOMERS, AND A DESCRIPTION OF THE STATUS OR
3 RESOLUTION OF THAT COMPLAINT, INCLUDING ANY REMEDIAL ACTION TAKEN. AS A
4 CONDITION OF SUBMITTING A BID OR PROPOSAL TO THE STATE, THE BIDDER
5 AGREES TO COMPLY WITH THE STATE'S COMMERCIAL NONDISCRIMINATION POLICY
6 AS DESCRIBED UNDER TITLE 19 OF THE STATE FINANCE AND PROCUREMENT
7 ARTICLE OF THE ANNOTATED CODE OF MARYLAND, ~~AND CONSENTS TO BE BOUND BY~~
8 ~~ANY FINAL DECISION ISSUED THEREUNDER.~~"

9 19-116.

10 EVERY CONTRACT THAT THE STATE ENTERS INTO SHALL INCLUDE THE
11 FOLLOWING LANGUAGE:

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

36 19-117.

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

40 19-118.

41 THE FILING, INVESTIGATION, HEARING, AND APPEAL OF A COMPLAINT UNDER
42 THIS TITLE MAY NOT HINDER OR AFFECT THE ELIGIBILITY FOR BIDDING, AWARD OF,

1 PERFORMANCE OF, OR PAYMENT ON A CONTRACT PRIOR TO A FINAL
2 ~~ADMINISTRATIVE~~ ADJUDICATED DECISION THAT ESTABLISHES A VIOLATION.

3 19-119.

4 (A) ~~THE ATTORNEY GENERAL COMMISSION~~ SHALL RECOMMEND
5 REGULATIONS AS MAY BE REQUIRED FROM TIME TO TIME TO IMPLEMENT THIS
6 TITLE.

7 (B) ~~THE ATTORNEY GENERAL COMMISSION~~ MAY ESTABLISH
8 DOCUMENTATION AND REPORTING REQUIREMENTS TO FURTHER THE PURPOSES
9 AND INTENT OF THIS TITLE.

10 19-120.

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

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

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

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

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

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

30 ~~19-121.~~

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

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

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