

HOUSE BILL 484

P2

(8lr2215)

ENROLLED BILL

—Health and Government Operations/Education, Health, and Environmental
Affairs—

Introduced by **Delegates Morhaim and Wood**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Procurement - Unsolicited Proposals - ~~Repeal~~ *Extension* of Termination Date**

3 FOR the purpose of ~~repealing~~ *extending* the termination date for the use of unsolicited
4 proposals as a method of State procurement; adding lottery services to the
5 services that may be procured using certain unsolicited proposals; repealing a
6 certain interagency panel; repealing a requirement that certain procurement
7 officers forward certain unsolicited proposals to a certain interagency panel for
8 a certain determination; requiring certain procurement officers to get the
9 approval of the Department of Budget and Management before awarding
10 certain contracts; altering the maximum term of certain contracts based on
11 unsolicited proposals; altering the maximum annual and total State
12 expenditures under certain contracts based on unsolicited proposals; requiring
13 certain agencies to report to the Board of Public Works on the status of certain
14 educational outreach activities; authorizing the Board to adopt certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 regulations; repealing a certain reporting requirement; repealing certain
 2 obsolete provisions; defining a certain term; and generally relating to
 3 unsolicited proposals.

4 BY repealing and reenacting, with amendments,
 5 Article – State Finance and Procurement
 6 Section 13–107.1
 7 Annotated Code of Maryland
 8 (2006 Replacement Volume and 2007 Supplement)

9 BY repealing
 10 Chapter 482 of the Acts of the General Assembly of 2002
 11 Section 2

12 BY repealing and reenacting, with amendments,
 13 Chapter 482 of the Acts of the General Assembly of 2002
 14 Section 4

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

17 **Article – State Finance and Procurement**

18 **13–107.1.**

19 (a) (1) In this section the following words have the meanings indicated.

20 (2) “Business and economic development services” means services
 21 procured by the Department of Business and Economic Development.

22 (3) “Educational services” means services procured to provide or assist
 23 in providing training to third–party clients under a contract.

24 (4) “Health or social services” means services procured to provide or
 25 assist in providing support, care, or shelter to third–party clients under a contract.

26 (5) **“LOTTERY SERVICES” MEANS SERVICES PROCURED BY THE**
 27 **MARYLAND STATE LOTTERY AGENCY.**

28 (b) A procurement officer may enter into a contract based on an unsolicited
 29 proposal if the unsolicited proposal:

30 (1) is in writing;

31 (2) (i) contains a novel or innovative concept, application,
 32 approach, or method which, to the knowledge of the procurement officer, is not used by
 33 or available to another unit; or

1 (ii) demonstrates a novel capability of the offeror of the
2 proposal;

3 (3) has not been previously submitted to the unit by another person;

4 (4) is for the delivery of:

5 (i) educational services;

6 (ii) health or social services; [or]

7 (iii) business and economic development services; [and] OR

8 (IV) LOTTERY SERVICES; AND

9 (5) meets a need of or is otherwise advantageous to the unit.

10 [(c) (1) There is an interagency panel consisting of representatives
11 appointed by the Governor from the following:

12 (i) the Department of Health and Mental Hygiene;

13 (ii) the Department of Human Resources;

14 (iii) the Department of Labor, Licensing, and Regulation;

15 (iv) the Department of Juvenile Services;

16 (v) the Department of Disabilities;

17 (vi) the Department of Aging;

18 (vii) the Department of Business and Economic Development;

19 and

20 (viii) the Council on Management and Productivity.

21 (2) (i) A procurement officer shall forward an unsolicited proposal
22 submitted under this section to the interagency panel described under paragraph (1) of
23 this subsection for review and a determination as to whether the unsolicited proposal
24 meets the requirements of subsection (a) of this section.

25 (ii) (C) (1) The [interagency panel] PROCUREMENT
26 OFFICER shall make a determination as to whether the unsolicited proposal meets the
27 requirements of subsection [(a)] (B) of this section [by a majority vote of the panel:

- 1 1. at a meeting of panel members or their designees;
- 2 2. by a telephone poll of panel members; or
- 3 3. in writing].

4 [(iii) (2) If the [interagency panel] PROCUREMENT OFFICER
5 determines that the unsolicited proposal does not meet the requirements of subsection
6 [(a) (B) of this section, the procurement officer may not award a procurement contract
7 based on the unsolicited proposal.

8 [(iv) 1.] (3)(I) The [interagency panel] PROCUREMENT
9 OFFICER shall make a determination under [subparagraph (i) of this paragraph]
10 PARAGRAPH (1) OF THIS SUBSECTION within 30 days after receiving the unsolicited
11 proposal for review.

12 [2.] (II) If the [interagency panel] PROCUREMENT
13 OFFICER fails to make a determination under [subparagraph (i) of this paragraph]
14 PARAGRAPH (1) OF THIS SUBSECTION within the 30-day period established under
15 this subparagraph, the unsolicited proposal shall be deemed to have been disapproved
16 [by the interagency panel].

17 (d) If an unsolicited proposal meets the requirements of subsection (b) of this
18 section, the offeror of the proposal is not required to be the only available source for
19 the contract awarded under this section.

20 (e) Before awarding a procurement contract under this section, a
21 procurement officer shall obtain:

22 (1) the approval of the head of the unit; [and]

23 (2) THE APPROVAL OF THE DEPARTMENT OF BUDGET AND
24 MANAGEMENT; AND

25 [(2) (3) any other approval required by law.

26 (f) The term, including extensions, of a contract awarded under this section
27 may not exceed [2] 3 years.

28 (g) State expenditures under a contract awarded under this section may not
29 exceed [\$1,000,000] \$2,000,000 annually, AND MAY NOT EXCEED \$4,000,000 FOR
30 THE TOTAL CONTRACT.

1 (h) (1) Except as provided under paragraph (2) of this subsection, a
2 procurement officer shall treat the information contained in an unsolicited proposal as
3 confidential information that is not subject to disclosure under any other State or local
4 law.

5 (2) If a contract is awarded under this section, disclosure of the
6 unsolicited proposal is governed by Title 10, Subtitle 6, Part III of the State
7 Government Article.

8 (i) (1) Not less than 30 days before the execution and award of a contract
9 based on an unsolicited proposal under this section, the contracting unit shall publish
10 a general notice of the intent to award the contract as follows:

11 (i) [until July 1, 2006, in the Contract Weekly and in
12 eMaryland Marketplace;

13 (ii) on and after July 1, 2006,] in eMaryland Marketplace; and

14 [(iii)] (II) in at least one newspaper of general circulation in:

15 1. the county of the agency to be served under the
16 contract; and

17 2. if applicable, the county of the client population to be
18 served by the agency under the contract.

19 (2) For purposes of this subsection:

20 (i) the Baltimore Sun and the Washington Post shall be
21 considered newspapers of general circulation in the counties of the State; and

22 (ii) in Baltimore City, Baltimore County, and Anne Arundel
23 County, the Baltimore Afro-American shall be considered a newspaper of general
24 circulation.

25 (3) If, during the 30-day period established under paragraph (1) of
26 this subsection, a person petitions the [interagency panel] **UNIT OF STATE**
27 **GOVERNMENT CONDUCTING THE PROCUREMENT** for reconsideration of a
28 determination of approval under subsection (b) of this section, the [interagency panel]
29 **PROCUREMENT OFFICER** shall reconsider the determination of approval and make
30 written findings affirming or reversing the determination of approval.

31 (j) In addition to publishing notice of the intent to award a contract based on
32 an unsolicited proposal under subsection (i) of this section, not more than 30 days after
33 the execution and approval of a procurement contract awarded under this section, a
34 unit shall publish notice of the award [as follows:

- 1 (1) the number of unsolicited proposals awarded by each contracting
- 2 unit;
- 3 (2) the monetary amounts of the contracts awarded under this Act;
- 4 (3) the goods or services for which contracts were awarded under this
- 5 Act; and
- 6 (4) the number of contract awardees under this Act who were certified
- 7 minority business enterprises.]

8 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
 9 October 1, 2002. ~~It shall remain effective for a period of 6 11 years and, at the end of~~
 10 ~~September 30, 2008 2013, with no further action required by the General Assembly,~~
 11 ~~this Act shall be abrogated and of no further force and effect.]~~

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 13 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.