

# HOUSE BILL 484

P2

8lr2215

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By: **Delegates Morhaim and Wood**

Introduced and read first time: January 30, 2008

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 27, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Procurement – Unsolicited Proposals – Repeal of Termination Date**

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

17 BY repealing and reenacting, with amendments,  
18 Article – State Finance and Procurement  
19 Section 13–107.1  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

22 BY repealing  
23 Chapter 482 of the Acts of the General Assembly of 2002  
24 Section 2

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**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.



1 BY repealing and reenacting, with amendments,  
2 Chapter 482 of the Acts of the General Assembly of 2002  
3 Section 4

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

6 **Article – State Finance and Procurement**

7 13–107.1.

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

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

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

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

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

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

19 (1) is in writing;

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

23 (ii) demonstrates a novel capability of the offeror of the  
24 proposal;

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

26 (4) is for the delivery of:

27 (i) educational services;

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

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

1                    **(IV) LOTTERY SERVICES; AND**

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

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

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

6                    (ii) the Department of Human Resources;

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

8                    (iv) the Department of Juvenile Services;

9                    (v) the Department of Disabilities;

10                   (vi) the Department of Aging;

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

12 and

13                   (viii) the Council on Management and Productivity.

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

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

21                    1. at a meeting of panel members or their designees;

22                    2. by a telephone poll of panel members; or

23                    3. in writing].

24                    **[(iii)] (2) If the [interagency panel] PROCUREMENT OFFICER**  
25 **determines that the unsolicited proposal does not meet the requirements of subsection**  
26 **[(a)] (B) of this section, the procurement officer may not award a procurement contract**  
27 **based on the unsolicited proposal.**

28                    **[(iv) 1.] (3) (I) The [interagency panel] PROCUREMENT**  
29 **OFFICER shall make a determination under [subparagraph (i) of this paragraph]**

1 PARAGRAPH (1) OF THIS SUBSECTION within 30 days after receiving the unsolicited  
2 proposal for review.

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

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

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

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

14 (2) THE APPROVAL OF THE DEPARTMENT OF BUDGET AND  
15 MANAGEMENT; AND

16 [(2)] (3) any other approval required by law.

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

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

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

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

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

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

- 1                   (ii) on and after July 1, 2006,] in eMaryland Marketplace; and  
2                   ~~[(iii)]~~ (II) in at least one newspaper of general circulation in:  
3                   1. the county of the agency to be served under the  
4 contract; and  
5                   2. if applicable, the county of the client population to be  
6 served by the agency under the contract.

7                   (2) For purposes of this subsection:

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

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

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

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

23                   (1) until July 1, 2006, in the Contract Weekly and in eMaryland  
24 Marketplace; and

25                   (2) on and after July 1, 2006,] in eMaryland Marketplace.

26                   (k) Repealed.

27                   (1) The following agencies shall implement an educational outreach  
28 campaign on the availability of the unsolicited proposal method of procurement:

29                   (1) the Department of Health and Mental Hygiene;

30                   (2) the Department of Human Resources;

31                   (3) the Department of Labor, Licensing, and Regulation;



