

HOUSE BILL 753

P2

11r0929

By: **Delegate McDonough**

Introduced and read first time: February 10, 2011

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Use of Federal Work Authorization Programs**

3 FOR the purpose of requiring certain State and local entities to register and
4 participate in a federal work authorization program and post certain
5 information on a Web site; prohibiting certain State or local entities from
6 entering into certain contracts with contractors that are not registered with or
7 authorized to use a federal work authorization program; requiring certain State
8 or local entities to require contractors to submit affidavits with certain
9 information; requiring certain contractors and subcontractors to be registered
10 with a federal work authorization program and participate in the program to
11 verify the eligibility of certain employees to work in the United States; requiring
12 certain contractors to submit affidavits with certain information to certain State
13 and local entities; requiring certain State and local entities to keep certain
14 affidavits for a certain length of time; providing that, except under certain
15 circumstances, an affidavit is a public record; prohibiting certain false,
16 fictitious, or fraudulent statements in certain affidavits; establishing certain
17 sanctions; requiring the Board of Public Works to adopt certain regulations and
18 conduct a certain review of a certain number of procurements each year;
19 defining certain terms; and generally relating to procurement and federal work
20 authorization programs.

21 BY adding to

22 Article – State Finance and Procurement

23 Section 20–101 through 20–107 to be under the new title “Title 20. Use of
24 Federal Work Authorization Programs”

25 Annotated Code of Maryland

26 (2009 Replacement Volume and 2010 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – State Finance and Procurement

2 TITLE 20. USE OF FEDERAL WORK AUTHORIZATION PROGRAMS.

3 20-101.

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

6 (B) “FEDERAL WORK AUTHORIZATION PROGRAM” MEANS AN
7 ELECTRONIC VERIFICATION OF A WORK AUTHORIZATION PROGRAM OPERATED
8 BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TO VERIFY
9 INFORMATION CONCERNING THE ELIGIBILITY OF A NEWLY HIRED EMPLOYEE TO
10 WORK IN THE UNITED STATES, IN ACCORDANCE WITH THE IMMIGRATION
11 REFORM AND CONTROL ACT OF 1986.

12 (C) (1) “LOCAL ENTITY” MEANS A COUNTY, MUNICIPAL
13 CORPORATION, BICOUNTY OR MULTICOUNTY AGENCY, PUBLIC AUTHORITY,
14 SPECIAL TAXING DISTRICT, OR ANY OTHER POLITICAL SUBDIVISION OR UNIT OF
15 A POLITICAL SUBDIVISION OF THIS STATE.

16 (2) “LOCAL ENTITY” INCLUDES A COUNTY BOARD OF EDUCATION
17 AND A COUNTY LIBRARY BOARD THAT RECEIVES FUNDING FROM THE STATE.

18 (D) “STATE ENTITY” MEANS A DEPARTMENT, A BOARD, A COMMISSION,
19 AN AGENCY, OR A SUBUNIT IN THE EXECUTIVE BRANCH OF STATE
20 GOVERNMENT.

21 20-102.

22 EACH STATE OR LOCAL ENTITY SHALL:

23 (1) REGISTER AND PARTICIPATE IN A FEDERAL WORK
24 AUTHORIZATION PROGRAM TO VERIFY THE ELIGIBILITY OF ALL NEWLY HIRED
25 EMPLOYEES TO WORK IN THE UNITED STATES; AND

26 (2) POST THE ENTITY’S FEDERALLY ISSUED USER
27 IDENTIFICATION NUMBER AND DATE OF AUTHORIZATION ON THE ENTITY’S WEB
28 SITE.

29 20-103.

1 **(A) A STATE OR LOCAL ENTITY MAY NOT ENTER INTO A PROCUREMENT**
2 **CONTRACT WITH A CONTRACTOR THAT IS NOT REGISTERED WITH OR**
3 **AUTHORIZED TO USE A FEDERAL WORK AUTHORIZATION PROGRAM.**

4 **(B) IN ADDITION TO A BID OR PROPOSAL FOR A STATE OR LOCAL**
5 **PROCUREMENT CONTRACT, A STATE OR LOCAL ENTITY SHALL REQUIRE A**
6 **CONTRACTOR TO SUBMIT AN AFFIDAVIT THAT:**

7 **(1) IS SIGNED BY THE CONTRACTOR AND NOTARIZED;**

8 **(2) ATTESTS THAT THE CONTRACTOR HAS REGISTERED WITH, IS**
9 **AUTHORIZED TO USE, AND HAS USED CONTINUOUSLY A FEDERAL WORK**
10 **AUTHORIZATION PROGRAM FOR AT LEAST 6 MONTHS BEFORE THE DATE OF THE**
11 **AFFIDAVIT;**

12 **(3) ATTESTS THAT THE CONTRACTOR USES AND WILL CONTINUE**
13 **TO USE A FEDERAL WORK AUTHORIZATION PROGRAM FOR THE LENGTH OF THE**
14 **CONTRACT;**

15 **(4) ATTESTS THAT THE CONTRACTOR WILL SUBCONTRACT ONLY**
16 **WITH SUBCONTRACTORS THAT ARE REGISTERED WITH AND AUTHORIZED TO**
17 **USE A FEDERAL WORK AUTHORIZATION PROGRAM; AND**

18 **(5) INCLUDES THE CONTRACTOR'S IDENTIFICATION NUMBER FOR**
19 **A FEDERAL WORK AUTHORIZATION PROGRAM AND THE DATE OF**
20 **AUTHORIZATION.**

21 **20-104.**

22 **(A) A CONTRACTOR OR SUBCONTRACTOR THAT ENTERS INTO A**
23 **PROCUREMENT CONTRACT WITH A STATE OR LOCAL ENTITY SHALL BE**
24 **REGISTERED WITH A FEDERAL WORK AUTHORIZATION PROGRAM AND**
25 **PARTICIPATE IN THE PROGRAM TO VERIFY THE ELIGIBILITY OF ALL NEWLY**
26 **HIRED EMPLOYEES TO WORK IN THE UNITED STATES.**

27 **(B) (1) A SUBCONTRACTOR THAT ENTERS INTO A SUBCONTRACT**
28 **WITH A CONTRACTOR OR SUBCONTRACTOR THAT HAS ENTERED INTO A**
29 **PROCUREMENT CONTRACT WITH A STATE OR LOCAL ENTITY SHALL BE**
30 **REGISTERED WITH A FEDERAL WORK AUTHORIZATION PROGRAM AND**
31 **PARTICIPATE IN THE PROGRAM TO VERIFY THE ELIGIBILITY OF ALL NEWLY**
32 **HIRED EMPLOYEES TO WORK IN THE UNITED STATES.**

33 **(2) WITHIN 5 BUSINESS DAYS AFTER ENTERING INTO A**
34 **SUBCONTRACT, A CONTRACTOR OR SUBCONTRACTOR SHALL NOTIFY A STATE**

1 OR LOCAL ENTITY OF THE SUBCONTRACT AND PROVIDE THE STATE OR LOCAL
2 ENTITY WITH AN AFFIDAVIT THAT:

3 (I) IS SIGNED BY THE SUBCONTRACTOR AND NOTARIZED;

4 (II) ATTESTS THAT THE SUBCONTRACTOR HAS REGISTERED
5 WITH, IS AUTHORIZED TO USE, AND HAS CONTINUOUSLY USED A FEDERAL WORK
6 AUTHORIZATION PROGRAM FOR AT LEAST 6 MONTHS BEFORE THE DATE OF THE
7 AFFIDAVIT;

8 (III) ATTESTS THAT THE SUBCONTRACTOR USES AND WILL
9 CONTINUE TO USE THE FEDERAL WORK AUTHORIZATION PROGRAM FOR THE
10 LENGTH OF THE CONTRACT;

11 (IV) ATTESTS THAT THE SUBCONTRACTOR WILL
12 SUBCONTRACT ONLY WITH SUBCONTRACTORS THAT ARE REGISTERED WITH
13 AND AUTHORIZED TO USE A FEDERAL WORK AUTHORIZATION PROGRAM; AND

14 (V) INCLUDES THE SUBCONTRACTOR'S IDENTIFICATION
15 NUMBER FOR THE FEDERAL WORK AUTHORIZATION PROGRAM AND THE DATE
16 OF AUTHORIZATION.

17 **20-105.**

18 (A) A STATE OR LOCAL ENTITY SHALL KEEP AN AFFIDAVIT ON FILE FOR
19 5 YEARS AFTER THE DATE OF RECEIPT.

20 (B) EXCEPT AS OTHERWISE PROVIDED BY LAW, AN AFFIDAVIT IS A
21 PUBLIC RECORD.

22 **20-106.**

23 (A) A PERSON MAY NOT KNOWINGLY AND WILLFULLY MAKE A FALSE,
24 FICTITIOUS, OR FRAUDULENT STATEMENT IN AN AFFIDAVIT REQUIRED UNDER
25 THIS TITLE.

26 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
27 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
28 \$2,500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

29 (C) A PERSON WHO IS CONVICTED UNDER THIS SECTION MAY NOT BID
30 ON OR ENTER INTO A PROCUREMENT CONTRACT WITH A STATE OR LOCAL
31 ENTITY WITHIN 1 YEAR AFTER THE CONVICTION.

1 **20-107.**

2 **(A) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
3 **SECTION.**

4 **(B) THE BOARD SHALL CONDUCT A RANDOM REVIEW OF AT LEAST 100**
5 **PROCUREMENT CONTRACTS EACH YEAR FOR COMPLIANCE WITH THIS TITLE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2011.