HOUSE BILL 478

P2 9lr1553

By: Delegate Kelly

Introduced and read first time: February 1, 2019 Assigned to: Health and Government Operations

Committee Report: Favorable

House action: Adopted

Read second time: March 5, 2019

CHAPTER

- 1 AN ACT concerning
- 2 Procurement Qualification Based Selection Land Surveying Services
- 3 FOR the purpose of authorizing a procurement officer in the Department of General
- 4 Services or the Department of Transportation to use qualification based selection as
- a method of procuring land surveying services; applying certain parameters,
- standards, and requirements of qualification based selection to land surveying
- 7 services; and generally relating to qualification based selection for land surveying
- 8 services.
- 9 BY repealing and reenacting, with amendments,
- 10 Article State Finance and Procurement
- 11 Section 13–102 and 13–112
- 12 Annotated Code of Maryland
- 13 (2015 Replacement Volume and 2018 Supplement)
- 14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
- 15 That the Laws of Maryland read as follows:
- 16 Article State Finance and Procurement
- 17 13–102.
- 18 (a) The following procurement methods are authorized at the procurement
- 19 officer's discretion, where applicable:

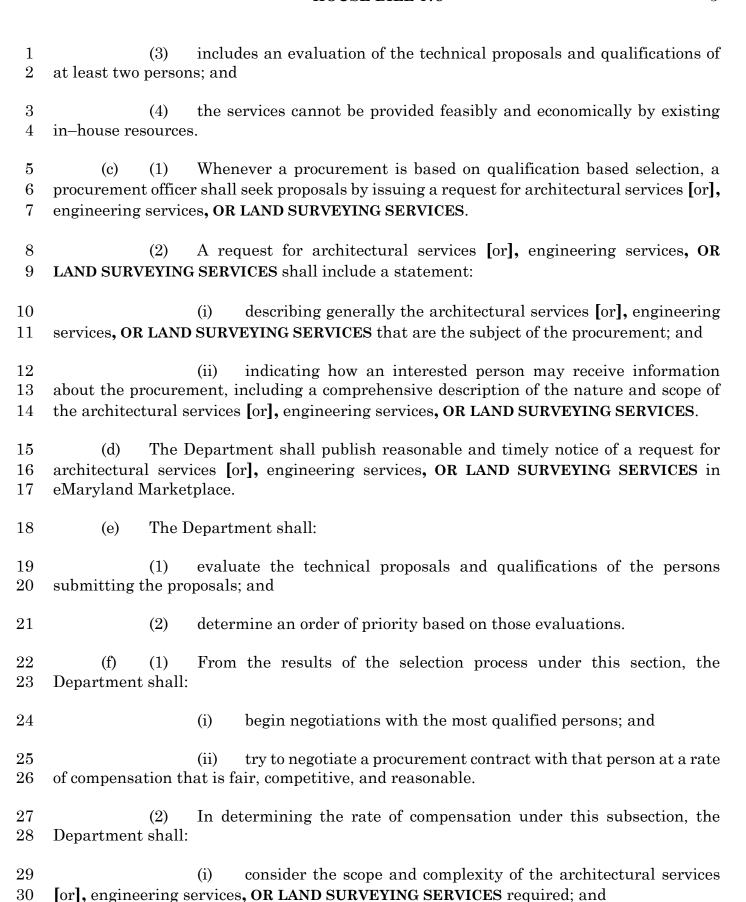
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

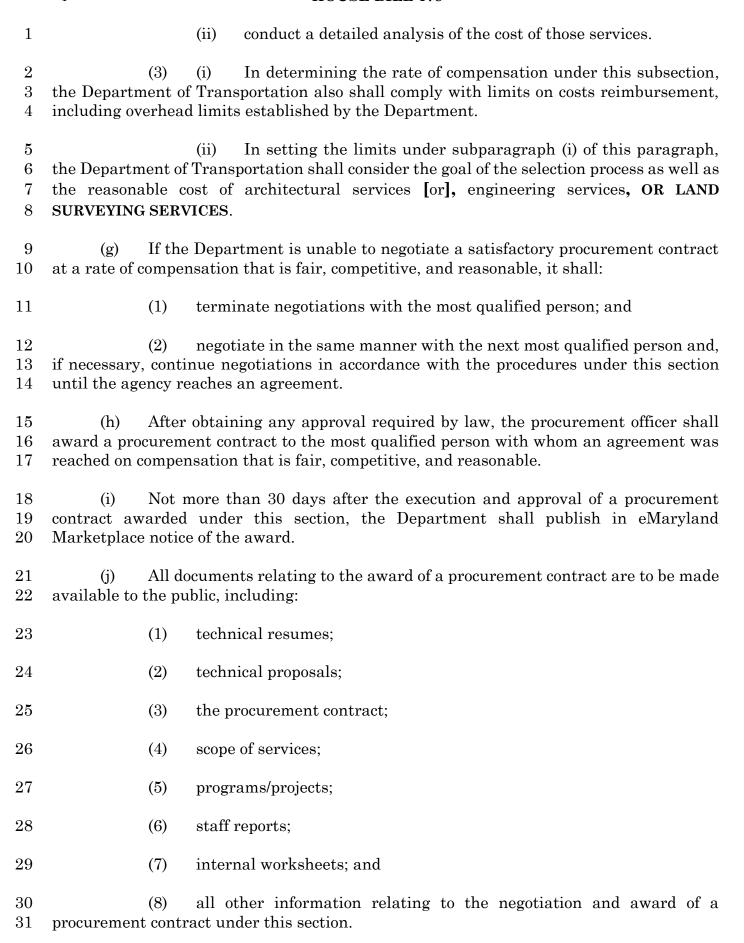
[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

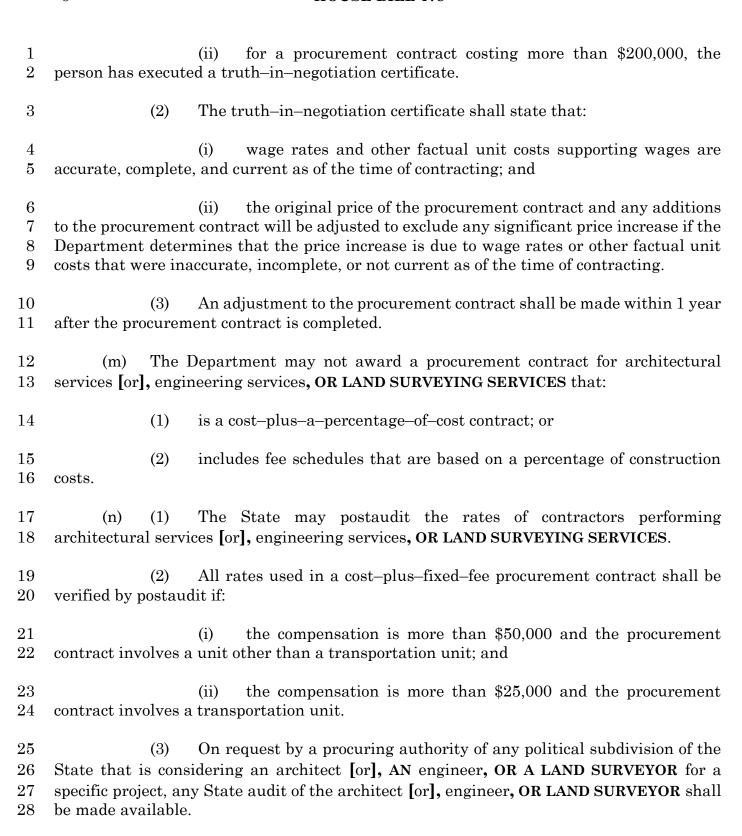
Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

- 1 competitive sealed bids under § 13–103 of this subtitle; (1) 2 (2)competitive sealed proposals under § 13-104 or § 13-105 of this 3 subtitle; 4 (3)noncompetitive negotiation under § 13–106 of this subtitle: 5 **(4)** sole source procurement under § 13–107 of this subtitle; 6 (5)emergency or expedited procurement under § 13–108 of this subtitle; small procurement under § 13–109 of this subtitle; 7 (6) 8 an intergovernmental cooperative purchasing agreement under § (7)9 13–110 of this subtitle: 10 (8)auction bids under § 13–111 of this subtitle; architectural [and], engineering, AND LAND SURVEYING services 11 qualification based selection under § 13–112 of this subtitle; or 12 master contracting under § 13–113 of this subtitle. 13 (10)14 (b) In awarding a procurement contract for human, social, cultural, or (1)15 educational service, the preferred method is by competitive sealed proposals under § 16 13–104 of this subtitle. 17 In awarding a procurement contract for a lease of real property, the preferred method is by competitive sealed proposals under § 13–105 of this subtitle. 18 19 Procurement under an intergovernmental cooperative purchasing (3)20 agreement is appropriate in situations where the State is expected to achieve a better price as the result of economies of scale or to otherwise benefit by purchasing in cooperation with 2122another governmental entity. 23 13–112. 24 In this section, "Department" means the Department of General Services or 25the Department of Transportation.
- 26 (b) Qualification based selection shall only be used by the Department if the 27 procurement:
- 28 (1) is for architectural services [or], engineering services, OR LAND 29 SURVEYING SERVICES;
- 30 (2) is made on a competitive basis;





$\frac{1}{2}$	(k) (1) The Department shall waive the requirements in subsections (b), (e), (f), (g), and (j) of this section if:		
3		(i)	the Department determines that:
4 5 6	LAND SURVEYING requirements; or	G SER	1. the architectural services [or], engineering services, OR EVICES cannot be defined so completely as to carry out those
7 8 9			2. the specifications require architectural services [or], LAND SURVEYING SERVICES that are available only from a bona oprietary product or process;
10		(ii)	the Governor declares an emergency;
11 12	or	(iii)	after a natural disaster, public health and safety are endangered;
13 14 15	(iv) on the recommendation of the Secretary of the Department and a finding by the Governor that extraordinary circumstances exist, the Board of Public Works determines that:		
16 17	selection of a contr	actor o	1. for a particular project, urgent circumstances require the on an expedited basis;
18			2. expedited selection best serves the public interest; and
19 20	of carrying out tho	se requ	3. the need for an expedited selection outweighs the benefits uirements.
21	(2)	A wai	iver and the reasons for it shall be documented and:
22 23	and	(i)	immediately reported to eMaryland Marketplace for publication;
24 25	the waiver occurs.	(ii)	reported to the Legislative Policy Committee within 30 days after
26 27	(l) (1) under this subtitle		Department may not award a procurement contract to a person s:
28		(i)	the person submits:
29			1. an affidavit of noncollusion; and
30			2. a price quotation; and



29 (o) (1) The Department may terminate without liability a procurement 30 contract for architectural services [or], engineering services, OR LAND SURVEYING 31 SERVICES if:

- 1 (i) there has been a conviction of a crime arising out of or in 2 connection with the procurement contract or any payment to be made under the 3 procurement contract; or
- 4 (ii) there has been a breach or violation of any provision of this subtitle.
- 6 (2) Subject to subsection (a) of this section, the Department may deduct 7 from the procurement contract price or otherwise recover the full amount of any fee, 8 commission, gift, percentage, or other consideration paid in violation of this subtitle.
- 9 (3) If a procurement contract is terminated under this section, the 10 contractor:
- 11 (i) is entitled only to the earned value of the work completed as of the date of termination, plus termination costs;
- 13 (ii) is liable for any costs incurred for completion of the work over the maximum amount payable to the contractor under the procurement contract; and
- 15 (iii) shall refund all profits or fixed fees realized under the 16 procurement contract.
- 17 (4) (i) The provisions of this section are in addition to any other right 18 or remedy allowed by law.
- 19 (ii) By carrying out this section, the Department does not waive any 20 other right or remedy provided by law.
- 21 (p) A person who violates any provision of this section is guilty of a felony and on 22 conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 10 years 23 or both.
- 24 (q) (1) The Department of General Services and the Department of Transportation shall adopt regulations that provide substantially similar procedures to carry out this section.
- 27 (2) The procedures of the Department shall ensure that a recommendation 28 to the Board of Public Works for the award of a procurement contract for architectural 29 services [or], engineering services, OR LAND SURVEYING SERVICES costing over \$200,000 30 is made on a competitive basis and includes an evaluation of the technical proposals and 31 qualifications of at least two persons.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 33 October 1, 2019.