Chapter 4

(Senate Bill 829 of the 2021 Regular Session)

AN ACT concerning

State Procurement – Emergency and Expedited Procurements – ~~Reform~~ Revisions and Reporting

FOR the purpose of ~~altering the circumstances under which a procurement officer may make an emergency procurement; requiring a unit's procurement officer to obtain approval from the Chief Procurement Officer or the Chief Procurement Officer's designee before making an emergency procurement under certain circumstances; requiring the Chief Procurement Officer or designee to approve or disapprove a certain request within a certain time frame after receiving the request; providing that if the Chief Procurement Officer or designee does not approve or disapprove a certain request within a certain time frame the request shall be considered to be approved; requiring a procurement officer to make reasonable efforts to solicit a certain minimum number of quotes for an emergency procurement; requiring a procurement officer to evaluate a certain contractor's ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to obtain the approval of the Board of Public Works before awarding an emergency procurement contract with a certain value; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; altering the time frame within which a procurement officer must submit a certain report; requiring an emergency procurement contract to include provisions addressing the contractor's ability to perform the requirements of the contract within a certain time frame; limiting the term of a certain single source procurement contract; authorizing the Board to hold a certain emergency meeting for a certain purpose; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; authorizing certain units of State government to make a procurement on an expedited basis under certain circumstances; reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts; requiring a primary procurement unit to submit the report to the Chief Procurement Officer for the State instead of the Governor and the General Assembly; clarifying the types of procurement contracts that must be included in the report; requiring the report to include certain information on certain types of procurements; requiring the Chief Procurement Officer, within a certain number of days after the end of each fiscal year, to submit to the Governor and certain committees of the General Assembly a consolidated report that includes each report submitted to the Chief Procurement Officer by the primary procurement units as required under this Act; requiring that a report submitted to a committee of the General Assembly under this Act be submitted subject to a certain provision of law; authorizing the Board to adopt certain regulations~~ requiring the Special Secretary

for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, to establish certain guidelines; requiring a unit's procurement officer to obtain approval from the Chief Procurement Officer or the Chief Procurement Officer's designee before making an emergency procurement under certain circumstances; requiring the Chief Procurement Officer or designee to approve or disapprove a certain request within a certain time frame after receiving the request; providing that if the Chief Procurement Officer or designee does not approve or disapprove a certain request within a certain time frame, the request shall be considered to be approved; requiring a procurement officer to evaluate a certain contractor's ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to execute a certain written contract for an emergency procurement under certain circumstances; prohibiting a unit from paying more than a certain amount in advance of or concurrent with the execution of a certain emergency procurement contract; prohibiting a unit from making certain additional payments under a certain emergency procurement contract for a certain period of time unless authorized by the Board of Public Works; requiring a unit to submit a copy of a certain emergency procurement contract to the Board within a certain period of time; authorizing the Board to review a certain emergency procurement contract at a certain meeting and to direct a unit or the appropriate control agency to take certain actions; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; requiring an emergency procurement contract to include provisions addressing the contractor's ability to perform the requirements of the contract within a certain time frame; altering the time frame within which a procurement officer must submit a certain report to the Board; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; requiring a unit that awards a certain contract or contract modification as an emergency procurement to submit a certain report to the Board and a certain appropriate control agency within a certain period of time; specifying the contents of a certain report; authorizing the Board to adopt certain regulations; authorizing certain units of State government to make a procurement on an expedited basis under certain circumstances; reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts; requiring a primary procurement unit to submit a certain report to the Chief Procurement Officer instead of the Governor and the General Assembly; clarifying the types of procurement contracts that must be included in a certain report; requiring a certain report to include certain information on certain types of procurements; requiring the Chief Procurement Officer, within a certain number of days after the end of each fiscal year, to submit to the Governor and certain committees of the General Assembly a consolidated report that includes each report submitted to the Chief Procurement Officer by the primary procurement units as required under this Act; requiring a certain report to be submitted by the Department of General Services instead of the Department of Budget and Management; requiring that a report submitted to a committee of the General Assembly under this Act be submitted

subject to a certain provision of law; requiring the Special Secretary for the Office of Small, Minority, and Women Business Affairs to report to certain committees of the General Assembly on or before a certain date; providing for the application of certain provisions of this Act; providing for the effective dates of this Act; defining a certain term; and generally relating to State procurement.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–108 and 15–111
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 13–108
Annotated Code of Maryland
(2015 Replacement Volume and 2020 Supplement)
(As enacted by Section 1 of this Act)

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

Article – State Finance and Procurement

13–108.

(a) **IN THIS SECTION, "EMERGENCY" MEANS AN OCCURRENCE OR ~~A~~ CONDITION THAT CREATES AN IMMEDIATE AND SERIOUS NEED FOR SERVICES, MATERIALS, OR SUPPLIES THAT:**

(1) CANNOT BE MET THROUGH NORMAL PROCUREMENT METHODS; AND

(2) ARE REQUIRED TO AVOID OR MITIGATE SERIOUS DAMAGE TO PUBLIC HEALTH, SAFETY, OR WELFARE.

(B) (1) Except as provided in § 11–205 ("Collusion"), § 10–204 ("Approval for designated contracts"), § 13–219 ("Required clauses – Nondiscrimination clause"), § 13–221 ("Disclosures to Secretary of State"), Title 16 ("Suspension and Debarment of Contractors"), or Title 17 ("Special Provisions – State and Local Subdivisions") of this article, with the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare ~~**DUE TO UNFORESEEN CAUSES**~~.

(2) ~~**(I)**~~ ~~**BEFORE MAKING AN EMERGENCY PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY**~~

~~PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER'S DESIGNEE.~~

~~(II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.~~

~~(III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST SHALL BE CONSIDERED TO BE APPROVED.~~

~~(3)~~ The procurement officer shall:

(i) obtain as much competition as possible under the circumstances~~,~~ ~~INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL QUOTES~~;

(ii) limit the emergency procurement to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare; ~~[~~and~~]~~

~~(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:~~

~~1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN BUSINESS;~~

~~2. THE CONTRACTOR'S LEVEL OF EXPERIENCE PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION–RELATED SERVICES REQUIRED UNDER THE CONTRACT; AND~~

~~3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;~~

~~(IV) OBTAIN BOARD APPROVAL BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF $1,000,000 OR MORE;~~

~~[~~(iii)~~]~~ ~~(V) NOT MORE THAN 15 DAYS~~ after awarding the procurement contract, submit ~~[~~to the Board~~]~~ a written report that gives the justification

for use of the emergency procurement procedure ~~IN ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION; AND~~

~~(VI) AS APPROPRIATE, SUBMIT WRITTEN REPORTS PROVIDING STATUS UPDATES ON THE DELIVERY AND USE OF SUPPLIES OR COMMODITIES PROCURED UNDER THE CONTRACT IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION.~~

~~(4) WITHIN 15 DAYS AFTER AWARDING A CONTRACT OR A CONTRACT MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE, A REPORT THAT INCLUDES:~~

~~(I) THE BASIS AND JUSTIFICATION FOR THE EMERGENCY PROCUREMENT, INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;~~

~~(II) A LISTING OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION–RELATED SERVICES PROCURED;~~

~~(III) THE NAMES OF ALL PERSONS SOLICITED AND A JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;~~

~~(IV) THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY THE PERSONS RESPONDING TO THE SOLICITATION;~~

~~(V) THE NAME OF AND BASIS FOR THE SELECTION OF A PARTICULAR CONTRACTOR;~~

~~(VI) THE AMOUNT AND TYPE OF THE CONTRACT OR CONTRACT MODIFICATION;~~

~~(VII) A LISTING OF ANY PRIOR OR RELATED EMERGENCY CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY, INCLUDING THE AGGREGATE COSTS; AND~~

~~(VIII) THE IDENTIFICATION NUMBER, IF ANY, OF THE CONTRACT FILE.~~

~~**(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:**~~

~~**(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND**~~

~~**(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE.**~~

~~**(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.**~~

~~**(7) THE TERM OF A SINGLE SOURCE PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION MAY NOT EXCEED THE MINIMUM PERIOD OF TIME NECESSARY TO AMELIORATE THE CIRCUMSTANCES THAT CREATED THE MATERIAL AND SUBSTANTIAL REASONS FOR THE SINGLE–SOURCE AWARD.**~~

~~**(8) THE BOARD MAY HOLD AN EMERGENCY MEETING FOR THE PURPOSE OF CONSIDERING A REQUEST TO APPROVE AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF $1,000,000 OR MORE, AS REQUIRED UNDER PARAGRAPH (3)(IV) OF THIS SUBSECTION.**~~

~~**(9) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT SHALL PUBLISH IN EMARYLAND MARKETPLACE NOTICE OF THE AWARD.**~~**.**

[(b)**] (C)** (1) Consistent with the requirements of subsection **[**(a)(1)**] (B)(1)** of this section, the State Highway Administration may enter into procurement contracts related to the pretreatment and removal of snow and ice as required or authorized under Title 8 of the Transportation Article.

(2) (i) Beginning on June 30, 2016, and no later than June 30 of each succeeding year, the State Highway Administration shall submit to the Board a written report on the operation and effectiveness of the procurement contracts entered into under this subsection during the previous year.

(ii) The report shall include:

1. the number of contracts awarded;

2. the total dollar value of the contracts awarded; and

3. the amount of contracting dollars expended with minority business enterprises, certified small businesses, and certified veteran–owned businesses, as defined under Title 14 of this article.

(3) The Board, in consultation with the State Highway Administration, may adopt regulations to carry out the requirements of this subsection.

[(c)**] (D)** (1) Except as provided in § 11–205 ("Collusion"), § 10–204 ("Approval for designated contracts"), § 13–219 ("Required clauses – Nondiscrimination clause"), § 13–221 ("Disclosures to Secretary of State"), Title 16 ("Suspension and Debarment of Contractors"), or Title 17 ("Special Provisions – State and Local Subdivisions") of this article, with the approval of the head of the unit and the Board, ~~[~~the Maryland Port Commission or the Maryland Aviation Administration~~]~~ ~~A UNIT'S PROCUREMENT OFFICER~~ may make a procurement on an expedited basis if the head of the unit and the Board find that:

(i) urgent circumstances require prompt action;

(ii) an expedited procurement best serves the public interest; and

(iii) the need for the expedited procurement outweighs the benefits of making the procurement on the basis of competitive sealed bids or competitive sealed proposals.

(2) The procurement officer shall attempt to obtain as much competition as reasonably possible.

[(d)**] (E)** ~~[~~Not~~]~~ ~~EXCEPT AS PROVIDED IN SUBSECTION (B)(9) OF THIS SECTION, NOT~~ more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

[(e)**] (F)** For real property leases procured under this section, the term of the lease shall be for the minimum period of time practicable.

(G) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(H) THE SPECIAL SECRETARY FOR THE OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, IN CONSULTATION WITH THE SECRETARY OF TRANSPORTATION AND THE ATTORNEY GENERAL, SHALL ESTABLISH GUIDELINES FOR EACH UNIT TO CONSIDER WHEN DETERMINING THE APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION PERCENTAGE GOAL AND OUTREACH FOR AN EMERGENCY PROCUREMENT CONTRACT.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – State Finance and Procurement

13–108.

(a) In this section, "emergency" means an occurrence or condition that creates an immediate and serious need for services, materials, or supplies that:

(1) cannot be met through normal procurement methods; and

(2) are required to avoid or mitigate serious damage to public health, safety, or welfare.

(b) (1) Except as provided in § 11–205 ("Collusion"), § 10–204 ("Approval for designated contracts"), § 13–219 ("Required clauses – Nondiscrimination clause"), § 13–221 ("Disclosures to Secretary of State"), Title 16 ("Suspension and Debarment of Contractors"), or Title 17 ("Special Provisions – State and Local Subdivisions") of this article, with the approval of the head of a unit, its procurement officer may make an emergency procurement by any method that the procurement officer considers most appropriate to avoid or mitigate serious damage to public health, safety, or welfare.

(2) **(I) EXCEPT WHEN DELAYING A PROCUREMENT BY UP TO 48 HOURS WOULD LIKELY RESULT IN IMMINENT HARM, AFTER OBTAINING THE APPROVAL OF THE HEAD OF THE UNIT AND BEFORE MAKING AN EMERGENCY PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER'S DESIGNEE.**

(II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.

(III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT

PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST SHALL BE CONSIDERED TO BE APPROVED.

(3) The procurement officer shall:

(i) obtain as much competition as possible under the circumstances**, INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL QUOTES**;

(ii) limit the emergency procurement to the procurement of only those items, both in type and quantity, necessary to avoid or to mitigate serious damage to public health, safety, or welfare; **[**and**]**

(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:

1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN BUSINESS;

2. THE CONTRACTOR'S LEVEL OF EXPERIENCE PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION–RELATED SERVICES REQUIRED UNDER THE CONTRACT; AND

3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;

(IV) EXECUTE A WRITTEN CONTRACT WITH THE SUCCESSFUL CONTRACTOR WHICH INCLUDES THE TERMS OF THE EMERGENCY PROCUREMENT; AND

[(iii)**] (V) NOT MORE THAN 15 DAYS** after awarding the procurement contract, submit to the Board a written report that gives the justification for use of the emergency procurement procedure.

(4) (I) THIS PARAGRAPH APPLIES ONLY TO AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF $1,000,000 OR MORE.

(II) 1. IN ADVANCE OF OR CONCURRENT WITH THE EXECUTION OF AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT MAY NOT PAY AN AMOUNT THAT EXCEEDS $2,000,000, PLUS 30% OF THE CONTRACT VALUE IN EXCESS OF $2,000,000.

2. UNLESS AUTHORIZED BY THE BOARD, THE UNIT MAY NOT MAKE ANY ADDITIONAL PAYMENT UNDER THE CONTRACT UNTIL AT LEAST 30 DAYS AFTER THE EXECUTION OF THE CONTRACT.

(III) NOT LATER THAN 7 DAYS AFTER AWARDING AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT SHALL SUBMIT A COPY OF THE CONTRACT TO THE BOARD.

(IV) THE BOARD MAY:

1. REVIEW AN EMERGENCY PROCUREMENT CONTRACT SUBMITTED UNDER THIS PARAGRAPH AT A REGULARLY SCHEDULED MEETING OF THE BOARD OR AT AN EMERGENCY MEETING CALLED FOR THAT PURPOSE; AND

2. DIRECT THE UNIT OR THE APPROPRIATE CONTROL AGENCY TO TAKE ANY ACTION, INCLUDING CANCELING OR RESCINDING THE CONTRACT, THAT THE BOARD DEEMS APPROPRIATE.

(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:

(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND

(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2–1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE.

(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.

(7) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED

UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT SHALL PUBLISH IN EMARYLAND MARKETPLACE NOTICE OF THE AWARD.

(8) (I) THIS PARAGRAPH APPLIES ONLY TO THE AWARD OF A CONTRACT OR A CONTRACT MODIFICATION MADE UNDER THIS SUBSECTION THAT, WITH PRIOR MODIFICATIONS, EXCEEDS $50,000.

(II) WITHIN 15 DAYS AFTER AWARDING A CONTRACT OR A CONTRACT MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD AND THE APPROPRIATE CONTROL AGENCY A REPORT THAT INCLUDES:

1. THE BASIS AND JUSTIFICATION FOR THE EMERGENCY PROCUREMENT INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;

2. A LISTING OF SUPPLIES, SERVICES, MAINTENANCE, COMMODITIES, CONSTRUCTION, OR CONSTRUCTION–RELATED SERVICES PROCURED;

3. THE NAMES OF ALL PERSONS SOLICITED AND A JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;

4. THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY THE PERSONS RESPONDING TO THE SOLICITATION;

5. THE NAME OF AND BASIS FOR THE SELECTION OF A PARTICULAR CONTRACTOR;

6. THE AMOUNT AND TYPE OF THE CONTRACT OR CONTRACT MODIFICATION;

7. A LISTING OF ANY PRIOR OR RELATED EMERGENCY CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY, INCLUDING THE AGGREGATE COSTS; AND

8. THE IDENTIFICATION NUMBER, IF ANY, OF THE CONTRACT FILE.

(III) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS PARAGRAPH.

(c) (1) Consistent with the requirements of subsection (b)(1) of this section, the State Highway Administration may enter into procurement contracts related to the

pretreatment and removal of snow and ice as required or authorized under Title 8 of the Transportation Article.

(2) (i) Beginning on June 30, 2016, and no later than June 30 of each succeeding year, the State Highway Administration shall submit to the Board a written report on the operation and effectiveness of the procurement contracts entered into under this subsection during the previous year.

(ii) The report shall include:

1. the number of contracts awarded;

2. the total dollar value of the contracts awarded; and

3. the amount of contracting dollars expended with minority business enterprises, certified small businesses, and certified veteran–owned businesses, as defined under Title 14 of this article.

(3) The Board, in consultation with the State Highway Administration, may adopt regulations to carry out the requirements of this subsection.

(d) (1) Except as provided in § 11–205 ("Collusion"), § 10–204 ("Approval for designated contracts"), § 13–219 ("Required clauses – Nondiscrimination clause"), § 13–221 ("Disclosures to Secretary of State"), Title 16 ("Suspension and Debarment of Contractors"), or Title 17 ("Special Provisions – State and Local Subdivisions") of this article, with the approval of the head of the unit and the Board, **[**the Maryland Port Commission or the Maryland Aviation Administration**] A UNIT'S PROCUREMENT OFFICER** may make a procurement on an expedited basis if the head of the unit and the Board find that:

(i) urgent circumstances require prompt action;

(ii) an expedited procurement best serves the public interest; and

(iii) the need for the expedited procurement outweighs the benefits of making the procurement on the basis of competitive sealed bids or competitive sealed proposals.

(2) The procurement officer shall attempt to obtain as much competition as reasonably possible.

(e) **[**Not**] EXCEPT AS PROVIDED IN SUBSECTION (B)(7) OF THIS SECTION, NOT** more than 30 days after the execution and approval of a procurement contract awarded under this section, a unit shall publish in eMaryland Marketplace notice of the award.

(f) For real property leases procured under this section, the term of the lease shall be for the minimum period of time practicable.

(g) The Board may adopt regulations to carry out this section.

(h) The Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, shall establish guidelines for each unit to consider when determining the appropriate minority business enterprise participation percentage goal and outreach for an emergency procurement contract.

15–111.

(a) Within **[**90**]** **60** days after the end of each fiscal year, each primary procurement unit shall submit to the **[**Governor and to the General Assembly**]** **CHIEF PROCUREMENT OFFICER** a report on each procurement contract that was awarded during the preceding fiscal year**, WHETHER THE PROCUREMENT WAS CONDUCTED BY THE PRIMARY PROCUREMENT UNIT OR SUBJECT TO REVIEW BY THE PRIMARY PROCUREMENT UNIT,** and:

(1) was exempt from the notice requirements of § 13–103(c) of this article because the procurement officer reasonably expected that the procurement contract would be performed entirely outside this State and the District of Columbia;

(2) cost more than $100,000 and was awarded for the procurement of services, construction related services, architectural services, or engineering services; or

(3) was awarded on the basis of:

(i) § 13–107 of this article ("Sole source procurement");

(ii) § 13–108(a) of this article ("Emergency procurement"); or

(iii) § 13–108(c) of this article ("Expedited procurement").

(b) (1) A report required under subsection (a)(2) or (3) of this section shall include:

(i) the name of each contractor;

(ii) the type and cost of the procurement contract; and

(iii) a description of the procurement.

(2) A report required under subsection (a)(3) of this section **[**also**]** shall **[**describe**]** **INCLUDE:**

(I) A DESCRIPTION OF the basis for the award**;**

(II) THE IDENTITY OF THE DEPARTMENT OR AGENCY THAT AWARDED THE CONTRACT;

(III) THE IDENTITY OF ANY AGENCY OFFICIAL REQUIRED TO AUTHORIZE THE CONTRACT FOR AWARD;

(IV) THE AWARD DATE OF THE PROCUREMENT CONTRACT AND THE FINAL DATE OF THE CONTRACT TERM;

(V) THE DATE THE CONTRACT AWARD WAS POSTED TO EMARYLAND MARKETPLACE; AND

(VI) FOR PROCUREMENTS AWARDED UNDER § 13–108(B) OF THIS ARTICLE ("EMERGENCY PROCUREMENT"):

1. THE NUMBER OF DAYS BETWEEN THE AGENCY DECLARATION OF AN EMERGENCY PROCUREMENT AND THE CONTRACT AWARD DATE;

2. THE DATE OF THE EMERGENCY DECLARATION FOR EACH PROCUREMENT; AND

3. FOR AN AWARD THAT MUST BE REPORTED TO THE BOARD, THE DATE THE AWARD WAS REPORTED TO THE BOARD.

(C) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, THE CHIEF PROCUREMENT OFFICER SHALL SUBMIT TO THE GOVERNOR, THE LEGISLATIVE POLICY COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, ~~AND~~ THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE A CONSOLIDATED REPORT THAT INCLUDES EACH REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

[(c)**] (D)** Within 90 days after the end of each fiscal year, the Department of ~~Budget and Management~~ **GENERAL SERVICES** shall submit to the Board and the General Assembly a report on each class of procurement for which the procedure for noncompetitive negotiated procurement has been approved under § 13–106 of this article.

[(d)**] (E)** A report to the General Assembly **OR A COMMITTEE OF THE GENERAL ASSEMBLY** under this section is subject to § 2–1257 of the State Government Article.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2021.~~

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31, 2021, the Special Secretary for the Office of Small, Minority, and Women Business Affairs shall report to the Legislative Policy Committee, the Senate Budget and Taxation Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Appropriations Committee, the House Health and Government Operations Committee, and the Joint Audit and Evaluation Committee, in accordance with § 2–1257 of the State Government Article, on the status of establishing the guidelines for minority business enterprise participation goals required under Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2021.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2021.

Gubernatorial Veto Override, December 6, 2021.