

# HOUSE BILL 723

P2

(2lr2472)

## ENROLLED BILL

— Health and Government Operations/Budget and Taxation —

Introduced by **Delegate Charles**

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 **State Finance and Procurement – Procedures and Pricing and Selection**  
3 **Committee for Preferred Providers**

4 FOR the purpose of renaming the Pricing and Selection Committee for Blind Industries  
5 and Services of Maryland and the Employment Works Program to be the Pricing and  
6 Selection Committee for Preferred Providers; requiring that Maryland Correctional  
7 Enterprises provide the proposed prevailing average market price of certain goods  
8 and services that are available from Maryland Correctional Enterprises to the  
9 Pricing and Selection Committee; requiring the Pricing and Selection Committee to  
10 review and verify the prevailing average market prices of certain goods and services;  
11 *altering the duties of the Department of Information Technology relating to*  
12 *procurement; altering the duties of the Department of Information Technology*  
13 *relating to procurement;* renaming the Purchasing Bureau in the Department of  
14 General Services to be the Office of State Procurement, led by the Chief Procurement  
15 Officer; establishing certain duties and authority of the Chief Procurement Officer;

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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.

*Italics indicate opposite chamber/conference committee amendments.*



1 ~~altering the list of units that are defined as “designated procurement units”;~~ ~~altering~~  
 2 ~~the list of units that are defined as “designated procurement units”;~~ authorizing the  
 3 Chief Procurement Officer to establish certain fees under certain circumstances;  
 4 authorizing certain types of procurement to be conducted by electronic means;  
 5 renaming the Electronic Transaction Fund in the Department to be the Operations  
 6 Revenue Fund; altering the procedures used by certain units when procuring certain  
 7 goods and services; repealing a requirement that a procurement officer post the  
 8 amount of each bid at the time it is received; establishing that the Employment  
 9 Works Program and an Employment Works Program vendor are not subject to  
 10 certain cost savings requirements; altering the duties of the Pricing and Selection  
 11 Committee; providing that certain provisions relating to the use of eMaryland  
 12 Marketplace do not apply to certain emergency procurements; altering the dates of  
 13 certain reporting requirements; and generally relating to State procurement.

14 BY repealing and reenacting, with amendments,  
 15 Article – Correctional Services  
 16 Section 3–515  
 17 Annotated Code of Maryland  
 18 (2017 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, without amendments,  
 20 Article – State Finance and Procurement  
 21 Section 3A–301(a) ~~and 13–101(a)~~  
 22 Annotated Code of Maryland  
 23 (2021 Replacement Volume)

24 BY repealing and reenacting, with amendments,  
 25 Article – State Finance and Procurement  
 26 Section ~~3A–301(d) and (f), 3A–401 3A–301(f)~~ 3A–301(d) and (f), 3A–401, 4–206(a),  
 27 4–301, 4–302, 4–303, 4–307, 4–310, 4–311, 4–312, 4–313, 4–315, 4–316,  
 28 ~~13–101 13–101(e)~~ 13–101, 13–102.1, 13–111, 13–226, 14–102, 14–106, 14–107,  
 29 14–405, 14–410(e), and 17–502  
 30 Annotated Code of Maryland  
 31 (2021 Replacement Volume)

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

### 34 Article – Correctional Services

35 3–515.

36 (a) A unit of State government shall purchase from Maryland Correctional  
 37 Enterprises any goods or services that are available from Maryland Correctional  
 38 Enterprises and that Maryland Correctional Enterprises can provide at a price not  
 39 exceeding the prevailing average market price as determined by the [Department of

1 General Services] **PRICING AND SELECTION COMMITTEE FOR PREFERRED**  
 2 **PROVIDERS.**

3 (b) **THE PRICING AND SELECTION COMMITTEE FOR PREFERRED**  
 4 **PROVIDERS SHALL REVIEW AND VERIFY THE PREVAILING AVERAGE MARKET**  
 5 **PRICES, AS PROPOSED BY MARYLAND CORRECTIONAL ENTERPRISES:**

6 (1) **WHEN CHANGES ARE MADE TO THE PRICING OF EXISTING GOODS**  
 7 **AND SERVICES THAT ARE AVAILABLE FROM MARYLAND CORRECTIONAL**  
 8 **ENTERPRISES; AND**

9 (2) **FOR NEW GOODS OR SERVICES THAT MARYLAND CORRECTIONAL**  
 10 **ENTERPRISES INTENDS TO MAKE AVAILABLE.**

11 (c) (1) The contracting unit shall inform each unit of State government for  
 12 which it procures goods or services within 60 days after the award of a contract.

13 (2) Quarterly, each unit that requires goods or services for its operations  
 14 shall inform Maryland Correctional Enterprises of its anticipated orders during the next  
 15 3-month period.

16 (3) If Maryland Correctional Enterprises is unable to provide any of the  
 17 goods or services under the contract, Maryland Correctional Enterprises shall notify the  
 18 contracting unit so that appropriate alternative action may be taken to meet the needs of  
 19 units of State government for which the contracting unit procures goods or services.

20 [(c)] (D) The Board of Public Works:

21 (1) shall suspend the application of subsection (a) of this section if the  
 22 Board of Public Works finds that the purposes of Division II of the State Finance and  
 23 Procurement Article are being unduly eroded due to the volume and scope of activities and  
 24 sales by Maryland Correctional Enterprises; and

25 (2) may suspend the application of subsection (a) of this section for data  
 26 entry services that involve information that is protected from disclosure under Title 4 of  
 27 the General Provisions Article.

## 28 Article – State Finance and Procurement

29 3A-301.

30 (a) In this subtitle the following words have the meanings indicated.

31 ~~(d) (1) “Development” means all expenditures for a new information~~  
 32 ~~technology system or an enhancement to an existing system including system~~

- 1           ~~(i) planning;~~  
 2           ~~(ii) [procurement;~~  
 3           ~~(iii)] creation;~~  
 4           ~~[(iv)] (III) installation;~~  
 5           ~~[(v)] (IV) testing; and~~  
 6           ~~[(vi)] (V) initial training.~~

7           ~~(2) "Development" does not include:~~

- 8                   ~~(i) ongoing operating costs, software or hardware maintenance,~~  
 9 ~~routine upgrades, or modifications that merely allow for a continuation of the existing level~~  
 10 ~~of functionality; or~~  
 11                   ~~(ii) expenditures made after a new or enhanced system has been~~  
 12 ~~legally accepted by the user and is being used for the business process for which it was~~  
 13 ~~intended.~~

14           ~~(d) (1) "Development" means all expenditures for a new information technology~~  
 15 ~~system or an enhancement to an existing system including system:~~

- 16                   ~~(i) planning;~~  
 17                   ~~(ii) [procurement;~~  
 18                   ~~(iii)] creation;~~  
 19                   ~~[(iv)] (III) installation;~~  
 20                   ~~[(v)] (IV) testing; and~~  
 21                   ~~[(vi)] (V) initial training.~~

22           ~~(2) "Development" does not include:~~

- 23                   ~~(i) ongoing operating costs, software or hardware maintenance,~~  
 24 ~~routine upgrades, or modifications that merely allow for a continuation of the existing level~~  
 25 ~~of functionality; or~~  
 26                   ~~(ii) expenditures made after a new or enhanced system has been~~  
 27 ~~legally accepted by the user and is being used for the business process for which it was~~  
 28 ~~intended.~~

1 (f) "Information technology" means all electronic information processing  
2 [hardware and software], including:

3 (1) maintenance;

4 (2) telecommunications; [and]

5 **(3) HARDWARE;**

6 **(4) SOFTWARE; AND**

7 ~~[(3)]~~ **(5)** associated [consulting] services.

8 ~~3A 401.~~

9 ~~(a) The Department shall:~~

10 ~~(1) coordinate the development, [procurement,] management, and~~  
11 ~~operation of telecommunication equipment, systems, and services by State government;~~

12 ~~(2) acquire and manage common user telecommunication equipment,~~  
13 ~~systems, or services and charge units of State government for their proportionate share of~~  
14 ~~the costs of installations, maintenance, and operation of the common user~~  
15 ~~telecommunication equipment, systems, or services;~~

16 ~~(3) promote compatibility of telecommunication systems by developing~~  
17 ~~policies, procedures, and standards for the acquisition and use of telecommunication~~  
18 ~~equipment, systems, and services by units of State government;~~

19 ~~(4) coordinate State government telecommunication systems and services~~  
20 ~~by reviewing requests by units of State government for telecommunication equipment,~~  
21 ~~systems, or services;~~

22 ~~(5) advise units of State government about planning, acquisition, and~~  
23 ~~operation of telecommunication equipment, systems, or services; and~~

24 ~~(6) provide radio frequency coordination for State and local governments~~  
25 ~~in accordance with regulations of the Federal Communications Commission.~~

26 ~~(b) The Department may make arrangement for a user other than a unit of State~~  
27 ~~government to have access to and use of State telecommunication equipment, systems, and~~  
28 ~~services and shall charge the user any appropriate amount to cover the cost of installation,~~  
29 ~~maintenance, and operation of the telecommunication equipment, system, or service~~  
30 ~~provided.~~

1 3A-401.

2 (a) The Department shall:

3 (1) coordinate the development, [procurement,] management, and operation  
4 of telecommunication equipment, systems, and services by State government;

5 (2) acquire and manage common user telecommunication equipment,  
6 systems, or services and charge units of State government for their proportionate share of  
7 the costs of installations, maintenance, and operation of the common user  
8 telecommunication equipment, systems, or services;

9 (3) promote compatibility of telecommunication systems by developing  
10 policies, procedures, and standards for the acquisition and use of telecommunication  
11 equipment, systems, and services by units of State government;

12 (4) coordinate State government telecommunication systems and services by  
13 reviewing requests by units of State government for telecommunication equipment, systems,  
14 or services;

15 (5) advise units of State government about planning, acquisition, and  
16 operation of telecommunication equipment, systems, or services; and

17 (6) provide radio frequency coordination for State and local governments in  
18 accordance with regulations of the Federal Communications Commission.

19 (b) The Department may make arrangement for a user other than a unit of State  
20 government to have access to and use of State telecommunication equipment, systems, and  
21 services and shall charge the user any appropriate amount to cover the cost of installation,  
22 maintenance, and operation of the telecommunication equipment, system, or service  
23 provided.

24 4-206.

25 (a) The following units are in the Department:

26 (1) the Board of Architectural Review;

27 (2) [the General Professional Services Selection Board;

28 (3) the Purchasing Bureau] **THE OFFICE OF STATE PROCUREMENT;**

29 and

30 [(4)] **(3)** any other unit that is in the Department under any other law.

31 4-301.

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

2 (b) “Bid” means a bid, proposal, or other response to a solicitation.

3 (c) (1) **“SERVICES” MEANS THE RENDERING OF TIME, EFFORT, OR WORK,**  
4 **RATHER THAN THE FURNISHING OF A SPECIFIC PHYSICAL PRODUCT OTHER THAN**  
5 **REPORTS INCIDENTAL TO THE REQUIRED PERFORMANCE.**

6 (2) **“SERVICES” INCLUDES MAINTENANCE,**  
7 **CONSTRUCTION-RELATED SERVICES, ARCHITECTURAL SERVICES, ENGINEERING**  
8 **SERVICES, AND THE PROFESSIONAL, PERSONAL, OR CONTRACTUAL SERVICES**  
9 **PROVIDED BY ATTORNEYS, ACCOUNTANTS, PHYSICIANS, CONSULTANTS, AND OTHER**  
10 **PROFESSIONALS WHO ARE INDEPENDENT CONTRACTORS.**

11 [(c)] (D) “Supplies” means tangible property, including equipment and  
12 materials.

13 4-302.

14 There is [a Purchasing Bureau] **AN OFFICE OF STATE PROCUREMENT** in the  
15 Department.

16 4-303.

17 The Secretary may delegate any power or duty set forth in Part I or Part II of this  
18 subtitle to the Chief [of the Purchasing Bureau] **PROCUREMENT OFFICER OF THE**  
19 **OFFICE OF STATE PROCUREMENT.**

20 4-307.

21 The Secretary **OR THE CHIEF PROCUREMENT OFFICER** shall provide a copy of  
22 each award for supplies to the requisitioning unit.

23 4-310.

24 Except as otherwise specifically provided by law, each unit of the Executive Branch  
25 of the State Government shall purchase all supplies **AND SERVICES** through or with the  
26 approval of the Secretary **OR THE CHIEF PROCUREMENT OFFICER.**

27 4-311.

28 [An] **EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY LAW, AN** invoice for  
29 supplies purchased by the Secretary, **BY THE CHIEF PROCUREMENT OFFICER,** or by any  
30 unit that procures supplies under Division II of this article may not be paid until the invoice

1 has been approved by the Secretary, **THE CHIEF PROCUREMENT OFFICER**, or a designee  
2 of the Secretary **OR THE CHIEF PROCUREMENT OFFICER**.

3 4-312.

4 [Consistent] **EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY LAW AND**  
5 **CONSISTENT** with Division II of this article, the Secretary **OR CHIEF PROCUREMENT**  
6 **OFFICER** shall set standards for supplies to be purchased by a unit, including standards  
7 for electronic equipment used by State employees or the public for communications that are  
8 consistent with the standards for nonvisual access information technology issued under §  
9 3-410 of this article.

10 4-313.

11 Consistent with Division II of this article, the Secretary **OR THE CHIEF**  
12 **PROCUREMENT OFFICER** shall contract for or purchase any supplies **OR SERVICES** for a  
13 unit except:

14 (1) an item that the Secretary **OR CHIEF PROCUREMENT OFFICER**:

15 [(1)] (I) determines is strictly perishable;

16 [(2)] (II) determines is impracticable for the unit to purchase through or  
17 with the approval of the Secretary **OR CHIEF PROCUREMENT OFFICER**; or

18 [(3)] (III) permits the unit to purchase with the approval of the Secretary  
19 **OR CHIEF PROCUREMENT OFFICER; OR**

20 (2) **SUPPLIES OR SERVICES AUTHORIZED BY STATUTE TO BE**  
21 **PROCURED BY ANOTHER PRIMARY PROCUREMENT UNIT OR DELEGATED TO**  
22 **ANOTHER UNIT.**

23 4-315.

24 (a) An employee of a unit that procures supplies under Division II of this article  
25 whose salary and expenses are paid from the fees of the employee's office may not pay any  
26 contractor or seller for any article of any kind acquired for the unit unless the invoice  
27 approved by the employee is also approved by the Secretary **OR CHIEF PROCUREMENT**  
28 **OFFICER** or a designee of the Secretary **OR CHIEF PROCUREMENT OFFICER**.

29 (b) The Governor may remove an employee for any violation of the provisions of  
30 this section.

31 4-316.



1 (a) Subject to the initial approval of the Secretary **OR CHIEF PROCUREMENT**  
 2 **OFFICER**, the appropriate purchasing unit for the following entities may use the services  
 3 of the Department to purchase **SERVICES**, materials, supplies, and equipment:

4 (1) a county;

5 (2) a municipality;

6 (3) a governmental unit in the State;

7 (4) a public or quasi-public agency that:

8 (i) receives State money; and

9 (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue  
 10 Code;

11 (5) a private elementary or secondary school that:

12 (i) either has been issued a certificate of approval from the State  
 13 Board of Education or is accredited by the Association of Independent Schools; and

14 (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue  
 15 Code; or

16 (6) a nonpublic institution of higher education as provided under § 17-106  
 17 of the Education Article.

18 (b) Notwithstanding subsection (a)(5) and (6) of this section, the Department may  
 19 not purchase religious materials on behalf of a private elementary or secondary school or a  
 20 nonpublic institution of higher education.

21 (c) The purchasing authority under this section is in addition to, and not a  
 22 substitution for, the purchasing power of an entity under another law.

23 13-101.

24 (a) In this subtitle the following words have the meanings indicated.

25 ~~(b) "Designated procurement unit" means:~~

26 ~~(1) [the Department of Budget and Management;~~

27 ~~(2)] the Department of General Services;~~

28 ~~[(3) the Department of Information Technology; or]~~

1 ~~[(4)] (2) the Department of Transportation; OR~~

2 ~~(3) THE DEPARTMENT OF INFORMATION TECHNOLOGY, ONLY WITH~~  
 3 ~~RESPECT TO AN INFORMATION TECHNOLOGY MASTER CONTRACT EXECUTED~~  
 4 ~~BEFORE JULY 1, 2022, UNTIL THE EARLIER OF:~~

5 ~~(I) THE EXPIRATION DATE OF ALL INFORMATION TECHNOLOGY~~  
 6 ~~MASTER CONTRACTS; OR~~

7 ~~(II) JUNE 30, 2027.~~

8 (b) *“Designated procurement unit” means:*

9 (1) *[the Department of Budget and Management;*

10 (2)] *the Department of General Services;*

11 ~~[(3) the Department of Information Technology; or]~~

12 ~~[(4)] (2) the Department of Transportation; OR~~

13 ~~(3) THE DEPARTMENT OF INFORMATION TECHNOLOGY, ONLY WITH~~  
 14 ~~RESPECT TO AN INFORMATION TECHNOLOGY MASTER CONTRACT EXECUTED BEFORE~~  
 15 ~~JULY 1, 2022, UNTIL THE EARLIER OF:~~

16 ~~(I) THE EXPIRATION DATE OF ALL INFORMATION TECHNOLOGY~~  
 17 ~~MASTER CONTRACTS; OR~~

18 ~~(II) JUNE 30, 2027.~~

19 (c) “eMaryland Marketplace” OR “EMARYLAND MARKETPLACE ADVANTAGE”  
 20 means the Internet-based procurement system managed by the Department of General  
 21 Services.

22 ~~(d) “Evaluated bid price” means the price of a bid after adjustment in accordance~~  
 23 ~~with objective measurable criteria.~~

24 ~~(e) “Master contracting” means a streamlined procurement method that provides~~  
 25 ~~for the qualification of bidders and offerors for the procurement of services, supplies, or~~  
 26 ~~commodities.~~

27 ~~(f) (1) “Objective measurable criteria” means standards that enable the State~~  
 28 ~~to compare the economy, effectiveness, or value of the subject of the bids.~~

1 ~~(2) “Objective measurable criteria” includes standards of reliability,~~  
 2 ~~operational costs, maintainability, useful life, and residual value.~~

3 ~~(g) “Person” includes, unless the context requires otherwise:~~

4 ~~(1) the State;~~

5 ~~(2) a county, a municipal corporation, or any other political subdivision;~~

6 ~~(3) any unit of the State government or a political subdivision.~~

7 ~~(h) “Task order” means a procurement process in which only those vendors with~~  
 8 ~~master contracts may compete to provide the services, supplies, or commodities under the~~  
 9 ~~procurement.~~

10 (d) “Evaluated bid price” means the price of a bid after adjustment in accordance  
 11 with objective measurable criteria.

12 (e) “Master contracting” means a streamlined procurement method that provides  
 13 for the qualification of bidders and offerors for the procurement of services, supplies, or  
 14 commodities.

15 (f) (1) “Objective measurable criteria” means standards that enable the State  
 16 to compare the economy, effectiveness, or value of the subject of the bids.

17 (2) “Objective measurable criteria” includes standards of reliability,  
 18 operational costs, maintainability, useful life, and residual value.

19 (g) “Person” includes, unless the context requires otherwise:

20 (1) the State;

21 (2) a county, a municipal corporation, or any other political subdivision;

22 and

23 (3) any unit of the State government or a political subdivision.

24 (h) “Task order” means a procurement process in which only those vendors with  
 25 master contracts may compete to provide the services, supplies, or commodities under the  
 26 procurement.

27 13-102.1.

28 (a) A unit may not charge a fee to access eMaryland Marketplace.

29 (b) (1) Subject to approval by the Board of Public Works, the Chief  
 30 Procurement Officer may establish fees for the use of eMaryland Marketplace by an entity

1 that publishes a notice of a procurement, conducts a procurement, or publishes a notice of  
2 award.

3 (2) The Chief Procurement Officer may not charge a unit, as defined in §  
4 11–101(y) of this article, a fee under this subsection.

5 (C) **SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS, THE CHIEF**  
6 **PROCUREMENT OFFICER, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET**  
7 **AND MANAGEMENT, MAY ESTABLISH FEES FOR:**

8 (1) **TRAINING;**

9 (2) **STRATEGIC SOURCING; AND**

10 (3) **ADMINISTRATIVE COSTS.**

11 [(c)] (D) (1) There is an [Electronic Transaction] **OPERATIONS REVENUE**  
12 Fund in the Department of General Services.

13 (2) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of  
14 this article.

15 (3) The State Treasurer shall hold the Fund separately, and the  
16 Comptroller shall account for the Fund.

17 (4) The Fund consists of any fees imposed and collected under [paragraph]  
18 **SUBSECTION (b)(1) OR (C)** of this [subsection] **SECTION** and § 13–226(c) of this title.

19 (5) The Fund shall be used by the Department of General Services to cover  
20 the actual documented direct and indirect [costs of administering contracts through the use  
21 of electronic transactions] **OPERATING EXPENSES OF THE OFFICE OF STATE**  
22 **PROCUREMENT.**

23 13–111.

24 (a) This section applies to the procurement of supplies[, with an estimated  
25 contract value of \$1,000,000 or more,] **AND SERVICES** by a primary procurement unit.

26 (b) (1) Whenever the head of a primary procurement unit or designee  
27 determines that it is in the best interest of the State for a procurement contract to be based  
28 on auction bids, a procurement officer shall seek bids by issuing an invitation for auction  
29 bids.

30 (2) Subject to subsection (c) of this section, an invitation for auction bids  
31 shall include:

1 (i) the specifications of the procurement contract;

2 (ii) whether the procurement contract will be awarded based on the  
3 lowest bid price or the lowest evaluated bid price;

4 (iii) if the procurement contract will be based on evaluated bid price,  
5 the objective measurable criteria by which the lowest evaluated bid price will be  
6 determined;

7 (iv) the small business preference, if designated under § 13–103 of  
8 this subtitle; and

9 (v) the date and time when bidding will commence and the date and  
10 time when bidding will end or the event upon which bidding will end.

11 (c) (1) In the discretion of the procurement officer, the invitation for auction  
12 bids may:

13 (i) include a request for unpriced technical offers or samples;

14 (ii) direct bidders to submit price bids after the unit evaluates the  
15 technical offers or samples and finds they are acceptable under the criteria set forth in the  
16 invitation for auction bids; and

17 (iii) inform all bidders who submitted technical offers or samples of  
18 the identity of each bidder who submitted an acceptable technical offer or sample.

19 (2) Price bids may not be received until after the unit has completed  
20 evaluation of the technical offers or samples.

21 (3) A price bid may not be received at any time if the bid is submitted by a  
22 bidder whose technical offer or sample has been evaluated as unacceptable to the unit.

23 (d) A unit shall give public notice of an invitation for auction bids in the same  
24 manner as required for an invitation for bids.

25 (e) (1) (i) Multiple price bids are permitted in response to an invitation for  
26 auction bids.

27 (ii) When a bidder submits multiple bids, each bid shall be judged  
28 independently and shall not revoke previous bids of that bidder.

29 (2) A procurement officer shall:

30 (i) receive bids in public at the time and place designated in the  
31 invitation for auction bids; and

1 (ii) record [and post] the amount of each bid at the time it is received.

2 (3) (i) The amount of a price bid shall be available for public inspection  
3 from the time it is received.

4 (ii) The identity of the bidder submitting a price bid shall not be  
5 available for public inspection until bidding has ended.

6 (4) Except as provided in paragraph (5) of this subsection, a bid is  
7 irrevocable, after receipt, for the period specified in the invitation for auction bids.

8 (5) A procurement officer may allow a bidder to correct or withdraw a bid  
9 if correction or withdrawal is:

10 (i) allowed under regulations adopted under this Division II  
11 applicable to an invitation for bids; and

12 (ii) approved in writing by the Office of the Attorney General.

13 (f) (1) After obtaining any approval required by law, the procurement officer  
14 shall award the procurement contract to the responsible bidder who submits the responsive  
15 bid that:

16 (i) is the lowest bid price; or

17 (ii) if the invitation for auction bids so provides, is the lowest  
18 evaluated bid price.

19 (2) If, after bids have been received, a procurement officer determines that  
20 only one responsible bidder has submitted a responsive bid, the unit may negotiate the  
21 procurement contract with that one bidder under the procedure for sole source  
22 procurement.

23 (3) (i) After bids have been received, a procurement officer may award  
24 a procurement contract on the basis of revised bids if:

25 1. all bids are rejected under § 13–206(b) of this title;

26 2. all bid prices exceed the funds available for the  
27 procurement; or

28 3. with the approval of the head of a primary procurement  
29 unit or a designee, the procurement officer determines that all bids are unreasonable as to  
30 at least one requirement and delay that would result from issuing a new invitation for  
31 auction bids with revised specifications or quantities would be fiscally disadvantageous or  
32 otherwise not in the best interests of the State.

1 (ii) If there is more than one bidder, discussion about revised  
2 specifications or quantities shall be conducted with all responsible bidders who submitted  
3 responsive bids. The bidders shall be treated fairly and equally with respect to any  
4 discussions.

5 (iii) If one of the conditions set forth under subparagraph (i) of this  
6 paragraph exists, as promptly as possible, the procurement officer shall:

7 1. issue an invitation for revised auction bids, which shall  
8 state whether the award will be made without competitive negotiations; and

9 2. requires a prompt response to that invitation.

10 (iv) An invitation for revised auction bids is not subject to the notice  
11 requirements in subsection (d) of this section.

12 (v) After revised bids have been submitted, negotiations with  
13 bidders may not be conducted unless the procurement officer determines that there is a  
14 compelling reason to negotiate.

15 (vi) After revised bids have been received and any approval required  
16 by law has been obtained, the procurement officer shall award the procurement contract to  
17 the responsible bidder who submits a responsive bid that:

18 1. is the lowest bid price; or

19 2. if the invitation for revised bids so provides, is the lowest  
20 evaluated bid price.

21 (g) Not more than 30 days after the execution and approval of a procurement  
22 contract awarded under this section, a unit shall publish notice of the award in eMaryland  
23 Marketplace.

24 13-226.

25 (a) Unless otherwise prohibited by law, a primary procurement unit may conduct  
26 procurement, including the solicitation[, bidding] **OF BIDS OR PROPOSALS,**  
27 **EVALUATION,** award, execution, and administration of a contract, by electronic means as  
28 provided in the Uniform Electronic Transactions Act in Title 21 of the Commercial Law  
29 Article.

30 (b) **Bidding OR SUBMITTING A PROPOSAL** on a procurement contract by  
31 electronic means shall constitute consent by the bidder **OR PROPOSER** to conduct by  
32 electronic means all elements of the procurement of that contract which the unit agrees to  
33 conduct by electronic means.

1 (c) (1) (i) Except as provided in paragraph (2) of the subsection, a unit  
2 utilizing electronic means to conduct procurement or a private contractor furnishing to the  
3 State electronic means for conducting procurement may charge a reasonable fee, [as  
4 determined in consultation with] **ON APPROVAL BY** the Chief Procurement Officer, to the  
5 bidder, **PROPOSER, OR EACH CONTRACT AWARDEE** for the use of the electronic means.

6 (ii) Any fees collected under subparagraph (i) of this paragraph shall  
7 be deposited in the [Electronic Transaction] **OPERATIONS REVENUE** Fund established  
8 under § 13–102.1(c) of this subtitle.

9 (2) Unless approved by the Board of Public Works, a fee may not be charged  
10 under this subsection.

11 (d) The terms and conditions of a procurement conducted under this section shall  
12 comply with the Uniform Electronic Transactions Act in Title 21 of the Commercial Law  
13 Article.

14 14–102.

15 (a) Notwithstanding any other provision of this Division II, a State or State aided  
16 or controlled entity shall buy supplies and services in accordance with § 14–103 of this  
17 subtitle.

18 (b) The procurement of services from [a sheltered workshop] **THE EMPLOYMENT**  
19 **WORKS PROGRAM OR AN EMPLOYMENT WORKS PROGRAM VENDOR** is not subject to  
20 the cost savings requirements of § 13–405 of the State Personnel and Pensions Article.

21 14–106.

22 (a) In this section, “Committee” means the Pricing and Selection Committee for  
23 [Blind Industries and Services of Maryland and the Employment Works Program]  
24 **PREFERRED PROVIDERS.**

25 (b) There is a Pricing and Selection Committee for [Blind Industries and Services  
26 of Maryland and the Employment Works Program] **PREFERRED PROVIDERS.**

27 (c) The Committee consists of the following 5 members:

28 (1) the Secretary of Transportation or a designee;

29 (2) the Secretary of General Services or a designee;

30 (3) the Secretary of Public Safety and Correctional Services or a designee;

31 (4) the Assistant Secretary for Vocational Rehabilitation within the State  
32 Department of Education or a designee; and



1 (5) the Secretary of Labor or a designee.

2 (d) A member of the Committee:

3 (1) may not receive compensation; but

4 (2) is entitled to reimbursement for expenses under the Standard State  
5 Travel Regulations as provided in the State budget.

6 (e) (1) Blind Industries and Services of Maryland shall provide staff for the  
7 Committee.

8 (2) The staff provided in accordance with paragraph (1) of this subsection  
9 shall:

10 (i) be a blind or a visually impaired associate of Blind Industries  
11 and Services of Maryland; and

12 (ii) complete work related to the duties of the Committee regarding  
13 Blind Industries and Services of Maryland under the supervision and direction of the  
14 Committee.

15 (f) The Committee shall:

16 (1) ensure that supplies and services provided by Blind Industries and  
17 Services of Maryland or [a] **AN EMPLOYMENT WORKS PROGRAM** community service  
18 provider create work opportunities for individuals who have a mental or physical disability,  
19 including blindness, for which Blind Industries and Services of Maryland or the  
20 **EMPLOYMENT WORKS PROGRAM** community service provider was established to assist;

21 (2) set the prices of supplies and services that Blind Industries and  
22 Services of Maryland provides to reflect the fair market prices for the supplies and services;

23 **(3) REVIEW AND VERIFY THE PREVAILING AVERAGE MARKET PRICES,**  
24 **AS PROPOSED BY MARYLAND CORRECTIONAL ENTERPRISES:**

25 **(I) WHEN CHANGES ARE MADE TO THE PRICING OF EXISTING**  
26 **SUPPLIES AND SERVICES THAT ARE AVAILABLE FROM MARYLAND CORRECTIONAL**  
27 **ENTERPRISES; AND**

28 **(II) FOR NEW SUPPLIES OR SERVICES THAT MARYLAND**  
29 **CORRECTIONAL ENTERPRISES INTENDS TO MAKE AVAILABLE;**

1            ~~[(3)] (4)~~ establish procedures to govern procurement of supplies [and],  
2 services, **AND OTHER SALES** from **EMPLOYMENT WORKS PROGRAM** community service  
3 providers and individual with disability owned businesses;

4            ~~[(4)] (5)~~ from the State procurement list, choose appropriate supplies  
5 [and], services, **AND OTHER SALES** for **EMPLOYMENT WORKS PROGRAM** community  
6 service providers and individual with disability owned businesses to offer for procurement;

7            ~~[(5)] (6)~~ provide that the State procure those supplies [and], services,  
8 **AND OTHER SALES** from [a] **AN EMPLOYMENT WORKS PROGRAM** community service  
9 provider or an individual with disability owned business;

10           ~~[(6)] (7)~~ if supplies [or], services, **OR OTHER SALES** are not available for  
11 procurement from a unit of the State **GOVERNMENT**, determine whether supplies [or],  
12 services, **OR OTHER SALES** are available from [a] **AN EMPLOYMENT WORKS PROGRAM**  
13 community service provider or an individual with disability owned business;

14           ~~[(7)] (8)~~ determine the fair market price of supplies [and], services, **AND**  
15 **OTHER SALES** that **EMPLOYMENT WORKS PROGRAM** community service providers and  
16 individual with disability owned businesses provide;

17           ~~[(8)] (9)~~ in accordance with market conditions, adjust prices for the  
18 supplies [and], services, **AND OTHER SALES** that **EMPLOYMENT WORKS PROGRAM**  
19 community service providers and individual with disability owned businesses provide; and

20           ~~[(9)] (10)~~ at the request of a community service provider or an individual  
21 with disability owned business, review and, if appropriate, change the price of a supply or  
22 service.

23           (g) In addition to the duties specified under subsection (f) of this section, the  
24 committee shall:

25           (1) establish and periodically review eligibility policies or guidelines for  
26 participating community service providers and individual with disability owned  
27 businesses;

28           (2) maintain a current list of community service providers and individual  
29 with disability owned businesses;

30           (3) periodically review and revise its list of community service providers  
31 and individual with disability owned businesses; and

32           (4) send any revised list to the [**Secretary of General Services**] **CHIEF**  
33 **PROCUREMENT OFFICER** who shall make the list available to each person responsible  
34 for buying supplies or services for the State or a State aided or controlled entity.

1 14–107.

2 The Pricing and Selection Committee for [Blind Industries and Services of Maryland  
3 and the Employment Works Program] **PREFERRED PROVIDERS** shall:

4 (1) (i) maintain a current list of supplies and services that Blind  
5 Industries and Services of Maryland provides; [and]

6 (ii) maintain a current list of supplies [and], services, **AND OTHER**  
7 **SALES** that community service providers and individual with disability owned businesses  
8 provide; **AND**

9 **(III) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES**  
10 **THAT MARYLAND CORRECTIONAL ENTERPRISES PROVIDES;**

11 (2) periodically review and revise the lists of supplies [and], services, **AND**  
12 **OTHER SALES** maintained in accordance with item (1) of this section; and

13 (3) send the lists, and any revised lists, to the [Secretary of General  
14 Services] **CHIEF PROCUREMENT OFFICER** who shall make the lists available to each  
15 person responsible for buying supplies [or], services, **OR OTHER SALES** for the State or a  
16 State aided or controlled entity.

17 14–405.

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

19 (2) “Environmentally preferable product or service” means a product or  
20 service that throughout the full life cycle of the product or service:

21 (i) is energy efficient, water efficient, biobased, nonozone depleting,  
22 made with recycled content, or nontoxic; or

23 (ii) has other attributes recognized as environmentally preferable by  
24 the Maryland Green Purchasing Committee.

25 (b) (1) To encourage the maximum purchase of environmentally preferable  
26 products and services, the Maryland Green purchasing Committee established under §  
27 14–410 of this subtitle shall establish environmentally preferable specifications to be  
28 adopted by State agencies.

29 (2) The environmentally preferable specifications shall be published and  
30 maintained online by the Maryland Green Purchasing Committee for use by State agencies.

1 (c) Each State unit shall review annually the procurement specifications  
2 currently used by the unit and, to the extent practicable:

3 (1) adopt the environmentally preferable specifications published by the  
4 Maryland Green Purchasing Committee; and

5 (2) revise the unit's procurement specifications in accordance with §  
6 14-410 of this subtitle.

7 (d) On or before [~~September~~] **OCTOBER 1** of each year, each unit shall report to  
8 the Department of General Services on the unit's procurement of environmentally  
9 preferable products and services as a percentage of the unit's gross purchases during the  
10 preceding fiscal year, including the types and quantities of products and services procured.

11 (e) (1) Except as provided in paragraph (2) of this subsection, this section is  
12 broadly applicable to all procurements by the State if the quality of the product or service  
13 is consistent with the requirements of the bid specifications.

14 (2) Only to the extent necessary to prevent the denial of federal money or  
15 eliminate the inconsistency with federal law, this section does not apply to a procurement  
16 by the State if the procurement officer determines that compliance with this section would:

17 (i) cause denial of federal money; or

18 (ii) be inconsistent with the requirements of federal law.

19 14-410.

20 (e) On or before [~~October 1~~] **DECEMBER 31** of each year, the Committee shall  
21 report to the General Assembly, in accordance with § 2-1257 of the State Government  
22 Article, on the Committee's activities and the progress made as a result of the  
23 implementation of this section.

24 17-502.

25 (a) **THIS SECTION DOES NOT APPLY TO EMERGENCY PROCUREMENT UNDER**  
26 **§ 13-108 OF THIS DIVISION II.**

27 (B) In addition to any other provision of law, the following persons shall use  
28 eMaryland Marketplace to publish notice of a procurement [or] **AND** publish a notice of  
29 award of a procurement that is at the same amount or exceeds the amount required by the  
30 Board for a State contract to be published in eMaryland Marketplace:

31 (1) a unit of State government;

32 (2) a county;

1 (3) a municipality;

2 (4) a bicounty or multicounty governmental agency;

3 (5) a special tax district, sanitary district, drainage district, soil  
4 conservation district, and water supply district;

5 (6) a public institution of higher education;

6 (7) a public school; and

7 (8) except for the Maryland Health and Higher Educational Facilities  
8 Authority, an entity exempt from the provisions of this Division II in accordance with §  
9 11–203 of this article.

10 [(b)] (C) This section may not be construed to prohibit a person listed in  
11 subsection [(a)] (B) of this section from publishing notice of a procurement or publishing a  
12 notice of award in accordance with any other law or policy.

13 [(c)] (D) An unintentional violation of this section may not constitute grounds to  
14 challenge or appeal:

15 (1) the award of a procurement; or

16 (2) the process through which a procurement was conducted.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
18 1, 2022.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.