

Chapter 528

(Senate Bill 461)

AN ACT concerning

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

FOR the purpose of renaming the Pricing and Selection Committee for Blind Industries and Services of Maryland and the Employment Works Program to be the Pricing and Selection Committee for Preferred Providers; requiring that Maryland Correctional Enterprises provide the proposed prevailing average market price of certain goods and services that are available from Maryland Correctional Enterprises to the Pricing and Selection Committee; requiring the Pricing and Selection Committee to review and verify the prevailing average market prices of certain goods and services; altering the duties of the Department of Information Technology relating to procurement; renaming the Purchasing Bureau in the Department of General Services to be the Office of State Procurement, led by the Chief Procurement Officer; establishing certain duties and authority of the Chief Procurement Officer; altering the list of units that are defined as “designated procurement units”; authorizing the Chief Procurement Officer to establish certain fees under certain circumstances; authorizing certain types of procurement to be conducted by electronic means; renaming the Electronic Transaction Fund in the Department to be the Operations Revenue Fund; altering the procedures used by certain units when procuring certain goods and services; repealing a requirement that a procurement officer post the amount of each bid at the time it is received; establishing that the Employment Works Program and an Employment Works Program vendor are not subject to certain cost savings requirements; altering the duties of the Pricing and Selection Committee; providing that certain provisions relating to the use of eMaryland Marketplace do not apply to certain emergency procurements; altering the dates of certain reporting requirements; and generally relating to State procurement.

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

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 3A–301(a)
Annotated Code of Maryland
(2021 Replacement Volume)

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement

Section 3A–301(d) and (f), 3A–401, 4–206(a), 4–301, 4–302, 4–303, 4–307, 4–310, 4–311, 4–312, 4–313, 4–315, 4–316, 13–101, 13–102.1, 13–111, 13–226, 14–102, 14–106, 14–107, 14–405, 14–410(e), and 17–502

Annotated Code of Maryland
(2021 Replacement Volume)

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

Article – Correctional Services

3–515.

(a) A unit of State government shall purchase from Maryland Correctional Enterprises any goods or services that are available from Maryland Correctional Enterprises and that Maryland Correctional Enterprises can provide at a price not exceeding the prevailing average market price as determined by the [Department of General Services] **PRICING AND SELECTION COMMITTEE FOR PREFERRED PROVIDERS.**

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

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

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

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

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

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

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

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

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

Article – State Finance and Procurement

3A-301.

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

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

- (i) planning;
- (ii) [procurement;
- (iii)] creation;
- [(iv)] (III) installation;
- [(v)] (IV) testing; and
- [(vi)] (V) initial training.

(2) “Development” does not include:

(i) ongoing operating costs, software or hardware maintenance, routine upgrades, or modifications that merely allow for a continuation of the existing level of functionality; or

(ii) expenditures made after a new or enhanced system has been legally accepted by the user and is being used for the business process for which it was intended.

(f) “Information technology” means all electronic information processing [hardware and software], including:

- (1) maintenance;
- (2) telecommunications; [and]

(3) HARDWARE;

(4) SOFTWARE; AND

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

3A-401.

(a) The Department shall:

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

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

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

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

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

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

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

4-206.

(a) The following units are in the Department:

(1) the Board of Architectural Review;

(2) [the General Professional Services Selection Board;

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

and

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

4-301.

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

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

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

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

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

4-302.

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

4-303.

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

4-307.

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

4-310.

Except as otherwise specifically provided by law, each unit of the Executive Branch

of the State Government shall purchase all supplies **AND SERVICES** through or with the approval of the Secretary **OR THE CHIEF PROCUREMENT OFFICER**.

4-311.

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

4-312.

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

4-313.

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

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

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

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

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

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

4-315.

(a) An employee of a unit that procures supplies under Division II of this article whose salary and expenses are paid from the fees of the employee's office may not pay any

contractor or seller for any article of any kind acquired for the unit unless the invoice approved by the employee is also approved by the Secretary **OR CHIEF PROCUREMENT OFFICER** or a designee of the Secretary **OR CHIEF PROCUREMENT OFFICER**.

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

4–316.

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

(1) a county;

(2) a municipality;

(3) a governmental unit in the State;

(4) a public or quasi–public agency that:

(i) receives State money; and

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

(5) a private elementary or secondary school that:

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

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

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

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

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

13–101.

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

(b) “Designated procurement unit” means:

(1) [the Department of Budget and Management;

(2)] the Department of General Services;

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

[(4) (2) the Department of Transportation; OR

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

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

(II) JUNE 30, 2027.

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

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

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

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

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

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

(1) the State;

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

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

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

13–102.1.

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

(b) (1) Subject to approval by the Board of Public Works, the Chief Procurement Officer may establish fees for the use of eMaryland Marketplace by an entity that publishes a notice of a procurement, conducts a procurement, or publishes a notice of award.

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

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

- (1) TRAINING;**
- (2) STRATEGIC SOURCING; AND**
- (3) ADMINISTRATIVE COSTS.**

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

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

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

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

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

13–111.

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

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

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

(i) the specifications of the procurement contract;

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

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

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

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

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

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

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

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

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

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

(d) A unit shall give public notice of an invitation for auction bids in the same

manner as required for an invitation for bids.

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

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

(2) A procurement officer shall:

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

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

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

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

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

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

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

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

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

(i) is the lowest bid price; or

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

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

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

1. all bids are rejected under § 13–206(b) of this title;
2. all bid prices exceed the funds available for the procurement; or
3. with the approval of the head of a primary procurement unit or a designee, the procurement officer determines that all bids are unreasonable as to at least one requirement and delay that would result from issuing a new invitation for auction bids with revised specifications or quantities would be fiscally disadvantageous or otherwise not in the best interests of the State.

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

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

1. issue an invitation for revised auction bids, which shall state whether the award will be made without competitive negotiations; and
2. requires a prompt response to that invitation.

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

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

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

1. is the lowest bid price; or
2. if the invitation for revised bids so provides, is the lowest evaluated bid price.

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

13–226.

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

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

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

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

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

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

14–102.

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

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

14–106.

(a) In this section, “Committee” means the Pricing and Selection Committee for [Blind Industries and Services of Maryland and the Employment Works Program]

PREFERRED PROVIDERS.

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

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

- (1) the Secretary of Transportation or a designee;
- (2) the Secretary of General Services or a designee;
- (3) the Secretary of Public Safety and Correctional Services or a designee;
- (4) the Assistant Secretary for Vocational Rehabilitation within the State Department of Education or a designee; and
- (5) the Secretary of Labor or a designee.

(d) A member of the Committee:

- (1) may not receive compensation; but
- (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations as provided in the State budget.

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

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

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

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

(f) The Committee shall:

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

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

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

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

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

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

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

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

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

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

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

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

(g) In addition to the duties specified under subsection (f) of this section, the

committee shall:

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

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

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

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

14–107.

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

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

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

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

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

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

14–405.

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

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

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

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

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

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

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

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

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

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

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

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

(i) cause denial of federal money; or

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

14–410.

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

implementation of this section.

17–502.

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

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

- (1) a unit of State government;
- (2) a county;
- (3) a municipality;
- (4) a bicounty or multicounty governmental agency;
- (5) a special tax district, sanitary district, drainage district, soil conservation district, and water supply district;
- (6) a public institution of higher education;
- (7) a public school; and
- (8) except for the Maryland Health and Higher Educational Facilities Authority, an entity exempt from the provisions of this Division II in accordance with § 11–203 of this article.

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

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

- (1) the award of a procurement; or
- (2) the process through which a procurement was conducted.

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.