

HOUSE BILL 261

P2

(6lr0298)

ENROLLED BILL

— *Government, Labor, and Elections/Budget and Taxation* —

Introduced by **Chair, Government, Labor, and Elections Committee (By Request – Departmental – General Services)**

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 Procurement – Competitive Proof of Concept Procurement**

3 FOR the purpose of establishing competitive proof of concept procurements as an
4 authorized procurement method; providing that a competitive proof of concept
5 procurement may have multiple phases of evaluation; requiring a unit of State
6 government to obtain the approval of the Chief Procurement Officer or a designee
7 before conducting a certain competitive proof of concept procurement; requiring a
8 unit of State government to obtain the approval of the Secretary of Information
9 Technology or a designee before conducting a certain competitive proof of concept
10 procurement for information technology; repealing a provision that authorizes a
11 competitive proof of concept procurement to be conducted through certain
12 procurement methods; altering the required contents of a competitive proof of
13 concept solicitation; requiring competitive proof of concept solicitations to be posted
14 on eMaryland Marketplace Advantage; altering procedures for conducting a

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 competitive proof of concept procurement; authorizing a unit to enter into certain
 2 contracts with certain offerors under certain circumstances; requiring a unit to
 3 publish notice of a certain award in eMaryland Marketplace Advantage; requiring
 4 the Department of General Services to adopt certain regulations; providing for the
 5 establishment of certain percentage goals for minority business enterprise
 6 participation and veteran-owned small business enterprise participation;
 7 ~~authorizing the Governor's Office of Small, Minority, and Women Business Affairs~~
 8 ~~to exempt competitive proof of concept procurements from the small business reserve~~
 9 ~~designation under certain circumstances;~~ and generally relating to competitive proof
 10 of concept procurements.

11 BY repealing and reenacting, with amendments,
 12 Article – State Finance and Procurement
 13 Section 13–102(a), 13–116, 14–302(a)(2), ~~14–502-1(b)~~, and 14–602(b)
 14 Annotated Code of Maryland
 15 (2021 Replacement Volume and 2025 Supplement)

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

18 Article – State Finance and Procurement

19 13–102.

20 (a) The following procurement methods are authorized at the procurement
 21 officer's discretion, where applicable:

- 22 (1) competitive sealed bids under § 13–103 of this subtitle;
- 23 (2) competitive sealed proposals under § 13–104 or § 13–105 of this
 24 subtitle;
- 25 (3) noncompetitive negotiation under § 13–106 of this subtitle;
- 26 (4) sole source procurement under § 13–107 of this subtitle;
- 27 (5) emergency or expedited procurement under § 13–108 of this subtitle;
- 28 (6) small procurement under § 13–109 of this subtitle;
- 29 (7) an intergovernmental cooperative purchasing agreement under §
 30 13–110 of this subtitle;
- 31 (8) auction bids under § 13–111 of this subtitle;
- 32 (9) architectural, engineering, and land surveying services qualification
 33 based selection under § 13–112 of this subtitle;

1 (10) master contracting under § 13–113 of this subtitle; [or]

2 (11) legislative fast-track procurements under § 13–117 of this subtitle; OR

3 **(12) COMPETITIVE PROOF OF CONCEPT PROCUREMENTS UNDER §**
4 **13–116 OF THIS SUBTITLE.**

5 13–116.

6 (a) In this section, “proof of concept” means a test, evaluation, demonstration, or
7 pilot project of a good, service, or technology in a real-world environment to evaluate
8 whether the good, service, or technology can be successfully deployed and is beneficial to
9 the State.

10 (b) (1) A competitive proof of concept procurement is a formal competitive
11 procurement method that may be used to solicit proposals for the conduct of a proof of
12 concept [prior to] **AND PARTICIPATION IN SUBSEQUENT PHASES OF THE**
13 **PROCUREMENT, INCLUDING full implementation OR DEPLOYMENT** when the head of a
14 unit determines the process to be appropriate and in the best interests of the unit,
15 including:

16 (i) testing software-as-a-service or off-the-shelf software;

17 (ii) testing new, innovative products or services; or

18 (iii) testing a product or service conceptualized or conceived of by a
19 unit of State government.

20 (2) (i) **1.** After obtaining the approval of the head of the unit and
21 before conducting a competitive proof of concept procurement, the unit shall obtain
22 approval from [the Secretary of Information Technology, or the Secretary’s designee] **THE**
23 **CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER’S**
24 **DESIGNEE.**

25 **2. THE REQUEST FOR APPROVAL UNDER THIS**
26 **SUBPARAGRAPH SHALL DEMONSTRATE THAT CONDUCTING A COMPETITIVE PROOF**
27 **OF CONCEPT PROCUREMENT IS IN THE BEST INTEREST OF THE STATE.**

28 **(II) IF THE PROCUREMENT IS FOR INFORMATION TECHNOLOGY,**
29 **BEFORE CONDUCTING A COMPETITIVE PROOF OF CONCEPT PROCUREMENT, THE**
30 **UNIT SHALL OBTAIN APPROVAL FROM THE SECRETARY OF INFORMATION**
31 **TECHNOLOGY, OR THE SECRETARY’S DESIGNEE.**

1 [(ii)] (III) The Secretary of Information Technology may grant
2 approval for a competitive proof of concept procurement **FOR INFORMATION**
3 **TECHNOLOGY** if the unit:

4 1. has sufficient internal resources to manage the proof of
5 concept, including human capital, subject matter expertise, and technological
6 infrastructure, or has the means to obtain these resources; and

7 2. enters into a memorandum of understanding with the
8 Department of Information Technology that requires regular status updates, vendor
9 capacity, and any other information necessary for the Department of Information
10 Technology to evaluate whether the proof of concept can be successfully deployed and is
11 beneficial to the State.

12 (c) (1) [A competitive proof of concept procurement may be conducted through
13 the issuance of a solicitation by any method of procurement authorized under this Division
14 II.

15 (2)] A competitive proof of concept procurement solicitation shall include a
16 statement of:

17 (i) the scope of work, **STATEMENT OF NEED**, or project description,
18 including the intended use, quantity, estimated time frame for the proof of concept, and
19 anticipated number of proof of concept awards that will be made; and

20 (ii) the factors, including price, that will be used **AT EACH PHASE** in
21 evaluating proposals and the relative importance of each.

22 [(3)] (2) A solicitation may be distributed to vendors known to offer goods
23 or services within the scope of the proof of concept and shall[, except for procurements
24 under \$15,000 not otherwise required by law to be posted,] be posted on eMaryland
25 Marketplace Advantage[, in accordance with the policies and procedures under subsection
26 (g) of this section].

27 (d) After receipt of proposals but before award of a procurement contract, a unit
28 may:

29 (1) conduct discussions with **AND RECEIVE CLARIFICATIONS FROM** an
30 offeror [to ensure full understanding of:

31 (i) the requirements of the unit, as set forth in the request for
32 proposals; and

33 (ii) the proposal submitted by the offeror; and];

1 (2) request product samples for testing by the unit or a demonstration of a
2 product or service and use these samples or demonstrations in its evaluation process; AND

3 **(3) ALLOW OFFERORS REASONABLY SUSCEPTIBLE OF BEING**
4 **SELECTED FOR AWARD TO PARTICIPATE IN ALL SUBSEQUENT PHASES OF THE**
5 **PROCUREMENT INCLUDING SUBMISSION OF BEST AND FINAL OFFERS.**

6 (e) **(1) A [request for] UNIT MAY ISSUE A CONTRACT TO EACH OFFEROR**
7 **REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD TO DELIVER** product
8 samples for testing or **PROVIDE A** demonstration made under subsection (d)(2) of this
9 section [shall be issued to all offerors deemed reasonable at the time of the request].

10 **(2) A CONTRACT AWARDED UNDER THIS SUBSECTION DOES NOT**
11 **PRECLUDE A VENDOR FROM CONTINUING TO PARTICIPATE IN SUBSEQUENT PHASES**
12 **OF THE PROCUREMENT.**

13 (f) [A unit may award one or more of the proposals a contract for the proof of
14 concept.

15 (g) A vendor awarded a proof of concept procurement shall be eligible to bid on a
16 procurement to implement a proposal related to the proof of concept procurement] **A UNIT**
17 **MAY AWARD ONE OR MORE CONTRACTS FOR FULL IMPLEMENTATION OR**
18 **DEPLOYMENT OF THE GOOD, SERVICE, OR TECHNOLOGY EVALUATED DURING THE**
19 **PROOF OF CONCEPT IF IT IS IN THE BEST INTEREST OF THE STATE.**

20 **(G) A UNIT SHALL PUBLISH NOTICE OF A CONTRACT AWARDED UNDER THIS**
21 **SECTION IN EXCESS OF THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109**
22 **OF THIS SUBTITLE IN EMARYLAND MARKETPLACE ADVANTAGE.**

23 (h) The Department of General Services, in consultation with the Department of
24 Information Technology, shall adopt **REGULATIONS**, policies, and procedures for the
25 development and implementation of competitive proof of concept procurements.

26 14–302.

27 (a) **(2) (I) The Special Secretary for the Office of Small, Minority, and**
28 **Women Business Affairs, in consultation with the Secretary of Transportation, the Chief**
29 **Procurement Officer, and the Attorney General, shall establish guidelines for each unit to**
30 **consider when determining the appropriate minority business enterprise participation**
31 **percentage goal for a procurement contract in accordance with paragraph (3) of this**
32 **subsection.**

33 **(II) FOR A COMPETITIVE PROOF OF CONCEPT PROCUREMENT**
34 **CONDUCTED UNDER § 13–116 OF THIS ARTICLE, THE MINORITY BUSINESS**

1 ENTERPRISE PARTICIPATION PERCENTAGE GOAL, IF ANY, SHALL BE ESTABLISHED
2 AT A PHASE SPECIFIED IN THE SOLICITATION DOCUMENTS.

3 ~~14-502.1.~~

4 ~~(b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS~~
5 ~~SUBSECTION, A procurement with a total dollar value of \$1,000,000 or less shall be~~
6 ~~designated for the small business reserve.~~

7 ~~(2) Each unit or agency shall implement this subsection in a manner~~
8 ~~consistent with all applicable statutes, including the requirements of Subtitle 3 of this title.~~

9 ~~(3) A COMPETITIVE PROOF OF CONCEPT PROCUREMENT CONDUCTED~~
10 ~~UNDER § 13-116 OF THIS ARTICLE MAY BE EXEMPT FROM DESIGNATION UNDER~~
11 ~~PARAGRAPH (1) OF THIS SUBSECTION IF THE GOVERNOR'S OFFICE OF SMALL,~~
12 ~~MINORITY, AND WOMEN BUSINESS AFFAIRS DETERMINES THAT IT IS NOT~~
13 ~~PRACTICABLE TO DESIGNATE THE PROCUREMENT FOR THE SMALL BUSINESS~~
14 ~~RESERVE.~~

15 14-602.

16 (b) (1) [Solicitation] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
17 SUBSECTION, SOLICITATION documents shall state the expected percentage of
18 veteran-owned small business enterprise participation based, in part, on:

19 [(1)] (I) the potential contracting opportunities available in the
20 procurement contract, including both prime contracting and subcontracting opportunities,
21 as determined through analysis of the scope of the work presented in the solicitation
22 documents; and

23 [(2)] (II) the availability of veteran-owned small business enterprises to
24 respond competitively to the potential contracting opportunities.

25 (2) FOR A COMPETITIVE PROOF OF CONCEPT PROCUREMENT
26 CONDUCTED UNDER § 13-116 OF THIS ARTICLE, THE EXPECTED PERCENTAGE OF
27 VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION, IF ANY, SHALL BE
28 ESTABLISHED AT A PHASE SPECIFIED IN THE SOLICITATION DOCUMENTS.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
30 1, 2026.