

## Agreed Upon PRA Amendments

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### GOSBA Amendments:

§14-601.

(B) “Veteran” means an individual who is verified as having served on active duty in the [armed forces] UNIFORMED SERVICES of the United States (**5 USC 2101**), **THE NATIONAL GUARD, OR THE MILITARY RESERVES**, other than for training, and was discharged or released under conditions other than dishonorable.

### OSP Amendments:

SFP 11-101: STATEWIDE CONTRACT MEANS A CONTRACT THAT HAS BEEN PROCURED BY A PRIMARY PROCUREMENT UNIT TO BE USED BY ~~ANY UNIT~~ **ALL UNITS OR AN ANY ENTITY LISTED IN 4-316 OF THIS ARTICLE.**

**This is under SPP:** 13-401(c) Services has the meaning stated in 11-101 of the State Finance and Procurement Article[.], **EXCLUDING INFORMATION TECHNOLOGY SERVICES AND CYBERSECURITY.**

### COMP/STO Amendments:

#### **Article – State Government 11 4-113**

(5) establish working groups as needed, ~~INCLUDING A WORKING GROUP TO STUDY WHETHER IMMEDIATE OR PROMPT PAYMENT FEATURES CAN BE ADDED TO THE 21ST-CENTURY FINANCIAL SYSTEMS ENTERPRISE TO DETERMINE WHETHER BOTH PRIME CONTACTORS AND SUBCONTRACTORS ON A STATE PROCUREMENT CONTRACT CAN BE PAID BY THE STATE AT THE SAME TIME;~~ and

#### **SFP 15-103.**

(1) It is the policy of the State to make a payment under a procurement contract [within 30 days]:

~~-(1)~~ **(1)** WITHIN 30 DAYS after the day on which the payment becomes due [under the procurement contract; or (2) if later, after the day on which] **AND** the unit receives [an] A PROPER invoice; **OR**

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~~-(2)-(II)~~ FOR A SMALL BUSINESS RESERVE CONTRACT, WITHIN 15 DAYS AFTER THE DAY ON WHICH THE PAYMENT BECOMES DUE AND THE UNIT RECEIVES A PROPER INVOICE.

**(2) INTEREST SHALL ACCRUE IN ACCORDANCE WITH § 15-104 OF THIS ARTICLE.**

Additional Amendments:

**THE BOARD OF PUBLIC WORKS PROCUREMENT ADVISOR SHALL CONDUCT A STUDY OF THE ECONOMIC IMPACTS OF INSTITUTING AN IN-STATE PREFERENCE FOR MARYLAND VENDORS FOR ALL STATE PROCUREMENTS.**

DoIT Amendments:

4-301.

(d) “Supplies” means tangible property, including COMMODITIES, INFORMATION TECHNOLOGY HARDWARE ~~AND SOFTWARE~~, equipment, and materials., **AND INTANGIBLE PROPERTY, INCLUDING INFORMATION TECHNOLOGY SOFTWARE.**

12-107.

**(IV) SUPPLIES FOR TRANSPORTATION-RELATED ACTIVITIES, INCLUDING INFORMATION TECHNOLOGY SUPPLIES THAT MUST ADHERE TO TITLE 3.5 OF THIS ARTICLE, BUT EXCLUDING:**

1. SUPPLIES FUNDED BY THE PROCEEDS FROM STATE GENERAL OBLIGATION BONDS; AND

2. INSURANCE;

**(V) SERVICES FOR TRANSPORTATION-RELATED ACTIVITIES, INCLUDING INFORMATION TECHNOLOGY SERVICES THAT MUST ADHERE TO TITLE 3.5 OF THIS ARTICLE, BUT EXCLUDING BANKING AND FINANCIAL SERVICES UNDER THE AUTHORITY OF THE STATE TREASURER UNDER ITEM (1) OF THIS SUBSECTION;**

14-801.

**(B) “COVERED PROCUREMENT” MEANS A PROCUREMENT CONTRACT THAT:**

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(1) MEETS THE CRITERIA ESTABLISHED BY THE CHIEF PROCUREMENT OFFICER, IN CONSULTATION WITH THE SECRETARY, UNDER § 20 14–802 OF THIS SUBTITLE, **WITH CONCURRENCE BY THE SECRETARY OF THE DEPARTMENT OF INFORMATION TECHNOLOGY FOR CONTRACTS SUBJECT TO TITLE 3.5 OF THIS ARTICLE**; AND

(2) IS NOT A PUBLIC WORK CONTRACT SUBJECT TO § 17–202 OF THIS ARTICLE.

### Maryland Environmental Services via Governor’s Office.

#### **Natural Resources Article 3-103**

(g) (1) The Service is exempt from the provisions of Subtitles 3, 4, 5, and 7 of Title 4 of the State Finance and Procurement Article.

(2) The Service is exempt from the provisions of Division II of the State Finance and Procurement Article, but is not exempt from Subtitle 3 of Title 14, Subtitle 4 of Title 12, Title 16, and Title 17 of the State Finance and Procurement Article.

(3) (i) Except as otherwise provided in this paragraph, all procurements by the Service for materials, equipment, services, or supplies performed or furnished in connection with the planning, development, design, equipping, construction, or operation of any project owned or controlled by the Service, shall be awarded in accordance with rules and regulations adopted pursuant to the Administrative Procedure Act.<sup>2</sup>

(ii) The Service may procure materials, equipment, services, or supplies by utilizing:

1. Competitive sealed bids;
2. Competitive sealed proposals;
3. Sole source procurement;
4. Intergovernmental cooperative purchasing agreements;
5. A small procurement process, if the procurement is estimated by the Service to result in an expenditure of \$25,000 or less;
6. An emergency procurement process, if the procurement is necessary to avoid or to mitigate serious damage to public health, safety, or welfare; or
7. Pay-for-success contracting under [§ 13-112.1] § 13-228 of the State Finance and Procurement Article.

### OAG Amendments:

SF&P §14-302(a)

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Replace in its entirety (8) and add a new (9) below. All additional subsections need to be renumbered too.

### **(8) A UNIT MAY CONSIDER MODIFYING THE MINORITY BUSINESS PARTICIPATION GOAL ON A PROCUREMENT CONTRACT:**

**(I) AT ANY TIME PRIOR TO CONTRACT EXECUTION; OR**

**(II) AFTER CONTRACT EXECUTION, WHEN DETERMINED TO BE IN THE BEST INTEREST OF THE STATE.**

### **(9) BEFORE A UNIT CAN CONSIDER MODIFYING THE MINORITY BUSINESS PARTICIPATION GOAL ON A PROCUREMENT CONTRACT, THE UNIT SHALL:**

**(I) MAKE A DETERMINATION THAT THERE HAS BEEN A CHANGE IN THE FACTORS SET OUT IN 14-302(A)(3);**

**(II) USE THE FACTORS SET OUT IN 14-302(A)(3) OF THIS ARTICLE TO DETERMINE THE PERCENTAGE OF MODIFICATION TO THE MINORITY BUSINESS PARTICIPATION GOAL; AND**

**(III) OBTAIN THE AGREEMENT OF THE CONTRACTOR, INCLUDING ANY REASONABLE PRICING CONSIDERATIONS.**

§14-302(a)(12)

(iv) A minority business enterprise participation schedule may [not] be amended TO ~~ADD TO OR INCREASE~~ MODIFY THE MINORITY BUSINESS ENTERPRISE PARTICIPATION after the date of contract execution [unless the request is] ONLY IF:

1. IT IS IN THE BEST INTEREST OF THE STATE;
2. IT IS approved by the head of the unit; and
3. the contract is amended.

§14-303(b)(17)

¶(17) a requirement that a bid or proposal based on a solicitation with an expected degree of minority business enterprise participation identify the specific commitment of certified minority

business enterprises at the time of submission;†

*The sections for VSBE will also need to be amended to match the MBE language for consistency between the programs.*

14-602 (c)

**(2) A UNIT MAY CONSIDER MODIFYING THE VETERAN-OWNED SMALL BUSINESS PARTICIPATION GOAL ON A PROCUREMENT CONTRACT:**

**(I) AT ANY TIME PRIOR TO CONTRACT EXECUTION; OR**

**(II) AFTER CONTRACT EXECUTION, WHEN DETERMINED TO BE IN THE BEST INTEREST OF THE STATE.**

**(3) BEFORE A UNIT CAN CONSIDER MODIFYING THE VETERAN-OWNED SMALL BUSINESS PARTICIPATION GOAL ON A PROCUREMENT CONTRACT, THE UNIT SHALL:**

**(I) MAKE A DETERMINATION THAT THERE HAS BEEN A CHANGE IN THE FACTORS SET OUT IN 14-602(A);**

**(II) USE THE FACTORS SET OUT IN 14-602(A) OF THIS ARTICLE TO DETERMINE THE PERCENTAGE OF MODIFICATION TO THE VETERAN-OWNED SMALL BUSINESS PARTICIPATION GOAL; AND**

**(III) OBTAIN THE AGREEMENT OF THE CONTRACTOR, INCLUDING ANY REASONABLE PRICING CONSIDERATIONS.**

**(3) (4) THE VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION SCHEDULE, INCLUDING ANY AMENDMENT, SHALL BE ATTACHED TO AND MADE A PART OF THE EXECUTED CONTRACT.**

**(4) (5) A VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION SCHEDULE MAY BE AMENDED TO ~~ADD TO OR INCREASE~~ MODIFY THE VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION AFTER THE DATE OF CONTRACT EXECUTION ONLY IF:**

**(I) IT IS IN THE BEST INTEREST OF THE STATE;**

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(II) IT IS APPROVED BY THE HEAD OF THE UNIT; AND

(III) THE CONTRACT IS AMENDED.

**For ABC Amendment Request:**

14-802.

(D) THE CHIEF PROCUREMENT OFFICER, IN CONSULTATION WITH THE SECRETARY:

(1) SHALL ADOPT REGULATIONS ESTABLISHING THE DEFINITION OF “COVERED PROCUREMENT”; AND

(2) MAY ADOPT OTHER REGULATIONS NECESSARY TO CARRY OUT THIS SUBTITLE, **INCLUDING WAIVER PROCESSES.**