

SENATE BILL 426

P2

5lr0450
CF 5lr0451

By: **The President (By Request – Administration) and Senators Augustine, Charles, Ellis, Gile, Hettleman, Kagan, Lam, M. Washington, Watson, and West**

Introduced and read first time: January 20, 2025

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement Reform Act of 2025**

3 FOR the purpose of authorizing the Secretary of General Services to delegate certain
4 powers and duties to the Chief Procurement Officer; altering the authority of the
5 Department of General Services to engage in or control procurement of certain
6 equipment and services; altering the authority of the Department of Transportation
7 and the Maryland Transportation Authority to engage in procurement for certain
8 supplies and services for transportation-related activities; authorizing the head of a
9 unit or a designee of the head of the unit to designate small business preferences
10 under certain circumstances; altering certain dollar values at which a unit must
11 publish notice of certain procurements, submit certain reports, and designate a
12 procurement for the small business reserve, at which a procurement officer may
13 require bid security or other security on certain procurements, and at which certain
14 apprenticeship requirements apply; requiring oral presentations for certain
15 procurements under certain circumstances; authorizing the Chief Procurement
16 Officer or the Chief Procurement Officer's designee to approve the use of
17 noncompetitive negotiation for certain classes of procurements; altering certain
18 authority to authorize a procurement officer to make a procurement on an expedited
19 basis and to approve the cancellation of a solicitation or rejection of bids or proposals;
20 requiring a unit to report certain information to the Board of Public Works after
21 awarding an expedited procurement contract; altering the membership of the Pricing
22 and Selection Committee for Preferred Providers; transferring the Employment
23 Works Program from the Department of General Services to the Office of Small,
24 Minority, and Women Business Affairs; altering certain authority of the Special
25 Secretary for Small, Minority, and Women Business Affairs and of units with regard
26 to the Minority Business Enterprise Program, Small Business Preference Program,
27 Veteran-Owned Small Business Enterprise Program, and Veteran-Owned Small
28 Business Reserve and associated goals; authorizing a primary procurement unit to
29 limit or revoke a unit's ability to conduct small procurements under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



circumstances; requiring the Board to propose updated regulations related to expedited change orders under certain circumstances; authorizing modifications to State contracts under certain circumstances; clarifying that bids and proposals can be considered for procurement contracts designated for a small business reserve; clarifying pay-for-success contracting as a contract type and not a source selection method; authorizing the Chief Procurement Officer to establish additional methods of procurement source selection; requiring an intergovernmental cooperative purchasing agreement to be approved by the primary procurement unit head or designee, or the Chief Procurement Officer or designee; altering certain thresholds for master contracting; requiring a unit to issue a solicitation for a task order to a certain number of contractors under certain circumstances; requiring a contractor to submit a workforce diversity plan or supplier diversity plan with procurements of a certain value; altering a State policy regarding the payment of certain procurement contracts; requiring contractors awarded certain procurements to use a certain internship program or a certain apprenticeship program; establishing a procurement preference for good labor practices certified businesses; requiring certain State departments to establish a working group; and generally relating to State procurement.

BY repealing and reenacting, without amendments,
Article – Correctional Services
Section 10–101(a)
Annotated Code of Maryland
(2017 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – Correctional Services
Section 10–101(c)
Annotated Code of Maryland
(2017 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,
Article – Election Law
Section 2–109(a)(1)
Annotated Code of Maryland
(2022 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 2–109(a)(3)
Annotated Code of Maryland
(2022 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,
Article – State Finance and Procurement
Section 4–301(a), 4–316(a), 11–101(a), 12–111(a)(1), 13–101(a), 13–102(b), 14–106(a)
and (b), 14–401(a)(1), and 17–602(a)

Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,

Article – State Finance and Procurement

Section 4–301(c) and (d), 4–303, 4–314, 11–101(k) through (y), 12–107(b)(2)(i)2. and 11., (3), and (4)(v), 12–111(a)(3)(i), 13–101(h) and (i), 13–102.1(b), 13–103(a)(2)(v), (c)(3), and (f), 13–104(g), 13–106(a)(2), 13–108(b)(1) and (8)(i) and (d), 13–110(b)(7), 13–113(d), (e), and (f), 13–206(b), 13–207(a), (b), and (c)(1), 13–216, 14–106(c), 14–108(b) and (c), 14–203(a), 14–204, 14–205, 14–302(a)(1)(ii)1., (iii)1., (iv)1., (2), and (8) through (15), 14–303(a)(1)(ii) and (b)(12), (13), and (18) through (22), 14–401(a)(5), 14–502.1(a) and (b), 14–504(c), 14–602, 15–103, 15–111(a), 15–112(e), 17–103, 17–602(b) and (e), 17–604(a), 19–114, and 19–116

Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY adding to

Article – State Finance and Procurement

Section 11–101(k) and (y), 12–107(b)(2)(i)11. and 12., 13–102(a)(11) and (c), 13–104(d)(3), 13–109(f), 13–228, 13–229, 14–302(a)(8), and 14–602.1; 14–801 through 14–805 to be under the new subtitle “Subtitle 8. Internship and Registered Apprenticeship Program”; 14–901 through 14–906 to be under the new subtitle “Subtitle 9. Good Labor Practices Preference”; and 15–112.1

Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY repealing

Article – State Finance and Procurement

Section 12–107(b)(2)(i)10. and (5), 13–101(g), 13–102(a)(11), 13–112.1, and 14–303(b)(17)

Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, without amendments,

Article – State Government

Section 4–113(a)

Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,

Article – State Government

Section 4–113(b)(5)

Annotated Code of Maryland
(2021 Replacement Volume and 2024 Supplement)

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

Article – Correctional Services

10–101.

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

(c) “State correctional facility” has the meaning stated in [§ 11–101(w)] **§ 11–101** of the State Finance and Procurement Article.

Article – Election Law

2–109.

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

(3) “Contract” means an agreement in any form entered into by a governmental entity for a procurement as defined in [§ 11–101(m)(1)] **§ 11–101** of the State Finance and Procurement Article.

Article – State Finance and Procurement

4–301.

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

(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, **INFORMATION TECHNOLOGY SERVICES, CYBERSECURITY**, and the professional, personal, or contractual services provided by attorneys, accountants, physicians, consultants, and other professionals who are independent contractors.

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

4–303.

The Secretary may delegate any power or duty set forth in Part I or Part II of this subtitle **OR DIVISION II OF THIS ARTICLE** to the Chief Procurement Officer of the Office of State Procurement.

1 4–314.

2 At time intervals set by the Secretary **OR CHIEF PROCUREMENT OFFICER**, each
3 unit that procures supplies under Division II of this article shall send to the Secretary **OR**
4 **CHIEF PROCUREMENT OFFICER** estimates of the amount and quality of any needed
5 supplies.

6 4–316.

7 (a) Subject to the initial approval of the Secretary or Chief Procurement Officer,
8 the appropriate purchasing unit for the following entities may use the services of the
9 Department to purchase services, materials, supplies, and equipment:

- 10 (1) a county;
- 11 (2) a municipality;
- 12 (3) a governmental unit in the State;
- 13 (4) a public or quasi–public agency that:
- 14 (i) receives State money; and
- 15 (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue
16 Code;
- 17 (5) a private elementary or secondary school that:
- 18 (i) either has been issued a certificate of approval from the State
19 Board of Education or is accredited by the Association of Independent Schools; and
- 20 (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue
21 Code; or
- 22 (6) a nonpublic institution of higher education as provided under § 17–106
23 of the Education Article.
- 24 11–101.
- 25 (a) In this Division II the following words have the meanings indicated unless:
- 26 (1) the context clearly requires a different meaning; or
- 27 (2) a different definition is provided for a particular title or provision.

(K) “INFORMATION TECHNOLOGY” HAS THE MEANING STATED IN § 3.5–301 OF THIS ARTICLE.

[(k)] (L) “Invitation for bids” means any document used for soliciting bids under § 13–103 of this article.

[(l)] (M) “Person” means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

[(m)] (N) “Primary procurement units” means:

- (1) the State Treasurer;
- (2) the Department of General Services;
- (3) the Department of Transportation;
- (4) the University System of Maryland;
- (5) the Maryland Port Commission;
- (6) the Morgan State University; and
- (7) the St. Mary’s College of Maryland.

[(n)] (O) (1) “Procurement” means the process of:

- (i) leasing real or personal property as lessee; or
- (ii) buying or otherwise obtaining supplies, services, construction, construction related services, architectural services, engineering services, or services provided under an energy performance contract.

(2) “Procurement” includes the solicitation and award of procurement contracts and all phases of procurement contract administration.

[(o)] (P) (1) “Procurement contract” means an agreement in any form entered into by a unit for procurement.

(2) “Procurement contract” does not include:

- (i) a collective bargaining agreement with an employee organization;

(ii) an agreement with a contractual employee, as defined in § 1–101(d) of the State Personnel and Pensions Article;

(iii) a Medicaid, Judicare, or similar reimbursement contract for which law sets:

1. user or recipient eligibility; and

2. price payable by the State; or

(iv) a Medicaid contract with a managed care organization, as defined in § 15–101(e) of the Health – General Article as to which regulations adopted by the Department establish:

1. recipient eligibility;

2. minimum qualifications for managed care organizations;

and

3. criteria for enrolling recipients in managed care organizations.

[(p)] (Q) “Procurement officer” means an individual authorized by a unit to:

(1) enter into a procurement contract;

(2) administer a procurement contract; or

(3) make determinations and findings with respect to a procurement contract.

[(q)] (R) “Proposal” means a response to any solicitation other than an invitation for bids.

[(r)] (S) “Request for proposals” means any document used for soliciting proposals.

[(s)] (T) “Responsible bidder or offeror” means a person who:

(1) has the capability in all respects to perform fully the requirements for a procurement contract; and

(2) possesses the integrity and reliability that will ensure good faith performance.

[(t)] (U) “Responsive bid” means a bid that:

1 (1) is submitted under § 13–103 of this article; and

2 (2) conforms in all material respects to the invitation for bids.

3 **[(u)] (V)** (1) Except as provided in paragraph (3) of this subsection, “services”
4 means:

5 (i) the labor, time, or effort of a contractor; and

6 (ii) any product or report necessarily associated with the rendering
7 of a service.

8 (2) “Services” includes:

9 **(I)** services provided by attorneys, accountants, physicians,
10 consultants, and other professionals who are independent contractors; **AND**

11 **(II) INFORMATION TECHNOLOGY SERVICES AND**
12 **CYBERSECURITY.**

13 (3) “Services” does not include:

14 (i) construction related services;

15 (ii) architectural services;

16 (iii) engineering services; or

17 (iv) energy performance contract services.

18 **[(v)] (W)** “State” means:

19 (1) a state, possession, territory, or commonwealth of the United States; or

20 (2) the District of Columbia.

21 **[(w)] (X)** (1) “State correctional facilities” means correctional institutions,
22 and all places of correctional confinement, that are located within the State of Maryland
23 and are primarily operated by the Maryland State government.

24 (2) “State correctional facilities” includes Patuxent Institution.

25 **(Y) “STATEWIDE CONTRACT” MEANS A CONTRACT THAT HAS BEEN**
26 **PROCURED BY A PRIMARY PROCUREMENT UNIT TO BE USED BY ANY UNIT OR AN**
27 **ENTITY LISTED IN § 4–316 OF THIS ARTICLE.**

1 [(x)] (Z) (1) “Supplies” means:

2 (i) insurance;

3 (ii) tangible personal property **INCLUDING INFORMATION**
4 **TECHNOLOGY HARDWARE AND SOFTWARE;**

5 (iii) printing; and

6 (iv) services necessarily associated with insurance or tangible
7 personal property.

8 (2) “Supplies” does not include:

9 (i) an interest in real property; or

10 (ii) tangible personal property acquired or used in connection with
11 an energy performance contract.

12 [(y)] (AA) (1) “Unit” means an officer or other entity that is in the Executive
13 Branch of the State government and is authorized by law to enter into a procurement
14 contract.

15 (2) “Unit” does not include:

16 (i) a bistate, multistate, bicounty, or multicounty governmental
17 agency; or

18 (ii) a special tax district, sanitary district, drainage district, soil
19 conservation district, water supply district, or other political subdivision of the State.

20 12–107.

21 (b) Subject to the authority of the Board, jurisdiction over procurement is as
22 follows:

23 (2) the Department of General Services may:

24 (i) engage in or control procurement of:

25 2. supplies, including supplies under Title 4, Subtitle 3 of
26 this article, but excluding insurance[, information processing equipment,] and motor
27 vehicle leases;

28 [10. information processing equipment and associated
29 services, as provided in Title 3.5, Subtitle 3 of this article; and]

1 [11.] 10. telecommunication equipment, systems, or
2 services, as provided in Title 3.5, Subtitle 4 of this article;

3 11. INFORMATION TECHNOLOGY SYSTEM
4 MODERNIZATION, AS PROVIDED IN TITLE 3.5, SUBTITLE 3 OF THIS ARTICLE; AND

5 12. CYBERSECURITY UPGRADES AND MODERNIZATION,
6 AS PROVIDED IN TITLE 3.5, SUBTITLE 3 OF THIS ARTICLE;

7 (3) the Department of Transportation and the Maryland Transportation
8 Authority, without the approval of any of the other primary procurement units, may engage
9 in the procurement of:

10 (i) construction that is related to transportation, as provided in the
11 Transportation Article;

12 (ii) construction related services that are related to transportation,
13 as provided in the Transportation Article;

14 (iii) architectural or engineering services that are related to
15 transportation, under Title 13, Subtitle 3 of this article;

16 (IV) SUPPLIES FOR TRANSPORTATION-RELATED ACTIVITIES,
17 BUT EXCLUDING:

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

20 2. INSURANCE;

21 (V) SERVICES FOR TRANSPORTATION-RELATED ACTIVITIES,
22 BUT EXCLUDING BANKING AND FINANCIAL SERVICES UNDER THE AUTHORITY OF
23 THE STATE TREASURER UNDER ITEM (1) OF THIS SUBSECTION;

24 [(iv)] (VI) rolling stock and other property peculiar to the operation
25 of a transit system, as provided in § 7-403 of the Transportation Article;

26 [(v)] (VII) supplies for aeronautics related activities, including motor
27 vehicles and information processing supplies, but excluding:

28 1. supplies funded by the proceeds from State general
29 obligation bonds; and

30 2. insurance; and

1 [(vi)] **(VIII)** services for aeronautics related activities, including
2 information processing services, but excluding banking and financial services under the
3 authority of the State Treasurer under item (1) of this subsection; **AND**

4 (4) the Maryland Port Commission, without the approval of any of the
5 other primary procurement units, may engage in the procurement of:

6 (v) leases of real property for port related activities unless the lease
7 payments are from the General Fund of the State[; and].

8 [(5) the Department of General Services, without the approval of any other
9 primary procurement unit, may engage in or control procurement of:

10 (i) information processing equipment, cloud computing equipment,
11 and associated services, as provided in Title 3.5, Subtitle 3 of this article;

12 (ii) information technology system modernization, as provided in
13 Title 3.5, Subtitle 3 of this article;

14 (iii) telecommunication equipment, systems, or services, as provided
15 in Title 3.5, Subtitle 4 of this article; and

16 (iv) cybersecurity upgrades and modernization, as provided in Title
17 3.5, Subtitle 3 of this article.]

18 12–111.

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

20 (3) (i) Except as provided in subparagraph (ii) of this paragraph,
21 “services” has the meaning stated in [§ 11–101(u)] **§ 11–101** of this article.

22 13–101.

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

24 [(g) “Pay–for–success contracting” means a performance–based procurement
25 method through which a unit contracts with an organization to deliver services or
26 commodities in exchange for payment based on the achievement of outcomes.]

27 [(h)] **(G)** “Person” includes, unless the context requires otherwise:

28 (1) the State;

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

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

[(i)] (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.

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

[(11) pay-for-success contracting under § 13–112.1 of this subtitle.]

(11) A SOURCE SELECTION METHOD ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION.

(b) (1) In awarding a procurement contract for human, social, cultural, or educational service, the preferred method is by competitive sealed proposals under § 13–104 of this subtitle.

(2) In awarding a procurement contract for a lease of real property, the preferred method is by competitive sealed proposals under § 13–105 of this subtitle.

(3) Procurement under an intergovernmental cooperative purchasing agreement is appropriate in situations where the State is expected to achieve a better price as the result of economies of scale or to otherwise benefit by purchasing in cooperation with another governmental entity.

(C) THE CHIEF PROCUREMENT OFFICER MAY ESTABLISH METHODS OF SOURCE SELECTION IN ADDITION TO THOSE LISTED IN SUBSECTION (A) OF THIS SECTION AND PROVIDE GUIDELINES FOR USAGE.

13–102.1.

(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)] § 11–101** of this article, a fee under this subsection.

13–103.

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

(v) if the [Secretary of General Services, the Secretary of Transportation, or the Chancellor of the University System of Maryland] **HEAD OF THE UNIT OR THE HEAD OF THE UNIT'S DESIGNEE** has so designated, the small business preference.

(c) (3) The unit shall publish notice in eMaryland Marketplace at least 20 days before bid opening if:

(i) the procurement officer reasonably expects bid prices to exceed **[\$50,000] THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS SUBTITLE** or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article; and

(ii) at least part of the procurement contract is to be performed in this State or the District of Columbia.

(f) Not more than 30 days after the execution and approval of a procurement contract in excess of **[\$50,000] THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS SUBTITLE** awarded under this section, or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article, a unit shall publish notice of the award in eMaryland Marketplace.

13-104.

(d) (3) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN ORAL PRESENTATION IS REQUIRED WHEN:**

1. **THE TOTAL VALUE OF THE CONTRACT IS EXPECTED TO EXCEED \$2,000,000 FOR ARCHITECTURAL AND ENGINEERING SERVICES;**

2. **THE TOTAL VALUE OF THE CONTRACT IS EXPECTED TO EXCEED \$10,000,000 FOR CONSTRUCTION AND CONSTRUCTION RELATED SERVICES; OR**

3. **FOR ANY OTHER PROCUREMENT, INCLUDING INFORMATION TECHNOLOGY AND PROFESSIONAL SERVICES, THE TOTAL VALUE OF THE CONTRACT IS EXPECTED TO EXCEED \$5,000,000.**

(II) **IF THE PROCUREMENT OFFICER MAKES A WRITTEN DETERMINATION THAT ORAL PRESENTATIONS ARE UNLIKELY TO AID IN THE EVALUATION PROCESS, ORAL PRESENTATIONS ARE NOT REQUIRED.**

(g) A unit shall publish notice of a contract in excess of [\$50,000] **THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS SUBTITLE** awarded under this section, or a lower amount set by the Board by regulation in accordance with Title 10, Subtitle 1 of the State Government Article in eMaryland Marketplace.

13–106.

(a) A procurement officer may award a procurement contract on the basis of noncompetitive negotiation if:

(2) the procurement is one of a class for which the [Department of Budget and Management] **CHIEF PROCUREMENT OFFICER OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE** has approved the use of noncompetitive negotiation; and

13–108.

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

(8) (i) This paragraph applies only to the award of a contract or a contract modification made under this subsection that, with prior modifications, exceeds [\$50,000] **THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS SUBTITLE**.

(d) (1) Except as provided in § 11–205 (“Collusion”), § 10–204 (“Approval for designated contracts”), § 13–219 (“Required clauses – Nondiscrimination clause”), [§ 13–221 (“Disclosures to Secretary of State”),] Title 16 (“Suspension and Debarment of Contractors”), or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the approval of the head of the unit and the [Board] **CHIEF PROCUREMENT OFFICER OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE**, a unit’s procurement officer may make a procurement on an expedited basis if the head of the unit and the [Board] **HEAD OF THE PRIMARY PROCUREMENT UNIT, HEAD OF THE PRIMARY PROCUREMENT UNIT’S DESIGNEE, CHIEF PROCUREMENT OFFICER, OR CHIEF PROCUREMENT OFFICER’S DESIGNEE** find that:

(i) urgent circumstances require prompt action;

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

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

(2) The procurement officer shall attempt to obtain as much competition as reasonably possible **TO OBTAIN THE BEST VALUE TO THE STATE WITHIN THE LIMITATIONS REQUIRING THE USE OF THE EXPEDITED PROCUREMENT.**

(3) AFTER AWARDING AN EXPEDITED PROCUREMENT CONTRACT UNDER THIS SUBSECTION, A UNIT SHALL REPORT THE EXPEDITED PROCUREMENT CONTRACT AND THE JUSTIFICATION FOR THE CONTRACT TO THE BOARD.

13–109.

(F) IF A PRIMARY PROCUREMENT UNIT DETERMINES THAT A UNIT DOES NOT ADHERE TO THE ESTABLISHED SMALL PROCUREMENT REGULATIONS, THE PRIMARY PROCUREMENT UNIT MAY LIMIT OR REVOKE A UNIT’S ABILITY TO CONDUCT SMALL PROCUREMENTS.

13–110.

(b) (7) If a primary procurement unit sponsors or participates in an intergovernmental cooperative purchasing agreement, the intergovernmental cooperative purchasing agreement shall be:

(i) approved by:

1. the [unit] head **OF THE PRIMARY PROCUREMENT UNIT OR THE HEAD OF THE PRIMARY PROCUREMENT UNIT’S DESIGNEE; OR**

2. **THE CHIEF PROCUREMENT OFFICER OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE; and**

(ii) subject to any other approval required by law.

[13–112.1.

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

(2) “Aggregator” means a person that:

(i) provides or contracts for environmental outcomes; or

(ii) provides or raises capital to finance delivery of environmental outcomes.

(3) “Environmental outcome” means a commodity that is modeled or directly measured as a single, quantifiable, and certified unit of improvement to the environment, including a nutrient or carbon benefit.

(4) “Environmental outcomes project” means a project designed to secure environmental outcomes.

(5) “Evaluator” means a person other than an aggregator that determines whether environmental outcomes have been achieved based on defined performance measures.

(6) “Outcome payment” means the money paid when a pay-for-success contract performance measure is met.

(7) “Quantification plan” means a plan in which an aggregator describes:

(i) the method that will be used to measure or model environmental outcomes and co-benefits under a pay-for-success contract;

(ii) the compliance monitoring that will occur to ensure that the actions proposed in the pay-for-success contract are taken and maintained over the life of the project;

(iii) verification steps that will be carried out by the State to confirm model results or accurate measurement of environmental outcomes; and

(iv) the timeline for proposed payments under the pay-for-success contract.

(b) The General Assembly finds and declares that:

(1) pay-for-success contracting shifts the risk of performance to the contractor because government payment is made only on achievement of outcomes;

(2) social and environmental impact investment is growing dramatically, and investors are seeking ways to finance and execute pay-for-success contracts in the State to expand the success of Chesapeake Bay restoration efforts and achieve other public outcomes; and

(3) it is in the best interest of the State to include pay-for-success contracting as a procurement option, particularly for units responsible for land conservation and environmental protection, enhancement, and restoration.

(c) A unit may enter into a pay-for-success contract only if the procurement officer of the unit determines that:

1 (1) the contract will produce estimated financial savings or other
2 quantifiable public benefits for the State; and

3 (2) a substantial portion of the outcome payment due under the contract
4 will be paid only after specific outcomes have been documented.

5 (d) (1) This subsection applies only to procurements by:

6 (i) the Department of Agriculture;

7 (ii) the Department of the Environment;

8 (iii) the Department of Natural Resources;

9 (iv) the Department of Transportation;

10 (v) the Maryland Environmental Service; and

11 (vi) the Department of General Services.

12 (2) This subsection does not apply to the purchase of nitrogen load
13 reductions with funds from the Clean Water Commerce Account of the Bay Restoration
14 Fund established under § 9–1605.2 of the Environment Article.

15 (3) (i) A unit specified in paragraph (1) of this subsection may enter into
16 a pay–for–success contract with an aggregator to procure:

17 1. delivery of an environmental outcomes project; or

18 2. already certified environmental outcomes.

19 (ii) Other State and local entities may participate in a
20 pay–for–success contract under this subsection in accordance with an intergovernmental
21 cooperative purchasing agreement under § 13–110 of this subtitle.

22 (4) A pay–for–success contract executed under this subsection shall
23 include:

24 (i) a quantification plan approved by the unit;

25 (ii) a statement of the environmental outcomes to be procured under
26 the contract and a description of how defined performance measures will demonstrate
27 progress in achieving these outcomes;

28 (iii) requirements regarding the content and frequency of progress
29 reports regarding the achievement of environmental outcomes;

(iv) a methodology for calculating the amount and timing of outcome payments to an aggregator when the evaluator determines that the aggregator has achieved a defined performance measure;

(v) a statement that the basis of payment is the determination of achievement of environmental outcomes by the evaluator and that payments for those outcomes do not require itemized billing or cost documentation by the aggregator; and

(vi) terms addressing:

1. compliance with State law;

2. nondiscrimination in employment;

3. contractor indemnification;

4. termination for default; and

5. the unit's right to inspect the environmental outcomes project.

(5) A pay-for-success contract executed under this subsection may include provisions regarding:

(i) long-term maintenance and monitoring of environmental services, including the establishment of a stewardship fund;

(ii) a requirement that the unit hold contract funds in a reserve account for outcome payments;

(iii) for agriculture services, payment for achievement of baseline water quality requirements for nitrogen, phosphorus, or sediment; or

(iv) terminations prior to the first payment under the contract for the purpose of selling environmental outcomes without penalty to another entity or for any other reason.

(e) (1) (i) Beginning July 2025 and every 3 years thereafter, the Maryland Environmental Service shall review and evaluate the results of all pay-for-success contracts completed under this section for the previous 3 fiscal years.

(ii) The first review conducted under subparagraph (i) of this paragraph shall include a review of all pay-for-success contracts completed under this section between July 1, 2022, and June 30, 2025.

(2) The review conducted under paragraph (1) of this subsection shall include:

(i) the cost of each project performed under a contract;

(ii) the length of time taken to complete the project, from the date of notice to proceed until completion;

(iii) the average cost and project duration for each project type; and

(iv) whether each project met the terms of its contract.

(3) Each unit that enters into a pay-for-success contract under this section shall execute an agreement with the Maryland Environmental Service to reimburse the Service for each of the unit's completed contracts the Service reviews under this section.

(4) The Maryland Environmental Service shall provide copies of each review conducted under this subsection to:

(i) each unit for which the Service reviewed and evaluated a contract; and

(ii) in accordance with § 2-1257 of the State Government Article, the Senate Education, Health, and Environmental Affairs Committee, the Senate Budget and Taxation Committee, the House Environment and Transportation Committee, and the House Appropriations Committee.]

13-113.

(d) (1) **THIS SUBSECTION DOES NOT APPLY TO A TASK ORDER DESIGNATED AS A SMALL BUSINESS RESERVE IN ACCORDANCE WITH § 14-502 OF THIS ARTICLE.**

(2) Except as provided in subsection (f) of this section, if the unit of the Executive Branch expects that the total cost of the services, supplies, or commodities will exceed ~~[\$100,000]~~ **\$500,000**, the unit shall issue a solicitation for a task order to all master contractors in the appropriate category established by the designated procurement unit.

~~[(2)]~~ (3) If the unit of the Executive Branch expects that the total cost of the services, supplies, or commodities will ~~[be]~~ **EXCEED** \$100,000 ~~[or less]~~ **BUT WILL NOT EXCEED \$500,000**, the unit shall issue a solicitation for a task order to a minimum of six qualified master contractors or all master contractors, whichever is less, in the appropriate category established by the designated procurement unit.

(4) **IF THE UNIT OF THE EXECUTIVE BRANCH EXPECTS THAT THE TOTAL COST OF THE SERVICES, SUPPLIES, OR COMMODITIES WILL BE \$100,000 OR LESS, THE UNIT SHALL ISSUE A SOLICITATION FOR A TASK ORDER TO A MINIMUM OF THREE QUALIFIED MASTER CONTRACTORS OR ALL MASTER CONTRACTORS,**

1 **WHICHEVER IS FEWER, IN THE APPROPRIATE CATEGORY ESTABLISHED BY THE**
2 **DESIGNATED PROCUREMENT UNIT.**

3 (e) (1) Except as provided in subsection (f) of this section, after a unit of the
4 Executive Branch receives responses from master contractors to a solicitation for a task
5 order, the unit shall evaluate the responses and may select a master contractor based on
6 the response that is determined to be the most advantageous to the State considering the
7 evaluation factors set forth in the task order.

8 (2) **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,**
9 **ORAL PRESENTATIONS ARE REQUIRED PRIOR TO SELECTING A MASTER**
10 **CONTRACTOR WHEN:**

11 (I) **THE TOTAL VALUE OF THE TASK ORDER IS EXPECTED TO**
12 **EXCEED \$2,000,000 FOR ARCHITECTURAL AND ENGINEERING SERVICES;**

13 (II) **THE TOTAL VALUE OF THE TASK ORDER IS EXPECTED TO**
14 **EXCEED \$10,000,000 FOR CONSTRUCTION AND CONSTRUCTION RELATED SERVICES;**
15 **OR**

16 (III) **FOR ALL OTHER PROCUREMENT, INCLUDING INFORMATION**
17 **TECHNOLOGY AND PROFESSIONAL SERVICES, WHEN THE TOTAL VALUE OF THE TASK**
18 **ORDER IS EXPECTED TO EXCEED \$5,000,000.**

19 (3) **IF THE PROCUREMENT OFFICER MAKES A WRITTEN**
20 **DETERMINATION THAT ORAL PRESENTATIONS ARE UNLIKELY TO AID IN THE**
21 **EVALUATION PROCESS, ORAL PRESENTATIONS WILL NOT BE REQUIRED.**

22 (f) The requirements of subsections (c)(2), (d), and [(e)] **(E)(1)** of this section do
23 not apply to a master contract for construction if the master contract:

24 (1) is awarded through a competitive process in accordance with this
25 subtitle; and

26 (2) states:

27 (i) how task orders will be awarded; and

28 (ii) the maximum number of qualified contractors that will be
29 awarded a master contract for construction.

30 13-206.

(b) If, with the approval of the [Board] **CHIEF PROCUREMENT OFFICER OR THE CHIEF PROCUREMENT OFFICER'S DESIGNEE**, a unit determines that it is fiscally advantageous or otherwise in the best interests of the State, the unit may:

(1) cancel an invitation for bids, a request for proposals, or other solicitation; or

(2) reject all bids or proposals.

13–207.

(a) Except as otherwise provided in this section, a procurement officer may not require a bidder or offeror to provide bid security on a procurement contract if the procurement officer expects the price to be [\$100,000 or] less **THAN OR EQUAL TO THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS TITLE**.

(b) (1) A procurement officer shall require a bidder or offeror to provide bid security on a procurement contract for construction if:

(i) the price is expected to exceed [\$100,000] **THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS TITLE**; or

(ii) [the price is expected to be \$100,000 or less but] **REQUIRED BY** federal law or a condition of federal assistance requires the security.

(2) The amount of bid security required for a procurement contract for construction shall be:

(i) at least 5% of the bid or price proposal; or

(ii) if the bid or price proposal states a rate but not a total price, an amount determined by the procurement officer.

(c) (1) A procurement officer may require a bidder or offeror to provide bid security on a procurement contract for services, supplies, or construction related services if the price of the procurement contract is expected to exceed [\$50,000] **THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS TITLE**.

13–216.

(a) Except as provided in subsection (b) of this section, a procurement officer may not require a contractor to provide a performance bond, payment bond, or other security on a procurement contract for construction, construction related services, services, or supplies if the price of the procurement contract is [\$100,000 or] less **THAN OR EQUAL TO THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS TITLE**.

(b) A procurement officer shall require a contractor to provide a performance bond, payment bond, or other security if federal law or a condition of federal assistance requires the security.

(c) If the price of a procurement contract for construction exceeds [\$100,000] **THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS TITLE FOR CONSTRUCTION**, a procurement officer shall require a contractor to provide security as required under Title 17, Subtitle 1 of this article.

(d) A procurement officer may require a contractor to provide a performance bond or other security on a procurement contract for supplies, services, or construction related services if:

(1) circumstances warrant security; and

(2) the price of the procurement contract exceeds [\$100,000] **THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS TITLE**.

(e) (1) The Board shall adopt regulations to establish separate surety bond forms for procurement officers to use to require security for:

(i) fixed-price contracts; and

(ii) multiyear contracts.

(2) The form for multiyear contracts shall provide for annual and renewable contracts.

13-228.

(A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(2) **“AGGREGATOR” MEANS A PERSON THAT:**

(I) **PROVIDES OR CONTRACTS FOR ENVIRONMENTAL OUTCOMES; OR**

(II) **PROVIDES OR RAISES CAPITAL TO FINANCE DELIVERY OF ENVIRONMENTAL OUTCOMES.**

(3) **“ENVIRONMENTAL OUTCOME” MEANS A COMMODITY THAT IS MODELED OR DIRECTLY MEASURED AS A SINGLE, QUANTIFIABLE, AND CERTIFIED UNIT OF IMPROVEMENT TO THE ENVIRONMENT, INCLUDING A NUTRIENT OR CARBON BENEFIT.**

1 (4) “ENVIRONMENTAL OUTCOMES PROJECT” MEANS A PROJECT
2 DESIGNED TO SECURE ENVIRONMENTAL OUTCOMES.

3 (5) “EVALUATOR” MEANS A PERSON OTHER THAN AN AGGREGATOR
4 THAT DETERMINES WHETHER ENVIRONMENTAL OUTCOMES HAVE BEEN ACHIEVED
5 BASED ON DEFINED PERFORMANCE MEASURES.

6 (6) “OUTCOME PAYMENT” MEANS THE MONEY PAID WHEN A
7 PAY-FOR-SUCCESS CONTRACT PERFORMANCE MEASURE IS MET.

8 (7) “QUANTIFICATION PLAN” MEANS A PLAN IN WHICH AN
9 AGGREGATOR DESCRIBES:

10 (I) THE METHOD THAT WILL BE USED TO MEASURE OR MODEL
11 ENVIRONMENTAL OUTCOMES AND CO-BENEFITS UNDER A PAY-FOR-SUCCESS
12 CONTRACT;

13 (II) THE COMPLIANCE MONITORING THAT WILL OCCUR TO
14 ENSURE THAT THE ACTIONS PROPOSED IN THE PAY-FOR-SUCCESS CONTRACT ARE
15 TAKEN AND MAINTAINED OVER THE LIFE OF THE PROJECT;

16 (III) VERIFICATION STEPS THAT WILL BE CARRIED OUT BY THE
17 STATE TO CONFIRM MODEL RESULTS OR ACCURATE MEASUREMENT OF
18 ENVIRONMENTAL OUTCOMES; AND

19 (IV) THE TIMELINE FOR PROPOSED PAYMENTS UNDER THE
20 PAY-FOR-SUCCESS CONTRACT.

21 (B) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

22 (1) PAY-FOR-SUCCESS CONTRACTING SHIFTS THE RISK OF
23 PERFORMANCE TO THE CONTRACTOR BECAUSE GOVERNMENT PAYMENT IS MADE
24 ONLY ON ACHIEVEMENT OF OUTCOMES;

25 (2) SOCIAL AND ENVIRONMENTAL IMPACT INVESTMENT IS GROWING
26 DRAMATICALLY, AND INVESTORS ARE SEEKING WAYS TO FINANCE AND EXECUTE
27 PAY-FOR-SUCCESS CONTRACTS IN THE STATE TO EXPAND THE SUCCESS OF
28 CHESAPEAKE BAY RESTORATION EFFORTS AND ACHIEVE OTHER PUBLIC
29 OUTCOMES; AND

30 (3) IT IS IN THE BEST INTEREST OF THE STATE TO INCLUDE
31 PAY-FOR-SUCCESS CONTRACTING AS A CONTRACTING OPTION, PARTICULARLY FOR

1 UNITS RESPONSIBLE FOR LAND CONSERVATION AND ENVIRONMENTAL
2 PROTECTION, ENHANCEMENT, AND RESTORATION.

3 (C) A UNIT MAY ENTER INTO A PAY-FOR-SUCCESS CONTRACT ONLY IF THE
4 PROCUREMENT OFFICER OF THE UNIT DETERMINES THAT:

5 (1) THE CONTRACT WILL PRODUCE ESTIMATED FINANCIAL SAVINGS
6 OR OTHER QUANTIFIABLE PUBLIC BENEFITS FOR THE STATE; AND

7 (2) A SUBSTANTIAL PORTION OF THE OUTCOME PAYMENT DUE UNDER
8 THE CONTRACT WILL BE PAID ONLY AFTER SPECIFIC OUTCOMES HAVE BEEN
9 DOCUMENTED.

10 (D) (1) THIS SUBSECTION APPLIES ONLY TO CONTRACTS BY:

11 (I) THE DEPARTMENT OF AGRICULTURE;

12 (II) THE DEPARTMENT OF THE ENVIRONMENT;

13 (III) THE DEPARTMENT OF NATURAL RESOURCES;

14 (IV) THE DEPARTMENT OF TRANSPORTATION;

15 (V) THE MARYLAND ENVIRONMENTAL SERVICE; AND

16 (VI) THE DEPARTMENT OF GENERAL SERVICES.

17 (2) THIS SUBSECTION DOES NOT APPLY TO THE PURCHASE OF
18 NITROGEN LOAD REDUCTIONS WITH FUNDS FROM THE CLEAN WATER COMMERCE
19 ACCOUNT OF THE BAY RESTORATION FUND ESTABLISHED UNDER § 9-1605.2 OF
20 THE ENVIRONMENT ARTICLE.

21 (3) (I) A UNIT SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION
22 MAY ENTER INTO A PAY-FOR-SUCCESS CONTRACT WITH AN AGGREGATOR TO
23 PURCHASE:

24 1. DELIVERY OF AN ENVIRONMENTAL OUTCOMES
25 PROJECT; OR

26 2. ALREADY CERTIFIED ENVIRONMENTAL OUTCOMES.

27 (II) OTHER STATE AND LOCAL ENTITIES MAY PARTICIPATE IN A
28 PAY-FOR-SUCCESS CONTRACT UNDER THIS SUBSECTION IN ACCORDANCE WITH AN

1 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT UNDER § 13-110
2 OF THIS TITLE.

3 (4) A PAY-FOR-SUCCESS CONTRACT EXECUTED UNDER THIS
4 SUBSECTION SHALL INCLUDE:

5 (I) A QUANTIFICATION PLAN APPROVED BY THE UNIT;

6 (II) A STATEMENT OF THE ENVIRONMENTAL OUTCOMES TO BE
7 PROCURED UNDER THE CONTRACT AND A DESCRIPTION OF HOW DEFINED
8 PERFORMANCE MEASURES WILL DEMONSTRATE PROGRESS IN ACHIEVING THESE
9 OUTCOMES;

10 (III) REQUIREMENTS REGARDING THE CONTENT AND
11 FREQUENCY OF PROGRESS REPORTS REGARDING THE ACHIEVEMENT OF
12 ENVIRONMENTAL OUTCOMES;

13 (IV) A METHODOLOGY FOR CALCULATING THE AMOUNT AND
14 TIMING OF OUTCOME PAYMENTS TO AN AGGREGATOR WHEN THE EVALUATOR
15 DETERMINES THAT THE AGGREGATOR HAS ACHIEVED A DEFINED PERFORMANCE
16 MEASURE;

17 (V) A STATEMENT THAT THE BASIS OF PAYMENT IS THE
18 DETERMINATION OF ACHIEVEMENT OF ENVIRONMENTAL OUTCOMES BY THE
19 EVALUATOR AND THAT PAYMENTS FOR THOSE OUTCOMES DO NOT REQUIRE
20 ITEMIZED BILLING OR COST DOCUMENTATION BY THE AGGREGATOR; AND

21 (VI) TERMS ADDRESSING:

22 1. COMPLIANCE WITH STATE LAW;

23 2. NONDISCRIMINATION IN EMPLOYMENT;

24 3. CONTRACTOR INDEMNIFICATION;

25 4. TERMINATION FOR DEFAULT; AND

26 5. THE UNIT'S RIGHT TO INSPECT THE ENVIRONMENTAL
27 OUTCOMES PROJECT.

28 (5) A PAY-FOR-SUCCESS CONTRACT EXECUTED UNDER THIS
29 SUBSECTION MAY INCLUDE PROVISIONS REGARDING:

1 **(I) LONG-TERM MAINTENANCE AND MONITORING OF**
2 **ENVIRONMENTAL SERVICES, INCLUDING THE ESTABLISHMENT OF A STEWARDSHIP**
3 **FUND;**

4 **(II) A REQUIREMENT THAT THE UNIT HOLD CONTRACT FUNDS**
5 **IN A RESERVE ACCOUNT FOR OUTCOME PAYMENTS;**

6 **(III) FOR AGRICULTURE SERVICES, PAYMENT FOR**
7 **ACHIEVEMENT OF BASELINE WATER QUALITY REQUIREMENTS FOR NITROGEN,**
8 **PHOSPHORUS, OR SEDIMENT; OR**

9 **(IV) TERMINATIONS PRIOR TO THE FIRST PAYMENT UNDER THE**
10 **CONTRACT FOR THE PURPOSE OF SELLING ENVIRONMENTAL OUTCOMES WITHOUT**
11 **PENALTY TO ANOTHER ENTITY OR FOR ANY OTHER REASON.**

12 **(E) (1) BEGINNING JULY 2025 AND EVERY 3 YEARS THEREAFTER, THE**
13 **MARYLAND ENVIRONMENTAL SERVICE SHALL REVIEW AND EVALUATE THE**
14 **RESULTS OF ALL PAY-FOR-SUCCESS CONTRACTS COMPLETED UNDER THIS SECTION**
15 **FOR THE PREVIOUS 3 FISCAL YEARS.**

16 **(2) THE REVIEW CONDUCTED UNDER PARAGRAPH (1) OF THIS**
17 **SUBSECTION SHALL INCLUDE:**

18 **(I) THE COST OF EACH PROJECT PERFORMED UNDER A**
19 **CONTRACT;**

20 **(II) THE LENGTH OF TIME TAKEN TO COMPLETE THE PROJECT,**
21 **FROM THE DATE OF NOTICE TO PROCEED UNTIL COMPLETION;**

22 **(III) THE AVERAGE COST AND PROJECT DURATION FOR EACH**
23 **PROJECT TYPE; AND**

24 **(IV) WHETHER EACH PROJECT MET THE TERMS OF ITS**
25 **CONTRACT.**

26 **(3) EACH UNIT THAT ENTERS INTO A PAY-FOR-SUCCESS CONTRACT**
27 **UNDER THIS SECTION SHALL EXECUTE AN AGREEMENT WITH THE MARYLAND**
28 **ENVIRONMENTAL SERVICE TO REIMBURSE THE MARYLAND ENVIRONMENTAL**
29 **SERVICE FOR EACH OF THE UNIT'S COMPLETED CONTRACTS THE MARYLAND**
30 **ENVIRONMENTAL SERVICE REVIEWS UNDER THIS SECTION.**

31 **(4) THE MARYLAND ENVIRONMENTAL SERVICE SHALL PROVIDE**
32 **COPIES OF EACH REVIEW CONDUCTED UNDER THIS SUBSECTION TO:**

(I) EACH UNIT FOR WHICH THE MARYLAND ENVIRONMENTAL SERVICE REVIEWED AND EVALUATED A CONTRACT; AND

(II) IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE COMMITTEE ON EDUCATION, ENERGY, AND THE ENVIRONMENT, THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE, AND THE HOUSE APPROPRIATIONS COMMITTEE.

13-229.

(A) BEFORE A UNIT AWARDS ANY PROCUREMENT CONTRACT FOR AN AMOUNT ABOVE \$500,000, THE RECOMMENDED AWARDEE MAY BE REQUIRED TO SUBMIT A WORKFORCE DIVERSITY PLAN TO THE PROCUREMENT OFFICER.

(B) BEFORE A UNIT AWARDS ANY PROCUREMENT CONTRACT FOR AN AMOUNT ABOVE \$250,000, THE RECOMMENDED AWARDEE MAY BE REQUIRED TO SUBMIT A SUPPLIER DIVERSITY PLAN TO THE PROCUREMENT OFFICER.

(C) THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS IN CONSULTATION WITH THE OFFICE OF STATE PROCUREMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION THAT INCLUDE:

(1) SUGGESTED CONTENT TO BE INCLUDED IN A WORKFORCE OR SUPPLIER DIVERSITY PLAN; AND

(2) GUIDANCE FOR UNITS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.

14-106.

(a) In this section, "Committee" means the Pricing and Selection Committee for Preferred Providers.

(b) There is a Pricing and Selection Committee for Preferred Providers.

(c) The Committee consists of the following [5] 6 members:

(1) the Secretary of Transportation or a designee;

(2) the [Secretary of General Services] CHIEF PROCUREMENT OFFICER 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; AND

(6) THE SPECIAL SECRETARY FOR THE OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS OR A DESIGNEE.

14–108.

(b) There is an Employment Works Program in the [Department of General Services] **GOVERNOR’S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS.**

(c) The **SPECIAL** Secretary [of General Services] **FOR THE OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS** shall designate Maryland Works, Inc., or another appropriate coordinating entity, to facilitate the distribution of procurement contracts for supplies and services among community service providers and individual with disability owned businesses.

14–203.

(a) By regulation, the [Board] **SPECIAL SECRETARY FOR THE OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS** shall specify the criteria that a business must meet to qualify as a small business.

14–204.

The [Board] **SPECIAL SECRETARY FOR THE OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS** shall adopt regulations to establish procedures for:

(1) compiling and maintaining a comprehensive bidder’s list of small businesses;

(2) locating potential sources for various construction related services, supplies, and services and affirmatively seeking to locate potential minority business enterprise sources for those construction related services, supplies, and services;

(3) helping small businesses to comply with the procedures for bidding on procurement contracts;

(4) examining requests for construction related services, supplies, and services to determine when an invitation for bids may be designated for the Small Business Preference Program;

(5) bidding for a procurement contract designated for a small business preference;

(6) simplifying procurement specifications and terms, to increase the opportunities for small business participation;

(7) investigating the responsibility of bidders on small business preferences; and

(8) explaining to a small business the reason for which its bid for a small business preference was rejected.

14–205.

The Department of Commerce shall help the [Board] **SPECIAL SECRETARY FOR THE OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS** in establishing procedures to carry out § 14–204(1) and (2) of this subtitle.

14–302.

(a) (1) (ii) 1. The overall percentage goal shall be established on a biennial basis by the Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation, **THE CHIEF PROCUREMENT OFFICER**, and the Attorney General.

(iii) 1. In consultation with the Secretary of Transportation, **THE CHIEF PROCUREMENT OFFICER**, and the Attorney General, the Special Secretary for the Office of Small, Minority, and Women Business Affairs shall establish guidelines on a biennial basis for each unit to consider while determining whether to set subgoals for the minority groups listed in § 14–301(k)(1)(i)1, 2, 3, 4, and 6 of this subtitle.

(iv) 1. The Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation, **THE CHIEF PROCUREMENT OFFICER**, and the Attorney General, shall establish goals and subgoal guidelines that, to the maximum extent feasible, approximate the level of minority business enterprise participation that would be expected in the absence of discrimination.

(2) The Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation, **THE CHIEF PROCUREMENT OFFICER**, and the Attorney General, shall establish guidelines for each unit to consider when determining the appropriate minority business enterprise participation percentage goal for a procurement contract in accordance with paragraph (3) of this subsection.

1 **(8) A UNIT MAY CONSIDER ADDING OR INCREASING THE MINORITY**
2 **BUSINESS PARTICIPATION GOAL ON A PROCUREMENT CONTRACT:**

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

4 **(II) AFTER CONTRACT EXECUTION, WHEN DETERMINED TO BE**
5 **IN THE BEST INTEREST OF THE STATE; OR**

6 **(III) WHEN THE MINORITY BUSINESS ENTERPRISE**
7 **PARTICIPATION SCHEDULE HAS BEEN CREATED OR AMENDED.**

8 **[(8)] (9)** The Special Secretary for the Office of Small, Minority, and
9 Women Business Affairs shall:

10 (i) in consultation with the Secretary of Transportation, **THE**
11 **CHIEF PROCUREMENT OFFICER**, and the Attorney General, establish procedures
12 governing how the participation of minority business enterprise prime contractors is
13 counted toward contract goals; and

14 (ii) notwithstanding § 12–101 of this article, adopt regulations
15 setting forth the procedures established in accordance with this paragraph.

16 **[(9)] (10)** (i) 1. If a contractor, including a certified minority
17 business enterprise, does not achieve all or a part of the minority business enterprise
18 participation goals on a contract, the unit shall make a finding of whether the contractor
19 has demonstrated that the contractor took all necessary and reasonable steps to achieve
20 the goals, including compliance with paragraph (7) of this subsection.

21 2. A waiver of any part of the minority business enterprise
22 goals for a contract shall be granted if a contractor provides a reasonable demonstration of
23 good–faith efforts to achieve the goals.

24 (ii) If the unit determines that a waiver should be granted in
25 accordance with subparagraph (i) of this paragraph, the unit may not require the contractor
26 to renegotiate any subcontract in order to achieve a different result.

27 (iii) The head of the unit may waive any of the requirements of this
28 subsection relating to the establishment, use, and waiver of contract goals for a sole source,
29 expedited, or emergency procurement in which the public interest cannot reasonably
30 accommodate use of those requirements.

31 (iv) 1. Except for waivers granted in accordance with
32 subparagraph (iii) of this paragraph, when a waiver determination is made, the unit shall
33 issue the determination in writing.

34 2. The head of the unit shall:

1 A. keep one copy of the waiver determination and the reasons
2 for the determination; and

3 B. forward one copy of the waiver determination to the
4 Governor's Office of Small, Minority, and Women Business Affairs.

5 (v) On or before July 31 of each year, each unit shall submit directly
6 to the Board of Public Works and the Governor's Office of Small, Minority, and Women
7 Business Affairs an annual report of waivers requested and waivers granted under this
8 paragraph.

9 (vi) The report required under subparagraph (v) of this paragraph
10 shall contain the following information on those contracts where the unit considered a
11 contractor's request for waiver of all or a portion of the minority business enterprise goals:

- 12 1. the contract titles, numbers, and dates;
- 13 2. the number of waiver requests received;
- 14 3. the number of waiver requests granted; and
- 15 4. any other information specifically requested by the Board.

16 [(10)] (11) (i) [1.] This paragraph applies to a bidder or offeror after
17 submission of a bid or proposal and before the execution of a contract with an expected
18 degree of minority business enterprise participation.

19 [2. If the bidder or offeror determines that a minority
20 business enterprise identified in the minority business enterprise participation schedule
21 has become or will become unavailable or ineligible to perform the work required under the
22 contract, the bidder or offeror shall notify the unit within 72 hours of making the
23 determination.]

24 [(ii) 1. If a minority business enterprise identified in the minority
25 business enterprise participation schedule submitted with a bid or offer has become or will
26 become unavailable or ineligible to perform the work required under the contract, the
27 bidder or offeror may submit a written request with the unit to amend the minority
28 business enterprise participation schedule.

29 2. The request to amend the minority business enterprise
30 participation schedule shall indicate the bidder's or offeror's efforts to substitute another
31 certified minority business enterprise to perform the work that the unavailable or ineligible
32 minority business enterprise would have performed.

33 (iii) A minority business enterprise participation schedule may not
34 be amended unless:

1 1. the bidder or offeror provides a satisfactory explanation of
2 the reason for inclusion of the unavailable or ineligible firm on the minority business
3 enterprise participation schedule; and

4 2. the amendment is approved by the unit's procurement
5 officer after consulting with the unit's minority business enterprise liaison.}]

6 **(II) 1. IF A UNIT'S PROCUREMENT OFFICER DETERMINES**
7 **THAT A DEFICIENCY EXISTS IN THE MINORITY BUSINESS ENTERPRISE**
8 **PARTICIPATION SCHEDULE, THE PROCUREMENT OFFICER SHALL NOTIFY THE**
9 **BIDDER OR OFFEROR OF THE DEFICIENCY AND REQUIRE THE BIDDER OR OFFEROR**
10 **TO SUBMIT AN AMENDED MINORITY BUSINESS ENTERPRISE PARTICIPATION**
11 **SCHEDULE WITHIN A REASONABLE TIME PERIOD.**

12 **2. A DETERMINATION UNDER SUBSUBPARAGRAPH 1 OF**
13 **THIS SUBPARAGRAPH SHALL BE MADE IN CONSULTATION WITH THE UNIT'S**
14 **MINORITY BUSINESS ENTERPRISE LIAISON.**

15 **3. AS DIRECTED BY THE NOTIFICATION MADE UNDER**
16 **SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE BIDDER OR OFFEROR SHALL**
17 **SUBMIT AN AMENDED MINORITY BUSINESS ENTERPRISE PARTICIPATION SCHEDULE**
18 **CORRECTING THE DEFICIENCY IDENTIFIED.**

19 **[(11)] (12)** (i) This paragraph applies after execution of a contract with
20 an expected degree of minority business enterprise participation.

21 (ii) The minority business enterprise participation schedule,
22 including any amendment, shall be attached to and made a part of the executed contract.

23 (iii) 1. A. Except as provided in subsusbparagraph B of this
24 subsubparagraph, for purposes of this subparagraph, good cause for removal of a certified
25 minority business enterprise after contract execution includes documented
26 nonperformance by the minority business enterprise or election by the certified minority
27 business enterprise to cease work on the contract.

28 B. Failure of a certified minority business enterprise to
29 provide a bond requested by a contractor in violation of § 13-227 of this article may not be
30 considered nonperformance by the minority business enterprise.

31 2. A contractor may not terminate or otherwise cancel the
32 contract of a certified minority business enterprise subcontractor listed in the minority
33 business enterprise participation schedule without showing good cause and obtaining the
34 prior written consent of the minority business enterprise liaison and approval of the head
35 of the unit.

1 3. The unit shall send a copy of the written consent obtained
2 under subsubparagraph 2 of this subparagraph to the Governor's Office of Small, Minority,
3 and Women Business Affairs.

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

7 1. **IT IS IN THE BEST INTEREST OF THE STATE;**

8 2. **IT IS** approved by the head of the unit; and

9 3. the contract is amended.

10 [(12)] **(13)** If, during the performance of a contract, a certified minority
11 business enterprise contractor or subcontractor becomes ineligible to participate in the
12 Minority Business Enterprise Program because one or more of its owners has a personal
13 net worth that exceeds the amount specified in § 14-301(k)(3) of this subtitle:

14 (i) that ineligibility alone may not cause the termination of the
15 certified minority business enterprise's contractual relationship for the remainder of the
16 term of the contract; and

17 (ii) the certified minority business enterprise's participation under
18 the contract shall continue to be counted toward the program and contract goals.

19 [(13)] **(14)** (i) Except as provided in subparagraph (ii) of this paragraph,
20 a nonprofit entity participating as a minority business enterprise on a procurement
21 contract awarded by a unit before July 1, 2015, may continue to participate in the contract
22 until the contract expires or otherwise terminates, including all options, renewals, and
23 other extensions.

24 (ii) 1. The nonprofit entity's participation may not be counted
25 toward achieving the minority business enterprise participation goals in this subsection.

26 2. The unit may not require that a certified minority
27 business enterprise be substituted for the nonprofit entity in order to meet the minority
28 business enterprise goals for the procurement contract.

29 [(14)] **(15)** (i) For purposes of this paragraph and paragraph [(15)] **(16)**
30 of this subsection, "regular dealer":

31 1. means a firm that owns, operates, or maintains a store, a
32 warehouse, or any other establishment in which the materials, supplies, articles, or
33 equipment are of the general character described by the specifications required under the

contract and are bought, kept in stock, or regularly sold or leased to the public in the usual course of business; and

2. does not include a packager, a broker, a manufacturer's representative, or any other person that arranges or expedites transactions.

(ii) A unit may apply only 60% of the costs of the materials and supplies provided by the certified minority business enterprise if the certified minority business enterprise is a regular dealer for purposes of achieving the minority business enterprise contract goal.

[(15)] (16) With respect to materials or supplies purchased from a certified minority business enterprise that is neither a manufacturer nor a regular dealer:

(i) a unit may apply the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, fees, or transportation charges for the delivery of materials and supplies required on a procurement toward minority business enterprise contract goals, provided a unit determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services; and

(ii) a unit may not apply any portion of the costs of the materials and supplies toward minority business enterprise goals.

14-303.

(a) (1) (ii) The Board shall keep a record of information regarding any waivers requested in accordance with **[\S 14-302(a)(9)(i)] \S 14-302(A)(10)(I)** of this subtitle and subsection (b)(12) of this section and submit a copy of the record to the General Assembly on or before October 1 of each year, in accordance with \S 2-1257 of the State Government Article.

(b) These regulations shall include:

(12) consistent with **[\S 14-302(a)(9)] \S 14-302(A)(10)** of this subtitle, provisions relating to any circumstances under which a unit may waive obligations of the contractor relating to minority business enterprise participation;

(13) provisions requiring a **[monthly]** submission to the unit by minority business enterprises acknowledging all payments received **[in the preceding 30 days] OR ANY OTHER INFORMATION REQUESTED BASED ON CRITERIA ESTABLISHED BY THE GOVERNOR'S OFFICE OF SMALL, MINORITY, OR WOMEN BUSINESS AFFAIRS** under a contract governed by this subtitle;

1 [(17) a requirement that a bid or proposal based on a solicitation with an
2 expected degree of minority business enterprise participation identify the specific
3 commitment of certified minority business enterprises at the time of submission;]

4 [(18)] (17) provisions promoting and providing for the counting and
5 reporting of certified minority business enterprises as prime contractors;

6 [(19)] (18) provisions establishing standards to require a minority business
7 enterprise to perform a commercially useful function on a contract;

8 [(20)] (19) a requirement that each unit work with the Governor's Office of
9 Small, Minority, and Women Business Affairs to designate certain procurements as being
10 excluded from the requirements of § 14-302(a) of this subtitle;

11 [(21)] (20) provisions promoting and providing for the counting and
12 reporting of minority business enterprises certified as both a woman-owned business and
13 a business owned by a member of an ethnic or racial group in accordance with §
14 14-302(a)(5) of this subtitle; and

15 [(22)] (21) other provisions that the Board considers necessary or
16 appropriate to encourage participation by minority business enterprises and to protect the
17 integrity of the procurement process.

18 14-401.

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

20 (5) (i) ["Services"] **SUBJECT TO SUBPARAGRAPH (II) OF THIS**
21 **PARAGRAPH, "SERVICES"** has the meaning stated in [§ 11-101(t)(1) and (2)] **§ 11-101** of
22 this article.

23 (ii) Notwithstanding [§ 11-101(t)(3)] **§ 11-101** of this article,
24 "services" includes construction related services and energy performance contract services.

25 14-502.1.

26 (a) (1) This section applies to a procurement by any unit or agency of the
27 Executive Branch of State government for goods, supplies, services, maintenance,
28 construction, construction-related services, architectural services, or engineering services.

29 (2) This section does not apply to:

30 (i) procurements made under Subtitle 1 of this title;

(ii) procurements involving expenditures of federal dollars, to the extent that inclusion in the small business reserve program conflicts with federal law or grant provisions;

[(iii) procurements with a total dollar value under \$50,000;]

[(iv)] (III) the procurement of human, social, cultural, or educational services; or

[(v)] (IV) term and master contracts exempted under subsection (c) of this section.

(b) (1) A procurement with a total dollar value [between \$50,000 and \$500,000] **OF \$1,000,000 OR LESS** shall be designated for the small business reserve.

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

14–504.

(c) The procurement officer of a unit shall award a procurement contract designated for a small business reserve to the small business that submits a responsive bid **OR A PROPOSAL THAT IS REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD** that:

(1) is the lowest bid price;

(2) if the invitation for bids so provides, is the lowest evaluated bid price; or

(3) is the bid or proposal most favorable to the State within the small business reserve.

14–602.

(a) (1) A unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve or exceed an overall percentage goal of the unit's total dollar value of procurement contracts to be made directly or indirectly with veteran-owned small business enterprises.

(2) The Office of Small, Minority, and Women Business Affairs shall adopt regulations that establish the overall percentage goal.

(b) Solicitation documents shall state the expected percentage of veteran-owned small business enterprise participation based, in part, on:

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

(2) the availability of veteran-owned small business enterprises to respond competitively to the potential contracting opportunities.

(C) (1) (I) THIS PARAGRAPH APPLIES TO A BIDDER OR OFFEROR AFTER SUBMISSION OF A BID OR PROPOSAL AND BEFORE THE EXECUTION OF A CONTRACT WITH AN EXPECTED DEGREE OF VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION.

(II) 1. IF A UNIT'S PROCUREMENT OFFICER DETERMINES THAT A DEFICIENCY EXISTS IN THE VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION SCHEDULE, THE PROCUREMENT OFFICER SHALL NOTIFY THE BIDDER OR OFFEROR OF THE DEFICIENCY AND REQUIRE THE BIDDER OR OFFEROR TO SUBMIT AN AMENDED VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION SCHEDULE WITHIN A REASONABLE TIME PERIOD.

2. A DETERMINATION UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH SHALL BE MADE IN CONSULTATION WITH THE UNIT'S VETERAN-OWNED SMALL BUSINESS ENTERPRISE LIAISON.

3. AS DIRECTED BY THE NOTIFICATION MADE UNDER SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH, THE BIDDER OR OFFEROR SHALL SUBMIT AN AMENDED VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION SCHEDULE CORRECTING THE DEFICIENCY IDENTIFIED.

(2) A UNIT MAY CONSIDER ADDING OR INCREASING THE VETERAN-OWNED SMALL BUSINESS PARTICIPATION GOAL ON A PROCUREMENT CONTRACT:

(I) AT ANY TIME PRIOR TO CONTRACT EXECUTION;

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

(III) WHEN THE VETERAN-OWNED SMALL BUSINESS ENTERPRISE PARTICIPATION SCHEDULE HAS BEEN CREATED OR AMENDED.

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

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

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

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

(III) THE CONTRACT IS AMENDED.

[(c)] (D) The provisions of this subtitle do not apply to a unit's procurement procedures to the extent that any unit determines that those provisions are in conflict with an applicable federal program.

14-602.1.

(A) IN THIS SECTION, "VETERAN-OWNED SMALL BUSINESS RESERVE" MEANS THOSE PROCUREMENTS THAT ARE LIMITED TO RESPONSES FROM BUSINESSES THAT QUALIFY AS A VETERAN-OWNED SMALL BUSINESS ENTERPRISE.

(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION APPLIES TO ALL PROCUREMENTS BY THE DEPARTMENT OF VETERANS AND MILITARY FAMILIES AND THE MILITARY DEPARTMENT OR ANY UNIT ACTING ON BEHALF OF THE DEPARTMENT OF VETERANS AND MILITARY FAMILIES OR THE MILITARY DEPARTMENT.

(2) THIS SECTION DOES NOT APPLY TO:

(I) PROCUREMENTS MADE UNDER SUBTITLE 1 OF THIS TITLE;
OR

(II) PROCUREMENTS INVOLVING EXPENDITURES OF FEDERAL DOLLARS, TO THE EXTENT THAT THE REQUIREMENTS IN THIS SECTION CONFLICT WITH FEDERAL LAW OR OTHER GRANT PROVISIONS.

(C) NOTWITHSTANDING SUBTITLE 5 OF THIS TITLE, ANY PROCUREMENT BY THE DEPARTMENT OF VETERANS AND MILITARY FAMILIES OR THE MILITARY DEPARTMENT OF GOODS, SUPPLIES, SERVICES, MAINTENANCE, CONSTRUCTION, CONSTRUCTION RELATED SERVICES, ARCHITECTURAL SERVICES, AND ENGINEERING SERVICES SHALL BE ELIGIBLE FOR DESIGNATION FOR THE VETERAN-OWNED SMALL BUSINESS RESERVE.

(D) THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS SHALL:

(1) IN CONSULTATION WITH THE CHIEF PROCUREMENT OFFICER AND THE ATTORNEY GENERAL, ESTABLISH STANDARDS AND GUIDELINES FOR PARTICIPATION IN THE VETERAN-OWNED SMALL BUSINESS RESERVE PROGRAM EVERY 5 YEARS;

(2) ESTABLISH GUIDELINES FOR VETERAN-OWNED SMALL BUSINESS RESERVE PROGRAM ADMINISTRATION; AND

(3) COLLECT DATA REGARDING THE DEPARTMENT OF VETERANS AND MILITARY FAMILIES' AND THE MILITARY DEPARTMENT'S USE OF VETERAN-OWNED SMALL BUSINESS RESERVE VENDORS.

SUBTITLE 8. INTERNSHIP AND REGISTERED APPRENTICESHIP PROGRAM.

14-801.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COVERED PROCUREMENT" MEANS A PROCUREMENT CONTRACT THAT:

(1) MEETS THE CRITERIA ESTABLISHED BY THE CHIEF PROCUREMENT OFFICER, IN CONSULTATION WITH THE SECRETARY, UNDER § 14-802 OF THIS SUBTITLE; AND

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

(C) "DEPARTMENT" MEANS THE MARYLAND DEPARTMENT OF LABOR.

(D) "ELIGIBLE INTERNSHIP PROGRAM" MEANS AN INTERNSHIP PROGRAM THAT REQUIRES A CONTRACTOR OR OTHER ENTITY TO PROVIDE PAID INTERNSHIPS THAT MEET STANDARDS ESTABLISHED BY THE SECRETARY.

(E) "REGISTERED APPRENTICESHIP PROGRAM" MEANS AN APPRENTICESHIP PROGRAM THAT IS REGISTERED WITH AND APPROVED BY THE DIVISION OF WORKFORCE DEVELOPMENT AND ADULT LEARNING.

(F) "SECRETARY" MEANS THE SECRETARY OF LABOR.

1 14-802.

2 (A) THIS SUBTITLE APPLIES TO A COVERED PROCUREMENT MADE BY A
3 UNIT.

4 (B) A CONTRACTOR AWARDED A COVERED PROCUREMENT WITH AN
5 ESTIMATED TOTAL DOLLAR VALUE OF \$1,000,000 OR MORE SHALL UTILIZE AN
6 ELIGIBLE INTERNSHIP PROGRAM.

7 (C) A CONTRACTOR AWARDED A COVERED PROCUREMENT SHALL UTILIZE A
8 REGISTERED APPRENTICESHIP PROGRAM.

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

11 (1) SHALL ADOPT REGULATIONS ESTABLISHING THE DEFINITION OF
12 "COVERED PROCUREMENT"; AND

13 (2) MAY ADOPT OTHER REGULATIONS NECESSARY TO CARRY OUT
14 THIS SUBTITLE.

15 14-803.

16 (A) A CONTRACTOR THAT SUBMITS A BID OR PROPOSAL FOR A COVERED
17 PROCUREMENT SHALL PROVIDE TO A UNIT WRITTEN VERIFICATION OF:

18 (1) THE NUMBER OF APPRENTICES OR INTERNS THAT WILL BE
19 UTILIZED THROUGHOUT THE CONTRACT TERM, INCLUDING POTENTIAL RENEWAL
20 OPTIONS;

21 (2) THE WORK TO BE PERFORMED BY APPRENTICES IN A REGISTERED
22 APPRENTICESHIP PROGRAM OR INTERNS IN AN ELIGIBLE INTERNSHIP PROGRAM;
23 AND

24 (3) THE DURATION OF THE APPRENTICESHIP OR THE INTERNSHIP.

25 (B) THE WRITTEN VERIFICATION REQUIRED UNDER SUBSECTION (A) OF
26 THIS SECTION SHALL BE PROVIDED BEFORE THE CONTRACTOR MAY BE AWARDED A
27 CONTRACT FOR A COVERED PROCUREMENT.

28 14-804.

1 (A) THE SECRETARY IS RESPONSIBLE FOR ENSURING COMPLIANCE WITH
2 THE REQUIREMENTS OF THIS SUBTITLE.

3 (B) THE SECRETARY SHALL ESTABLISH CRITERIA TO ASSIST UNITS IN
4 ENSURING CONTRACTOR COMPLIANCE WITH THIS SUBTITLE, INCLUDING:

5 (1) PENALTIES FOR A CONTRACTOR'S FAILURE TO USE APPRENTICES
6 OR INTERNS AS PROVIDED IN A BID OR PROPOSAL; AND

7 (2) PROCEDURES FOR REPORTING ALLEGED VIOLATIONS OF THIS
8 SUBTITLE.

9 14-805.

10 (A) A CONTRACTOR THAT IS AWARDED A CONTRACT FOR A COVERED
11 PROCUREMENT UNDER THIS SUBTITLE WHO FAILS TO USE APPRENTICES FROM A
12 REGISTERED APPRENTICESHIP PROGRAM OR INTERNS FROM AN ELIGIBLE
13 INTERNSHIP PROGRAM AS PROVIDED IN THE BID OR PROPOSAL SHALL BE LIABLE
14 FOR AN AMOUNT AS SPECIFIED BY THE CRITERIA ESTABLISHED UNDER § 14-804 OF
15 THIS SUBTITLE.

16 (B) A UNIT SHALL REPORT ALLEGED VIOLATIONS OF THIS SUBTITLE TO THE
17 DEPARTMENT AS SPECIFIED IN THE CRITERIA ESTABLISHED UNDER § 14-804 OF
18 THIS SUBTITLE.

19 (C) THE DEPARTMENT SHALL REPORT ALLEGED VIOLATIONS OF THIS
20 SUBTITLE TO THE OFFICE OF THE ATTORNEY GENERAL, WHICH SHALL DETERMINE
21 WHETHER TO BRING A CIVIL ACTION AGAINST A PERSON OR BUSINESS FOR A
22 VIOLATION OF THIS SUBTITLE.

23 (D) PENALTIES SHALL BE RECOVERABLE IN CIVIL ACTIONS AND PAID TO
24 THE STATE APPRENTICESHIP TRAINING FUND ESTABLISHED UNDER § 17-602 OF
25 THIS ARTICLE, UNLESS OTHERWISE REQUIRED BY FEDERAL LAW.

26 (E) THE SECRETARY MAY FILE SUIT TO ENFORCE THIS SUBTITLE IN ANY
27 COURT OF COMPETENT JURISDICTION.

28 (F) IN AN ACTION FILED UNDER THIS SECTION, THE COURT SHALL REQUIRE
29 THE CONTRACTOR TO PAY THE AMOUNT REQUIRED BY SUBSECTION (A) OF THIS
30 SECTION, INCLUDING INTEREST, REASONABLE ATTORNEY'S FEES, AND COURT
31 COSTS.

32 SUBTITLE 9. GOOD LABOR PRACTICES PREFERENCE.

1 **14-901.**

2 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
3 **INDICATED.**

4 **(B) “COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND**
5 **INDUSTRY.**

6 **(C) “GOOD LABOR PRACTICES CERTIFIED BUSINESS” MEANS A BUSINESS**
7 **THAT MEETS THE QUALIFICATIONS ESTABLISHED UNDER § 14-903 OF THIS**
8 **SUBTITLE.**

9 **(D) “GOOD LABOR PRACTICES PREFERENCE” MEANS A PREFERENCE**
10 **ESTABLISHED UNDER § 14-904 OF THIS SUBTITLE APPLIED TO BUSINESSES**
11 **HOLDING A VALID, CURRENT CERTIFICATION OF THEIR GOOD LABOR PRACTICES.**

12 **(E) “PUBLIC BODY” HAS THE MEANING STATED IN § 17-201 OF THIS**
13 **ARTICLE.**

14 **(F) “PUBLIC WORK CONTRACT” HAS THE MEANING STATED IN §**
15 **17-201 OF THIS ARTICLE.**

16 **14-902.**

17 **THIS SUBTITLE APPLIES TO:**

18 **(1) PUBLIC WORK CONTRACTS PROCURED BY A PUBLIC BODY; AND**

19 **(2) A CONTRACT SUBJECT TO § 18-102 OF THIS ARTICLE.**

20 **14-903.**

21 **(A) TO OBTAIN INITIAL CERTIFICATION AS A GOOD LABOR PRACTICES**
22 **CERTIFIED BUSINESS, A BUSINESS MUST ATTEST THAT, ON ANY CONTRACT SUBJECT**
23 **TO THIS SUBTITLE THAT IT IS AWARDED OR UNDER WHICH IT PERFORMS ANY WORK,**
24 **THE BUSINESS WILL:**

25 **(1) DIRECTLY EMPLOY, AS W-2 EMPLOYEES, ALL PERSONS**
26 **PERFORMING WORK UNDER THE CONTRACT;**

27 **(2) PAY ALL PERSONS BY CHECK OR ELECTRONIC MEANS AS**
28 **AVAILABLE AND NOT IN CASH OR CASH EQUIVALENT;**

1 **(3) STRICTLY COMPLY WITH ALL LEGAL OBLIGATIONS AS AN**
2 **EMPLOYER, INCLUDING ITS OBLIGATIONS AS AN EMPLOYER UNDER TITLE 3, TITLE**
3 **5, TITLE 8, OR TITLE 9 OF THE LABOR AND EMPLOYMENT ARTICLE AND, AS**
4 **APPLICABLE, UNDER TITLE 17 OR TITLE 18 OF THIS ARTICLE;**

5 **(4) PROVIDE ADVANCE WRITTEN NOTIFICATION TO THE**
6 **PROCUREMENT AUTHORITY AND TO THE MARYLAND DEPARTMENT OF LABOR,**
7 **DIVISION OF LABOR AND INDUSTRY, IN A FORM TO BE DETERMINED BY THE**
8 **COMMISSIONER, OF ANY SUBCONTRACTORS PERFORMING WORK UNDER THE**
9 **CONTRACT;**

10 **(5) PROVIDE WRITTEN NOTICE OF THE REQUIREMENTS OF ITEMS (1),**
11 **(2), AND (3) OF THIS SUBSECTION TO ANY SUBCONTRACTORS PERFORMING WORK**
12 **UNDER THE CONTRACT;**

13 **(6) OBTAIN WRITTEN ACKNOWLEDGMENT OF THE NOTICE PROVIDED**
14 **IN ITEM (5) OF THIS SUBSECTION AND OF THE SUBCONTRACTOR'S AGREEMENT TO**
15 **ADHERE TO THOSE REQUIREMENTS, TO BE FILED WITH THE COMMISSIONER, IN A**
16 **FORM AND MANNER DETERMINED BY THE COMMISSIONER;**

17 **(7) SUCCESSFULLY COMPLETE A COMPREHENSIVE CONSULTATION**
18 **VISIT BY THE MARYLAND OCCUPATIONAL SAFETY AND HEALTH PROGRAM WITHIN**
19 **A REASONABLE TIME DETERMINED BY THE COMMISSIONER, FOLLOWING THE START**
20 **OF WORK UNDER THE CONTRACT;**

21 **(8) BE JOINTLY AND SEVERALLY LIABLE AS AN EMPLOYER FOR ANY**
22 **VIOLATION OF A SUBCONTRACTOR UNDER TITLE 3, TITLE 5, TITLE 8, OR TITLE 9 OF**
23 **THE LABOR AND EMPLOYMENT ARTICLE OR TITLE 17 OR TITLE 18 OF THIS ARTICLE**
24 **IN CONNECTION WITH THE SUBCONTRACTOR'S PERFORMANCE OF WORK UNDER THE**
25 **CONTRACT;**

26 **(9) PROMPTLY DISCLOSE TO THE COMMISSIONER, IN A FORM AND**
27 **MANNER TO BE PRESCRIBED BY THE COMMISSIONER, ANY SUITS, CHARGES,**
28 **DEMANDS, ORDERS, FINDINGS, OR ADJUDICATIONS MADE AGAINST IT IN**
29 **CONNECTION WITH VIOLATIONS SUBJECT TO ITEM (1), (2), OR (3) OF THIS**
30 **SUBSECTION OR AGAINST ANY OF ITS SUBCONTRACTORS AS PROVIDED IN ITEM (8)**
31 **OF THIS SUBSECTION; AND**

32 **(10) ON CONTRACTS SUBJECT TO § 18–102 OF THIS ARTICLE, PROVIDE**
33 **PROOF THAT THE BUSINESS HAS SECURED A PAYMENT BOND SUFFICIENT TO**
34 **ENSURE PAYMENT OF WAGES TO ALL EMPLOYEES PERFORMING WORK UNDER THE**
35 **CONTRACT.**

1 **(B) (1) A BUSINESS THAT SUBMITS AN APPLICATION TO THE**
2 **COMMISSIONER, ON A FORM DEVELOPED BY THE COMMISSIONER, DEMONSTRATING**
3 **SATISFACTION OF THE CRITERIA LISTED IN SUBSECTION (A) OF THIS SECTION, MAY**
4 **BE ISSUED A GOOD LABOR PRACTICES CERTIFICATION.**

5 **(2) THE CERTIFICATION IN PARAGRAPH (1) OF THIS SUBSECTION**
6 **SHALL BE VALID FOR 12 MONTHS FROM THE DATE OF ISSUANCE, PROVIDED THAT**
7 **THE BUSINESS'S ELIGIBILITY FOR CERTIFICATION IS MAINTAINED CONTINUOUSLY**
8 **DURING THAT PERIOD.**

9 **(3) THE COMMISSIONER SHALL:**

10 **(I) MAINTAIN A LIST OF ALL BUSINESSES WITH CURRENT,**
11 **VALID GOOD LABOR PRACTICES CERTIFICATION;**

12 **(II) PROVIDE THE LIST IN ITEM (I) OF THIS PARAGRAPH TO ALL**
13 **PROCUREMENT OFFICERS AT LEAST ONCE EVERY 3 MONTHS AND ON REQUEST; AND**

14 **(III) PUBLISH THE LIST IN ITEM (I) OF THIS PARAGRAPH ON THE**
15 **MARYLAND DEPARTMENT OF LABOR'S PUBLIC WEBSITE.**

16 **(C) A BUSINESS SEEKING TO RENEW ITS CERTIFICATION FOR AN**
17 **ADDITIONAL 12-MONTH PERIOD SHALL:**

18 **(1) PROVIDE AN UPDATED ATTESTATION AT A TIME AND IN A FORM**
19 **DEVELOPED BY THE COMMISSIONER; AND**

20 **(2) PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE**
21 **COMMISSIONER.**

22 **(D) IF THE COMMISSIONER DETERMINES THAT A BUSINESS IS NOT**
23 **ELIGIBLE, OR IS NO LONGER ELIGIBLE, FOR CERTIFICATION, THE COMMISSIONER**
24 **SHALL:**

25 **(1) REVOKE THE CERTIFICATION; AND**

26 **(2) REMOVE THE BUSINESS FROM THE LIST OF GOOD LABOR**
27 **PRACTICES CERTIFIED BUSINESSES MAINTAINED UNDER SUBSECTION (B) OF THIS**
28 **SECTION.**

(E) THE CHIEF PROCUREMENT OFFICER, IN CONSULTATION WITH THE COMMISSIONER, MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBTITLE.

14-904.

(A) IN THIS SECTION, "PERCENTAGE PREFERENCE" MEANS THE PERCENTAGE OF THE LOWEST RESPONSIVE BID SUBMITTED BY A RESPONSIBLE BIDDER WHO IS NOT A GOOD LABOR PRACTICES CERTIFIED BUSINESS BY WHICH A RESPONSIVE BID BY A GOOD LABOR PRACTICES CERTIFIED BUSINESS MAY:

(1) EXCEED THE LOWEST BID; AND

(2) BE AWARDED A PROCUREMENT CONTRACT UNDER THIS SUBTITLE.

(B) THE CHIEF PROCUREMENT OFFICER, IN CONSULTATION WITH THE SECRETARY, SHALL ESTABLISH A PERCENTAGE PREFERENCE OF AT LEAST 5% FOR A GOOD LABOR PRACTICES CERTIFIED BUSINESS.

(C) THE PERCENTAGE PREFERENCE ESTABLISHED UNDER THIS SECTION SHALL BE IN ADDITION TO ANY OTHER PREFERENCE FOR WHICH THE BUSINESS IS QUALIFIED UNDER THIS TITLE.

14-905.

(A) A PERSON MAY NOT ENGAGE IN CONDUCT PROHIBITED UNDER § 14-605(A) OR § 14-606 OF THIS TITLE IN CONNECTION WITH ANY ACT UNDERTAKEN TO OBTAIN, RENEW, MAINTAIN, OR EXERCISE A GOOD LABOR PRACTICES CERTIFICATION.

(B) THE PENALTIES ESTABLISHED IN §§ 14-605(B) AND (C) AND 14-606 OF THIS TITLE APPLY TO VIOLATIONS OF THIS SUBTITLE.

14-906.

IN ADDITION TO THE PENALTIES ESTABLISHED UNDER § 14-905 OF THIS SUBTITLE, A PERSON THAT WILLFULLY MISREPRESENTS OR WILLFULLY OMITTS ANY MATERIAL MATTER IN CONNECTION WITH AN APPLICATION OR REQUIRED DISCLOSURE FOR PURPOSES OF OBTAINING OR RETAINING A CONTRACT OR SUBCONTRACT UNDER THIS SUBTITLE MAY BE SUBJECT TO:

(1) SUSPENSION OR DEBARMENT UNDER TITLE 16 OF THIS ARTICLE;
OR

(2) CIVIL PENALTIES UNDER THE MARYLAND FALSE CLAIMS ACT.

15–103.

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

(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

(2) 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.

15–111.

(a) Within 60 days after the end of each fiscal year, each primary procurement unit shall submit to the Chief Procurement Officer a report on each procurement contract that was awarded during the preceding fiscal year, whether the procurement was conducted by the primary procurement unit or subject to review by the primary procurement unit, and:

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

(2) cost more than [\$100,000] THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS ARTICLE and was awarded for the procurement of services, construction related services, architectural services, or engineering services; or

(3) was awarded on the basis of:

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

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

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

15–112.

(e) [Before January 1, 2017, the] **THE** Board shall propose **UPDATED** regulations **AS NEEDED** that provide for an expedited change order process for change orders valued at more than **[\$50,000] THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS ARTICLE.**

15-112.1.

(A) IN THIS SECTION, “CONTRACT MODIFICATION” MEANS A WRITTEN ALTERATION THAT:

(1) AFFECTS SPECIFICATIONS, DELIVERY POINT, DATE OF DELIVERY, PERIOD OF PERFORMANCE, PRICE, QUANTITY, OR OTHER PROVISIONS OF A PROCUREMENT CONTRACT; AND

(2) IS ACCOMPLISHED BY MUTUAL ACTION OF THE PARTIES TO AN EXISTING PROCUREMENT CONTRACT.

(B) THIS SECTION APPLIES TO ALL STATE PROCUREMENT CONTRACTS.

(C) A PROCUREMENT OFFICER MAY APPROVE CONTRACT MODIFICATIONS UNDER THE FOLLOWING CONDITIONS:

(1) THE CONTRACT MODIFICATION DOES NOT MATERIALLY CHANGE THE SCOPE OF WORK; AND

(2) THE CONTRACT MODIFICATION DOES NOT INCREASE THE TOTAL VALUE OF THE CONTRACT TO AN AMOUNT THAT EXCEEDS THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS ARTICLE.

(D) THE PRIMARY PROCUREMENT UNIT, THE CHIEF PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE MAY APPROVE A CONTRACT MODIFICATION UP TO \$1,000,000 THAT DOES NOT MATERIALLY CHANGE THE SCOPE OF WORK.

(E) A PROCUREMENT OFFICER SHALL DOCUMENT A CONTRACT MODIFICATION MADE UNDER SUBSECTION (C) OR (D) OF THIS SECTION.

(F) THE CHIEF PROCUREMENT OFFICER SHALL ESTABLISH GUIDELINES FOR THE CONTRACT MODIFICATION PROCESS.

17-103.

(a) (1) Before a public body awards a construction contract exceeding **[\$100,000] THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS**

1 **ARTICLE FOR CONSTRUCTION**, the contractor shall provide payment security and
2 performance security that meet the requirements of § 17–104 of this subtitle.

3 (2) The security shall be:

4 (i) for performance security, in an amount that the public body
5 considers adequate for its protection; and

6 (ii) for payment security, at least 50% of the total amount payable
7 under the contract.

8 (b) A public body, other than the State or a unit of the State government, may
9 require payment security or performance security for a construction contract if:

10 (1) the contract exceeds ~~[\$50,000]~~ **\$100,000** but does not exceed
11 **[\$100,000] THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13–109 OF THIS**
12 **ARTICLE**; and

13 (2) the amount of the security does not exceed 50% of the contract amount.

14 17–602.

15 (a) There is a State Apprenticeship Training Fund in the Department.

16 (b) The Fund consists of:

17 (1) payments made by contractors or subcontractors in accordance with
18 this subtitle and Subtitle 6A of this title; [and]

19 (2) penalties collected as a result of violations of this subtitle and Subtitle
20 6A of this title; **AND**

21 **(3) PENALTIES COLLECTED AS A RESULT OF VIOLATIONS OF TITLE**
22 **14, SUBTITLE 8 OF THIS ARTICLE.**

23 (e) The Secretary shall use money in the fund to:

24 (1) promote preapprenticeship programs and other workforce development
25 programs in the State's public secondary schools and community colleges that assist
26 students in preparing for and entering apprenticeship training programs; and

27 (2) pay any costs associated with carrying out the provisions of this subtitle
28 and Subtitle 6A of this title **OR TITLE 14, SUBTITLE 8 OF THIS ARTICLE.**

29 17–604.

(a) A subcontractor that performs work [valued] at [\$100,000 or more] **A VALUE EXCEEDING THE SMALL PROCUREMENT AMOUNT SPECIFIED IN § 13-109 OF THIS ARTICLE** for a covered project shall provide to a unit written verification that:

(1) the subcontractor participates in an apprenticeship training program for each covered craft in which it will employ persons for the covered project;

(2) the subcontractor will make payments to the Fund; or

(3) the subcontractor will make payments in amounts determined under § 17-605 of this subtitle to a registered apprenticeship program or to an organization that has registered apprenticeship programs for the purpose of supporting these programs.

19-114.

Every contract and subcontract shall contain a nondiscrimination clause that [reads as follows] **IS SUBSTANTIALLY SIMILAR TO THE FOLLOWING:**

“As a condition of entering into this agreement, the company represents and warrants that it will comply with the State’s Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, the company may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination. The company shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. The company understands and agrees that a material violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.”.

19-116.

Every contract that the State enters into shall include **LANGUAGE SUBSTANTIALLY SIMILAR TO** the following [language]:

“As a condition of entering into this agreement, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against the company under Title 19 of the State Finance and Procurement Article, as amended from time to time, the company agrees to: provide to the State within 60 days after the request a truthful and complete list

1 of the names of all subcontractors, vendors, and suppliers that the company has used in the
2 past 4 years on any of its contracts that were undertaken within the State of Maryland,
3 including the total dollar amount paid by the contractor on each subcontract or supply
4 contract. The company further agrees to cooperate in any investigation conducted by the
5 State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title
6 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, to
7 provide any documents relevant to any investigation that is requested by the State. The
8 company understands and agrees that violation of this clause shall be considered a material
9 breach of this agreement and may result in contract termination, disqualification by the
10 State from participating in State contracts, and other sanctions.”.

11 Article – State Government

12 4–113.

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

14 (2) “Departments” means:

15 (i) the Office of the Comptroller;

16 (ii) the Office of the State Treasurer;

17 (iii) the Department of Budget and Management;

18 (iv) the Department of Information Technology; and

19 (v) the Department of General Services.

20 (3) “Financial management infrastructure” means the information
21 technology infrastructure that is used to maintain the general ledger and accountancy for
22 the State, including subledger functions that enable the management of all payments and
23 fund transfers throughout the State.

24 (4) “21st Century Financial Systems Enterprise” means a modern
25 cloud-based information technology infrastructure.

26 (b) In consultation with a designated representative from the Modernize
27 Maryland Oversight Commission, the departments shall:

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

1 SECTION 2. AND BE IT FURTHER ENACTED, That the publisher of the
2 Annotated Code of Maryland, in consultation with and subject to the approval of the
3 Department of Legislative Services, shall correct, with no further action required by the
4 General Assembly, cross–references and terminology rendered incorrect by Section 1 of this
5 Act. The publisher shall adequately describe any correction that is made in an editor’s note
6 following the section affected.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2025.