

# HOUSE BILL 1091

P2

(11r2746)

## ENROLLED BILL

— Appropriations and Health and Government Operations/Education, Health, and Environmental Affairs —

Introduced by **Delegate Reznik**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Procurement – Emergency and Expedited Procurements – Reform**  
3 **Revisions and Reporting**

4 FOR the purpose of ~~altering the circumstances under which a procurement officer may~~  
5 ~~make an emergency procurement; requiring a unit's procurement officer to obtain~~  
6 ~~approval from the Chief Procurement Officer or the Chief Procurement Officer's~~  
7 ~~designee before making an emergency procurement under certain circumstances;~~  
8 ~~requiring the Chief Procurement Officer or designee to approve or disapprove a~~  
9 ~~certain request within a certain time frame after receiving the request; providing~~  
10 ~~that if the Chief Procurement Officer or designee does not approve or disapprove a~~  
11 ~~certain request within a certain time frame the request shall be considered to be~~  
12 ~~approved; requiring a procurement officer to make reasonable efforts to solicit a~~  
13 ~~certain minimum number of quotes for an emergency procurement; requiring a~~  
14 ~~procurement officer to evaluate a certain contractor's ability to perform the~~

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



~~requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to obtain the approval of the Board of Public Works before awarding an emergency procurement contract with a certain value; altering certain reporting requirements related to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; altering the time frame within which a procurement officer must submit a certain report; requiring an emergency procurement contract to include provisions addressing the contractor's ability to perform the requirements of the contract within a certain time frame; limiting the term of a certain single source procurement contract; authorizing the Board to hold a certain emergency meeting for a certain purpose; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; authorizing certain units of State government to make a procurement on an expedited basis under certain circumstances; reducing the number of days after the end of each fiscal year that a primary procurement unit has to submit a certain report concerning certain procurement contracts; requiring a primary procurement unit to submit the report to the Chief Procurement Officer for the State instead of the Governor and the General Assembly; clarifying the types of procurement contracts that must be included in the report; requiring the report to include certain information on certain types of procurements; requiring the Chief Procurement Officer, within a certain number of days after the end of each fiscal year, to submit to the Governor and certain committees of the General Assembly a consolidated report that includes each report submitted to the Chief Procurement Officer by the primary procurement units as required under this Act; requiring that a report submitted to a committee of the General Assembly under this Act be submitted subject to a certain provision of law; authorizing the Board to adopt certain regulations requiring the Special Secretary for the Governor's Office of Small, Minority, and Women Business Affairs, in consultation with the Secretary of Transportation and the Attorney General, to establish certain guidelines; requiring a unit's procurement officer to obtain approval from the Chief Procurement Officer or the Chief Procurement Officer's designee before making an emergency procurement under certain circumstances; requiring the Chief Procurement Officer or designee to approve or disapprove a certain request within a certain time frame after receiving the request; providing that if the Chief Procurement Officer or designee does not approve or disapprove a certain request within a certain time frame, the request shall be considered to be approved; requiring a procurement officer to evaluate a certain contractor's ability to perform the requirements of an emergency procurement based on certain criteria under certain circumstances; requiring a procurement officer to execute a certain written contract for an emergency procurement under certain circumstances; prohibiting a unit from paying more than a certain amount in advance of or concurrent with the execution of a certain emergency procurement contract; prohibiting a unit from making certain additional payments under a certain emergency procurement contract for a certain period of time unless authorized by the Board of Public Works; requiring a unit to submit a copy of a certain emergency procurement contract to the Board within a certain period of time; authorizing the Board to review a certain emergency procurement contract at a certain meeting and to direct a unit or the appropriate control agency to take certain actions; altering certain reporting requirements related~~

1 to emergency procurement contracts; adding certain reporting requirements for  
 2 certain emergency procurement contracts; requiring an emergency procurement  
 3 contract to include provisions addressing the contractor's ability to perform the  
 4 requirements of the contract within a certain time frame; altering the time frame  
 5 within which a procurement officer must submit a certain report to the Board of  
 6 Public Works; specifying when a unit is required to publish notice of a certain  
 7 emergency procurement in eMaryland Marketplace; requiring a unit that awards a  
 8 certain contract or contract modification as an emergency procurement to submit a  
 9 certain report to the Board and a certain appropriate control agency within a certain  
 10 period of time; specifying the contents of a certain report; authorizing the Board to  
 11 adopt certain regulations; authorizing certain units of State government to make a  
 12 procurement on an expedited basis under certain circumstances; reducing the  
 13 number of days after the end of each fiscal year that a primary procurement unit has  
 14 to submit a certain report concerning certain procurement contracts; requiring a  
 15 primary procurement unit to submit a certain report to the Chief Procurement  
 16 Officer instead of the Governor and the General Assembly; clarifying the types of  
 17 procurement contracts that must be included in a certain report; requiring a certain  
 18 report to include certain information on certain types of procurements; requiring the  
 19 Chief Procurement Officer, within a certain number of days after the end of each  
 20 fiscal year, to submit to the Governor and certain committees of the General  
 21 Assembly a consolidated report that includes each report submitted to the Chief  
 22 Procurement Officer by the primary procurement units as required under this Act;  
 23 requiring a certain report to be submitted by the Department of General Services  
 24 instead of the Department of Budget and Management; requiring that a report  
 25 submitted to a committee of the General Assembly under this Act be submitted  
 26 subject to a certain provision of law; requiring the Special Secretary for the  
 27 Governor's Office of Small, Minority, and Women Business Affairs to report to  
 28 certain committees of the General Assembly on or before a certain date; providing  
 29 for the application of certain provisions of this Act; providing for the effective dates  
 30 of this Act; defining a certain term; and generally relating to State procurement.

31 BY repealing and reenacting, with amendments,  
 32 Article – State Finance and Procurement  
 33 Section 13–108 and 15–111  
 34 Annotated Code of Maryland  
 35 (2015 Replacement Volume and 2020 Supplement)

36 BY repealing and reenacting, with amendments,  
 37 Article – State Finance and Procurement  
 38 Section 13–108  
 39 Annotated Code of Maryland  
 40 (2015 Replacement Volume and 2020 Supplement)  
 41 (As enacted by Section 1 of this Act)

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

1 **Article – State Finance and Procurement**

2 13–108.

3 (a) IN THIS SECTION, “EMERGENCY” MEANS AN OCCURRENCE OR ~~A~~  
 4 CONDITION THAT CREATES AN IMMEDIATE AND SERIOUS NEED FOR SERVICES,  
 5 MATERIALS, OR SUPPLIES THAT:

6 (1) CANNOT BE MET THROUGH NORMAL PROCUREMENT METHODS;  
 7 AND

8 (2) ARE REQUIRED TO AVOID OR MITIGATE SERIOUS DAMAGE TO  
 9 PUBLIC HEALTH, SAFETY, OR WELFARE.

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

17 (2) ~~(I) BEFORE MAKING AN EMERGENCY PROCUREMENT, THE  
 18 PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY  
 19 PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE  
 20 CHIEF PROCUREMENT OFFICER’S DESIGNEE.~~

21 ~~(II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE  
 22 EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER  
 23 OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.~~

24 ~~(III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES  
 25 NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT  
 26 PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST  
 27 SHALL BE CONSIDERED TO BE APPROVED.~~

28 (3) The procurement officer shall:

29 (i) obtain as much competition as possible under the circumstances;  
 30 ~~INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL  
 31 QUOTES;~~

32 (ii) limit the emergency procurement to the procurement of only  
 33 those items, both in type and quantity, necessary to avoid or to mitigate serious damage to  
 34 public health, safety, or welfare; ~~and~~

1 ~~(III) BEFORE AWARDING AN EMERGENCY PROCUREMENT~~  
2 ~~CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR'S~~  
3 ~~ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:~~

4 ~~1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN~~  
5 ~~BUSINESS;~~

6 ~~2. THE CONTRACTOR'S LEVEL OF EXPERIENCE~~  
7 ~~PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE,~~  
8 ~~COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES REQUIRED~~  
9 ~~UNDER THE CONTRACT; AND~~

10 ~~3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL~~  
11 ~~PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;~~

12 ~~(IV) OBTAIN BOARD APPROVAL BEFORE AWARDING AN~~  
13 ~~EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE;~~

14 ~~{(iii)} (V) NOT MORE THAN 15 DAYS~~ after awarding the  
15 procurement contract, submit ~~{to the Board}~~ a written report that gives the justification  
16 for use of the emergency procurement procedure ~~IN ACCORDANCE WITH PARAGRAPH (4)~~  
17 ~~OF THIS SUBSECTION; AND~~

18 ~~(VI) AS APPROPRIATE, SUBMIT WRITTEN REPORTS PROVIDING~~  
19 ~~STATUS UPDATES ON THE DELIVERY AND USE OF SUPPLIES OR COMMODITIES~~  
20 ~~PROCURED UNDER THE CONTRACT IN ACCORDANCE WITH PARAGRAPH (5) OF THIS~~  
21 ~~SUBSECTION.~~

22 ~~(4) WITHIN 15 DAYS AFTER AWARDING A CONTRACT OR A CONTRACT~~  
23 ~~MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD, THE APPROPRIATE CONTROL~~  
24 ~~AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT~~  
25 ~~ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE~~  
26 ~~EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE~~  
27 ~~APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT~~  
28 ~~OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE,~~  
29 ~~A REPORT THAT INCLUDES:~~

30 ~~(I) THE BASIS AND JUSTIFICATION FOR THE EMERGENCY~~  
31 ~~PROCUREMENT, INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;~~

32 ~~(II) A LISTING OF SUPPLIES, SERVICES, MAINTENANCE,~~  
33 ~~COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES~~  
34 ~~PROCURED;~~

~~(III) THE NAMES OF ALL PERSONS SOLICITED AND A JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;~~

~~(IV) THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY THE PERSONS RESPONDING TO THE SOLICITATION;~~

~~(V) THE NAME OF AND BASIS FOR THE SELECTION OF A PARTICULAR CONTRACTOR;~~

~~(VI) THE AMOUNT AND TYPE OF THE CONTRACT OR CONTRACT MODIFICATION;~~

~~(VII) A LISTING OF ANY PRIOR OR RELATED EMERGENCY CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY, INCLUDING THE AGGREGATE COSTS; AND~~

~~(VIII) THE IDENTIFICATION NUMBER, IF ANY, OF THE CONTRACT FILE.~~

~~(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:~~

~~(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN DELIVERED AND USED; AND~~

~~(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATIONS COMMITTEE.~~

~~(6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME FRAME.~~

~~(7) THE TERM OF A SINGLE SOURCE PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION MAY NOT EXCEED THE MINIMUM PERIOD OF TIME NECESSARY TO AMELIORATE THE CIRCUMSTANCES THAT CREATED THE MATERIAL AND SUBSTANTIAL REASONS FOR THE SINGLE SOURCE AWARD.~~

~~(8) THE BOARD MAY HOLD AN EMERGENCY MEETING FOR THE PURPOSE OF CONSIDERING A REQUEST TO APPROVE AN EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE, AS REQUIRED UNDER PARAGRAPH (3)(IV) OF THIS SUBSECTION.~~

~~(9) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT SHALL PUBLISH IN A MARYLAND MARKETPLACE NOTICE OF THE AWARD.~~

[(b)] (C) (1) Consistent with the requirements of subsection [(a)(1)] (B)(1) of this section, the State Highway Administration may enter into procurement contracts related to the pretreatment and removal of snow and ice as required or authorized under Title 8 of the Transportation Article.

(2) (i) Beginning on June 30, 2016, and no later than June 30 of each succeeding year, the State Highway Administration shall submit to the Board a written report on the operation and effectiveness of the procurement contracts entered into under this subsection during the previous year.

(ii) The report shall include:

1. the number of contracts awarded;
2. the total dollar value of the contracts awarded; and
3. the amount of contracting dollars expended with minority business enterprises, certified small businesses, and certified veteran-owned businesses, as defined under Title 14 of this article.

(3) The Board, in consultation with the State Highway Administration, may adopt regulations to carry out the requirements of this subsection.

[(c)] (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, [the Maryland Port Commission or the Maryland Aviation Administration] ~~A UNIT’S PROCUREMENT~~

1 ~~OFFICER~~ may make a procurement on an expedited basis if the head of the unit and the  
2 Board find that:

- 3 (i) urgent circumstances require prompt action;
- 4 (ii) an expedited procurement best serves the public interest; and
- 5 (iii) the need for the expedited procurement outweighs the benefits of  
6 making the procurement on the basis of competitive sealed bids or competitive sealed  
7 proposals.

8 (2) The procurement officer shall attempt to obtain as much competition as  
9 reasonably possible.

10 [(d)] (E) ~~[Not] EXCEPT AS PROVIDED IN SUBSECTION (B)(9) OF THIS~~  
11 ~~SECTION, NOT~~ more than 30 days after the execution and approval of a procurement  
12 contract awarded under this section, a unit shall publish in eMaryland Marketplace notice  
13 of the award.

14 [(e)] (F) For real property leases procured under this section, the term of the  
15 lease shall be for the minimum period of time practicable.

16 (G) **THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS SECTION.**

17 (H) **THE SPECIAL SECRETARY FOR THE GOVERNOR'S OFFICE OF SMALL,**  
18 **MINORITY, AND WOMEN BUSINESS AFFAIRS, IN CONSULTATION WITH THE**  
19 **SECRETARY OF TRANSPORTATION AND THE ATTORNEY GENERAL, SHALL**  
20 **ESTABLISH GUIDELINES FOR EACH UNIT TO CONSIDER WHEN DETERMINING THE**  
21 **APPROPRIATE MINORITY BUSINESS ENTERPRISE PARTICIPATION PERCENTAGE**  
22 **GOAL AND OUTREACH FOR AN EMERGENCY PROCUREMENT CONTRACT.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
24 as follows:

25 **Article – State Finance and Procurement**

26 13–108.

27 (a) In this section, “emergency” means an occurrence or condition that creates an  
28 immediate and serious need for services, materials, or supplies that:

29 (1) cannot be met through normal procurement methods; and

30 (2) are required to avoid or mitigate serious damage to public health,  
31 safety, or welfare.



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

8 (2) (I) EXCEPT WHEN DELAYING A PROCUREMENT BY UP TO 48  
9 HOURS WOULD LIKELY RESULT IN IMMINENT HARM, AFTER OBTAINING THE  
10 APPROVAL OF THE HEAD OF THE UNIT AND BEFORE MAKING AN EMERGENCY  
11 PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE  
12 USE OF EMERGENCY PROCUREMENT PROCEDURES FROM THE CHIEF  
13 PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER’S DESIGNEE.

14 (II) WITHIN 48 HOURS AFTER RECEIVING A REQUEST TO USE  
15 EMERGENCY PROCUREMENT PROCEDURES, THE CHIEF PROCUREMENT OFFICER  
16 OR DESIGNEE SHALL APPROVE OR DISAPPROVE THE REQUEST.

17 (III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES  
18 NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT  
19 PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST  
20 SHALL BE CONSIDERED TO BE APPROVED.

21 (3) The procurement officer shall:

22 (i) obtain as much competition as possible under the circumstances,  
23 INCLUDING BY MAKING REASONABLE EFFORTS TO SOLICIT AT LEAST THREE ORAL  
24 QUOTES;

25 (ii) limit the emergency procurement to the procurement of only  
26 those items, both in type and quantity, necessary to avoid or to mitigate serious damage to  
27 public health, safety, or welfare; ~~and~~

28 (III) BEFORE AWARDING AN EMERGENCY PROCUREMENT  
29 CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR’S  
30 ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:

31 1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN  
32 BUSINESS;

33 2. THE CONTRACTOR’S LEVEL OF EXPERIENCE  
34 PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE,  
35 COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES REQUIRED  
36 UNDER THE CONTRACT; AND

1                                   **3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL**  
2 **PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;**

3                                   **(IV) EXECUTE A WRITTEN CONTRACT WITH THE SUCCESSFUL**  
4 **CONTRACTOR WHICH INCLUDES THE TERMS OF THE EMERGENCY PROCUREMENT;**  
5 **AND**

6                                   ~~(iii)~~ **(V) NOT MORE THAN 15 DAYS** after awarding the  
7 **procurement contract, submit to the Board a written report that gives the justification for**  
8 **use of the emergency procurement procedure.**

9                                   **(4) (I) THIS PARAGRAPH APPLIES ONLY TO AN EMERGENCY**  
10 **PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE.**

11                                   **(II) 1. IN ADVANCE OF OR CONCURRENT WITH THE**  
12 **EXECUTION OF AN EMERGENCY PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS**  
13 **PARAGRAPH, A UNIT MAY NOT PAY AN AMOUNT THAT EXCEEDS \$2,000,000, PLUS 30%**  
14 **OF THE CONTRACT VALUE IN EXCESS OF \$2,000,000.**

15                                   **2. UNLESS AUTHORIZED BY THE BOARD, THE UNIT MAY**  
16 **NOT MAKE ANY ADDITIONAL PAYMENT UNDER THE CONTRACT UNTIL AT LEAST 30**  
17 **DAYS AFTER THE EXECUTION OF THE CONTRACT.**

18                                   **(III) NOT LATER THAN 7 DAYS AFTER AWARDING AN EMERGENCY**  
19 **PROCUREMENT CONTRACT THAT IS SUBJECT TO THIS PARAGRAPH, A UNIT SHALL**  
20 **SUBMIT A COPY OF THE CONTRACT TO THE BOARD.**

21                                   **(IV) THE BOARD MAY:**

22                                   **1. REVIEW AN EMERGENCY PROCUREMENT CONTRACT**  
23 **SUBMITTED UNDER THIS PARAGRAPH AT A REGULARLY SCHEDULED MEETING OF**  
24 **THE BOARD OR AT AN EMERGENCY MEETING CALLED FOR THAT PURPOSE; AND**

25                                   **2. DIRECT THE UNIT OR THE APPROPRIATE CONTROL**  
26 **AGENCY TO TAKE ANY ACTION, INCLUDING CANCELING OR RESCINDING THE**  
27 **CONTRACT, THAT THE BOARD DEEMS APPROPRIATE.**

28                                   **(5) IF SUPPLIES OR COMMODITIES PROCURED UNDER AN EMERGENCY**  
29 **PROCUREMENT CONTRACT ARE NOT DELIVERED AND USED WITHIN 1 MONTH AFTER**  
30 **THE DATE THE CONTRACT IS AWARDED, THE UNIT SHALL:**

31                                   **(I) PREPARE A REPORT DESCRIBING THE DELIVERY AND USE**  
32 **STATUS OF SUPPLIES AND COMMODITIES PROCURED UNDER THE CONTRACT AT**

1 LEAST ONCE PER MONTH UNTIL ALL SUPPLIES AND COMMODITIES HAVE BEEN  
2 DELIVERED AND USED; AND

3 (II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH  
4 TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH §  
5 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND  
6 TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL  
7 AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE  
8 HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND  
9 EVALUATION COMMITTEE.

10 (6) A PROCUREMENT CONTRACT AWARDED UNDER THIS SUBSECTION  
11 SHALL INCLUDE PROVISIONS ADDRESSING THE CONTRACTOR'S ABILITY TO  
12 PERFORM THE REQUIREMENTS OF THE CONTRACT WITHIN THE EMERGENCY TIME  
13 FRAME.

14 (7) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, ON THE  
15 DAY OF THE EXECUTION AND APPROVAL OF A PROCUREMENT CONTRACT AWARDED  
16 UNDER THIS SUBSECTION, OR AS SOON AS PRACTICABLE THEREAFTER, A UNIT  
17 SHALL PUBLISH IN eMARYLAND MARKETPLACE NOTICE OF THE AWARD.

18 ~~(5)~~ (8) (I) THIS PARAGRAPH APPLIES ONLY TO THE AWARD OF A  
19 CONTRACT OR A CONTRACT MODIFICATION MADE UNDER THIS SUBSECTION THAT,  
20 WITH PRIOR MODIFICATIONS, EXCEEDS \$50,000.

21 (II) WITHIN 15 DAYS AFTER AWARDING A CONTRACT OR A  
22 CONTRACT MODIFICATION, A UNIT SHALL SUBMIT TO THE BOARD AND THE  
23 APPROPRIATE CONTROL AGENCY A REPORT THAT INCLUDES:

24 1. THE BASIS AND JUSTIFICATION FOR THE EMERGENCY  
25 PROCUREMENT INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;

26 2. A LISTING OF SUPPLIES, SERVICES, MAINTENANCE,  
27 COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES  
28 PROCURED;

29 3. THE NAMES OF ALL PERSONS SOLICITED AND A  
30 JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;

31 4. THE PRICES AND TIMES OF PERFORMANCE PROPOSED  
32 BY THE PERSONS RESPONDING TO THE SOLICITATION;

33 5. THE NAME OF AND BASIS FOR THE SELECTION OF A  
34 PARTICULAR CONTRACTOR;

1                   **6. THE AMOUNT AND TYPE OF THE CONTRACT OR**  
2 **CONTRACT MODIFICATION;**

3                   **7. A LISTING OF ANY PRIOR OR RELATED EMERGENCY**  
4 **CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE**  
5 **PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY,**  
6 **INCLUDING THE AGGREGATE COSTS; AND**

7                   **8. THE IDENTIFICATION NUMBER, IF ANY, OF THE**  
8 **CONTRACT FILE.**

9                   **(III) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS**  
10 **PARAGRAPH.**

11           (c) (1) Consistent with the requirements of subsection (b)(1) of this section, the  
12 State Highway Administration may enter into procurement contracts related to the  
13 pretreatment and removal of snow and ice as required or authorized under Title 8 of the  
14 Transportation Article.

15                   (2) (i) Beginning on June 30, 2016, and no later than June 30 of each  
16 succeeding year, the State Highway Administration shall submit to the Board a written  
17 report on the operation and effectiveness of the procurement contracts entered into under  
18 this subsection during the previous year.

19                           (ii) The report shall include:

20                                   1. the number of contracts awarded;

21                                   2. the total dollar value of the contracts awarded; and

22                                   3. the amount of contracting dollars expended with minority  
23 business enterprises, certified small businesses, and certified veteran-owned businesses,  
24 as defined under Title 14 of this article.

25                   (3) The Board, in consultation with the State Highway Administration,  
26 may adopt regulations to carry out the requirements of this subsection.

27           (d) (1) Except as provided in § 11-205 (“Collusion”), § 10-204 (“Approval for  
28 designated contracts”), § 13-219 (“Required clauses – Nondiscrimination clause”), § 13-221  
29 (“Disclosures to Secretary of State”), Title 16 (“Suspension and Debarment of Contractors”),  
30 or Title 17 (“Special Provisions – State and Local Subdivisions”) of this article, with the  
31 approval of the head of the unit and the Board, [the Maryland Port Commission or the  
32 Maryland Aviation Administration] A UNIT’S PROCUREMENT OFFICER may make a  
33 procurement on an expedited basis if the head of the unit and the Board find that:

- 1                   (i) urgent circumstances require prompt action;  
 2                   (ii) an expedited procurement best serves the public interest; and  
 3                   (iii) the need for the expedited procurement outweighs the benefits of  
 4 making the procurement on the basis of competitive sealed bids or competitive sealed  
 5 proposals.

6                   (2) The procurement officer shall attempt to obtain as much competition as  
 7 reasonably possible.

8                   (e) [Not] EXCEPT AS PROVIDED IN SUBSECTION ~~(B)(4)~~ (B)(7) OF THIS  
 9 SECTION, NOT more than 30 days after the execution and approval of a procurement  
 10 contract awarded under this section, a unit shall publish in eMaryland Marketplace notice  
 11 of the award.

12                   (f) For real property leases procured under this section, the term of the lease shall  
 13 be for the minimum period of time practicable.

14                   (g) The Board may adopt regulations to carry out this section.

15                   (h) The Special Secretary for the Governor's Office of Small, Minority, and Women  
 16 Business Affairs, in consultation with the Secretary of Transportation and the Attorney  
 17 General, shall establish guidelines for each unit to consider when determining the  
 18 appropriate minority business enterprise participation percentage goal and outreach for an  
 19 emergency procurement contract.

20 15-111.

21                   (a) Within ~~60~~ ~~90~~ ~~60~~ days after the end of each fiscal year, each primary  
 22 procurement unit shall submit to the [Governor and to the General Assembly] **CHIEF**  
 23 **PROCUREMENT OFFICER** a report on each procurement contract that was awarded  
 24 during the preceding fiscal year, **WHETHER THE PROCUREMENT WAS CONDUCTED BY**  
 25 **THE PRIMARY PROCUREMENT UNIT OR SUBJECT TO REVIEW BY THE PRIMARY**  
 26 **PROCUREMENT UNIT**, and:

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

30                   (2) cost more than \$100,000 and was awarded for the procurement of  
 31 services, construction related services, architectural services, or engineering services; or

32                   (3) was awarded on the basis of:

33                   (i) § 13-107 of this article ("Sole source procurement");

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

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

3 (b) (1) A report required under subsection (a)(2) or (3) of this section shall  
4 include:

5 (i) the name of each contractor;

6 (ii) the type and cost of the procurement contract; and

7 (iii) a description of the procurement.

8 (2) A report required under subsection (a)(3) of this section [also] shall  
9 [describe] **INCLUDE:**

10 (I) **A DESCRIPTION OF the basis for the award;**

11 (II) **THE IDENTITY OF THE DEPARTMENT OR AGENCY THAT**  
12 **AWARDED THE CONTRACT;**

13 (III) **THE IDENTITY OF ANY AGENCY OFFICIAL REQUIRED TO**  
14 **AUTHORIZE THE CONTRACT FOR AWARD;**

15 (IV) **THE AWARD DATE OF THE PROCUREMENT CONTRACT AND**  
16 **THE FINAL DATE OF THE CONTRACT TERM;**

17 (V) **THE DATE THE CONTRACT AWARD WAS POSTED TO**  
18 **EMARYLAND MARKETPLACE; AND**

19 (VI) **FOR PROCUREMENTS AWARDED UNDER § 13–108(B) OF**  
20 **THIS ARTICLE (“EMERGENCY PROCUREMENT”):**

21 1. **THE NUMBER OF DAYS BETWEEN THE AGENCY**  
22 **DECLARATION OF AN EMERGENCY PROCUREMENT AND THE CONTRACT AWARD**  
23 **DATE;**

24 2. **THE DATE OF THE EMERGENCY DECLARATION FOR**  
25 **EACH PROCUREMENT; AND**

26 3. **FOR AN AWARD THAT MUST BE REPORTED TO THE**  
27 **BOARD, THE DATE THE AWARD WAS REPORTED TO THE BOARD.**

1 (C) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, THE CHIEF  
2 PROCUREMENT OFFICER SHALL SUBMIT TO THE GOVERNOR, THE LEGISLATIVE  
3 POLICY COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, ~~AND THE~~  
4 SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE  
5 HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT  
6 OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE A  
7 CONSOLIDATED REPORT THAT INCLUDES EACH REPORT REQUIRED UNDER  
8 SUBSECTION (A) OF THIS SECTION.

9 [(c)] (D) Within 90 days after the end of each fiscal year, the Department of  
10 ~~Budget and Management~~ GENERAL SERVICES shall submit to the Board and the General  
11 Assembly a report on each class of procurement for which the procedure for noncompetitive  
12 negotiated procurement has been approved under § 13-106 of this article.

13 [(d)] (E) A report to the General Assembly **OR A COMMITTEE OF THE**  
14 **GENERAL ASSEMBLY** under this section is subject to § 2-1257 of the State Government  
15 Article.

16 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~  
17 ~~October 1, 2021.~~

18 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31,  
19 2021, the Special Secretary for the Governor's Office of Small, Minority, and Women  
20 Business Affairs shall report to the Legislative Policy Committee, the Senate Budget and  
21 Taxation Committee, ~~and the Senate Education, Health, and Environmental Affairs~~  
22 Committee, the House Appropriations Committee, the House Health and Government  
23 Operations Committee, and the Joint Audit and Evaluation Committee, in accordance with  
24 § 2-1257 of the State Government Article, on the status of establishing the guidelines for  
25 minority business enterprise participation goals required under Section 1 of this Act.

26 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take  
27 effect October 1, 2021.

28 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section  
29 4 of this Act, this Act shall take effect July 1, 2021.