

SENATE BILL 829

P2

11r2112
CF HB 1091

By: **Senator Lam**

Introduced and read first time: February 9, 2021

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2021

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~~
15 ~~requirements of an emergency procurement based on certain criteria under certain~~
16 ~~circumstances; requiring a procurement officer to obtain the approval of the Board~~
17 ~~of Public Works before awarding an emergency procurement contract with a certain~~
18 ~~value; altering certain reporting requirements related to emergency procurement~~
19 ~~contracts; adding certain reporting requirements for certain emergency procurement~~
20 ~~contracts; altering the time frame within which a procurement officer must submit~~
21 ~~a certain report; requiring an emergency procurement contract to include provisions~~
22 ~~addressing the contractor's ability to perform the requirements of the contract within~~
23 ~~a certain time frame; limiting the term of a certain single source procurement~~
24 ~~contract; authorizing the Board to hold a certain emergency meeting for a certain~~
25 ~~purpose; specifying when a unit is required to publish notice of a certain emergency~~

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.



~~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 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 to emergency procurement contracts; adding certain reporting requirements for certain emergency procurement contracts; 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; altering the time frame within which a procurement officer must submit a certain report to the Board; specifying when a unit is required to publish notice of a certain emergency procurement in eMaryland Marketplace; requiring a unit that awards a certain contract or contract modification as an emergency procurement to submit a certain report to the Board and a certain appropriate control agency within a certain period of time; specifying the contents of a certain report; authorizing the Board to adopt certain regulations; authorizing certain units of State government to make a~~

1 procurement on an expedited basis under certain circumstances; reducing the
 2 number of days after the end of each fiscal year that a primary procurement unit has
 3 to submit a certain report concerning certain procurement contracts; requiring a
 4 primary procurement unit to submit a certain report to the Chief Procurement
 5 Officer instead of the Governor and the General Assembly; clarifying the types of
 6 procurement contracts that must be included in a certain report; requiring a certain
 7 report to include certain information on certain types of procurements; requiring the
 8 Chief Procurement Officer, within a certain number of days after the end of each
 9 fiscal year, to submit to the Governor and certain committees of the General
 10 Assembly a consolidated report that includes each report submitted to the Chief
 11 Procurement Officer by the primary procurement units as required under this Act;
 12 requiring a certain report to be submitted by the Department of General Services
 13 instead of the Department of Budget and Management; requiring that a report
 14 submitted to a committee of the General Assembly under this Act be submitted
 15 subject to a certain provision of law; requiring the Special Secretary for the Office of
 16 Small, Minority, and Women Business Affairs to report to certain committees of the
 17 General Assembly on or before a certain date; providing for the application of certain
 18 provisions of this Act; providing for the effective dates of this Act; defining a certain
 19 term; and generally relating to State procurement.

20 BY repealing and reenacting, with amendments,
 21 Article – State Finance and Procurement
 22 Section 13–108 and 15–111
 23 Annotated Code of Maryland
 24 (2015 Replacement Volume and 2020 Supplement)

25 BY repealing and reenacting, with amendments,
 26 Article – State Finance and Procurement
 27 Section 13–108
 28 Annotated Code of Maryland
 29 (2015 Replacement Volume and 2020 Supplement)
 30 (As enacted by Section 1 of this Act)

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

33 **Article – State Finance and Procurement**

34 13–108.

35 (a) IN THIS SECTION, “EMERGENCY” MEANS AN OCCURRENCE OR A
 36 CONDITION THAT CREATES AN IMMEDIATE AND SERIOUS NEED FOR SERVICES,
 37 MATERIALS, OR SUPPLIES THAT:

38 (1) CANNOT BE MET THROUGH NORMAL PROCUREMENT METHODS;
 39 AND

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

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

10 **~~(2) (I) BEFORE MAKING AN EMERGENCY PROCUREMENT, THE~~**
 11 **~~PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE USE OF EMERGENCY~~**
 12 **~~PROCUREMENT PROCEDURES FROM THE CHIEF PROCUREMENT OFFICER, OR THE~~**
 13 **~~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,~~**

~~1 COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES REQUIRED
2 UNDER THE CONTRACT; AND~~

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

~~5 (IV) OBTAIN BOARD APPROVAL BEFORE AWARDING AN
6 EMERGENCY PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE;~~

~~7 [(iii)] (V) NOT MORE THAN 15 DAYS after awarding the
8 procurement contract, submit [to the Board] a written report that gives the justification
9 for use of the emergency procurement procedure IN ACCORDANCE WITH PARAGRAPH (4)
10 OF THIS SUBSECTION; AND~~

~~11 (VI) AS APPROPRIATE, SUBMIT WRITTEN REPORTS PROVIDING
12 STATUS UPDATES ON THE DELIVERY AND USE OF SUPPLIES OR COMMODITIES
13 PROCURED UNDER THE CONTRACT IN ACCORDANCE WITH PARAGRAPH (5) OF THIS
14 SUBSECTION;~~

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

~~23 (I) THE BASIS AND JUSTIFICATION FOR THE EMERGENCY
24 PROCUREMENT, INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;~~

~~25 (II) A LISTING OF SUPPLIES, SERVICES, MAINTENANCE,
26 COMMODITIES, CONSTRUCTION, OR CONSTRUCTION RELATED SERVICES
27 PROCURED;~~

~~28 (III) THE NAMES OF ALL PERSONS SOLICITED AND A
29 JUSTIFICATION IF THE SOLICITATION WAS LIMITED TO ONE PERSON;~~

~~30 (IV) THE PRICES AND TIMES OF PERFORMANCE PROPOSED BY
31 THE PERSONS RESPONDING TO THE SOLICITATION;~~

~~32 (V) THE NAME OF AND BASIS FOR THE SELECTION OF A
33 PARTICULAR CONTRACTOR;~~

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

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

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

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

16 ~~(II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH~~
17 ~~TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH~~
18 ~~§ 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND~~
19 ~~TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL~~
20 ~~AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE~~
21 ~~HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND~~
22 ~~EVALUATIONS COMMITTEE.~~

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

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

31 ~~(8) THE BOARD MAY HOLD AN EMERGENCY MEETING FOR THE~~
32 ~~PURPOSE OF CONSIDERING A REQUEST TO APPROVE AN EMERGENCY~~
33 ~~PROCUREMENT CONTRACT WITH A VALUE OF \$1,000,000 OR MORE, AS REQUIRED~~
34 ~~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 E-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 OFFICER** may make a procurement on an expedited basis if the head of the unit and the Board 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.

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

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

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

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

10 **(H) THE SPECIAL SECRETARY FOR THE OFFICE OF SMALL, MINORITY, AND**
11 **WOMEN BUSINESS AFFAIRS, IN CONSULTATION WITH THE SECRETARY OF**
12 **TRANSPORTATION AND THE ATTORNEY GENERAL, SHALL ESTABLISH GUIDELINES**
13 **FOR EACH UNIT TO CONSIDER WHEN DETERMINING THE APPROPRIATE MINORITY**
14 **BUSINESS ENTERPRISE PARTICIPATION PERCENTAGE GOAL AND OUTREACH FOR AN**
15 **EMERGENCY PROCUREMENT CONTRACT.**

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

18 **Article – State Finance and Procurement**

19 13–108.

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

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

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

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

32 (2) **(I) EXCEPT WHEN DELAYING A PROCUREMENT BY UP TO 48**
33 **HOURS WOULD LIKELY RESULT IN IMMINENT HARM, AFTER OBTAINING THE**
34 **APPROVAL OF THE HEAD OF THE UNIT AND BEFORE MAKING AN EMERGENCY**

1 PROCUREMENT, THE PROCUREMENT OFFICER SHALL OBTAIN APPROVAL OF THE
2 USE OF EMERGENCY PROCUREMENT PROCEDURES FROM THE CHIEF
3 PROCUREMENT OFFICER, OR THE CHIEF PROCUREMENT OFFICER'S DESIGNEE.

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

7 (III) IF THE CHIEF PROCUREMENT OFFICER OR DESIGNEE DOES
8 NOT APPROVE OR DISAPPROVE THE REQUEST TO USE EMERGENCY PROCUREMENT
9 PROCEDURES WITHIN 48 HOURS AFTER RECEIVING THE REQUEST, THE REQUEST
10 SHALL BE CONSIDERED TO BE APPROVED.

11 (3) The procurement officer shall:

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

15 (ii) limit the emergency procurement to the procurement of only
16 those items, both in type and quantity, necessary to avoid or to mitigate serious damage to
17 public health, safety, or welfare; [and]

18 (III) BEFORE AWARDING AN EMERGENCY PROCUREMENT
19 CONTRACT TO A PROSPECTIVE CONTRACTOR, EVALUATE THE CONTRACTOR'S
20 ABILITY TO PERFORM THE REQUIREMENTS OF THE CONTRACT BASED ON:

21 1. THE LENGTH OF TIME THE CONTRACTOR HAS BEEN IN
22 BUSINESS;

23 2. THE CONTRACTOR'S LEVEL OF EXPERIENCE
24 PROVIDING THE TYPES AND AMOUNTS OF SUPPLIES, SERVICES, MAINTENANCE,
25 COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES REQUIRED
26 UNDER THE CONTRACT; AND

27 3. THE CONTRACTOR'S HISTORY OF SUCCESSFUL
28 PROCUREMENT CONTRACTS WITH THE STATE AND OTHER JURISDICTIONS;

29 (IV) EXECUTE A WRITTEN CONTRACT WITH THE SUCCESSFUL
30 CONTRACTOR WHICH INCLUDES THE TERMS OF THE EMERGENCY PROCUREMENT;
31 AND

1 [(iii)] (V) NOT MORE THAN 15 DAYS after awarding the
2 procurement contract, submit to the Board a written report that gives the justification for
3 use of the emergency procurement procedure.

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

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

10 2. UNLESS AUTHORIZED BY THE BOARD, THE UNIT MAY
11 NOT MAKE ANY ADDITIONAL PAYMENT UNDER THE CONTRACT UNTIL AT LEAST 30
12 DAYS AFTER THE EXECUTION OF THE CONTRACT.

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

16 (IV) THE BOARD MAY:

17 1. REVIEW AN EMERGENCY PROCUREMENT CONTRACT
18 SUBMITTED UNDER THIS PARAGRAPH AT A REGULARLY SCHEDULED MEETING OF
19 THE BOARD OR AT AN EMERGENCY MEETING CALLED FOR THAT PURPOSE; AND

20 2. DIRECT THE UNIT OR THE APPROPRIATE CONTROL
21 AGENCY TO TAKE ANY ACTION, INCLUDING CANCELING OR RESCINDING THE
22 CONTRACT, THAT THE BOARD DEEMS APPROPRIATE.

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

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

30 (II) SUBMIT THE REPORTS PREPARED UNDER THIS PARAGRAPH
31 TO THE BOARD, THE APPROPRIATE CONTROL AGENCY, AND, IN ACCORDANCE WITH
32 § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE BUDGET AND
33 TAXATION COMMITTEE, THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL
34 AFFAIRS COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE

1 HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND
2 EVALUATION COMMITTEE.

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

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

11 (8) (I) THIS PARAGRAPH APPLIES ONLY TO THE AWARD OF A
12 CONTRACT OR A CONTRACT MODIFICATION MADE UNDER THIS SUBSECTION THAT,
13 WITH PRIOR MODIFICATIONS, EXCEEDS \$50,000.

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

17 1. THE BASIS AND JUSTIFICATION FOR THE EMERGENCY
18 PROCUREMENT INCLUDING THE DATE THE EMERGENCY FIRST BECAME KNOWN;

19 2. A LISTING OF SUPPLIES, SERVICES, MAINTENANCE,
20 COMMODITIES, CONSTRUCTION, OR CONSTRUCTION-RELATED SERVICES
21 PROCURED;

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

24 4. THE PRICES AND TIMES OF PERFORMANCE PROPOSED
25 BY THE PERSONS RESPONDING TO THE SOLICITATION;

26 5. THE NAME OF AND BASIS FOR THE SELECTION OF A
27 PARTICULAR CONTRACTOR;

28 6. THE AMOUNT AND TYPE OF THE CONTRACT OR
29 CONTRACT MODIFICATION;

30 7. A LISTING OF ANY PRIOR OR RELATED EMERGENCY
31 CONTRACTS, INCLUDING ALL CONTRACT MODIFICATIONS, EXECUTED FOR THE
32 PURPOSES OF AVOIDING OR MITIGATING THE PARTICULAR EMERGENCY,
33 INCLUDING THE AGGREGATE COSTS; AND

1 8. THE IDENTIFICATION NUMBER, IF ANY, OF THE
 2 CONTRACT FILE.

3 (III) THE BOARD MAY ADOPT REGULATIONS TO CARRY OUT THIS
 4 PARAGRAPH.

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

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

13 (ii) The report shall include:

14 1. the number of contracts awarded;

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

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

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

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

28 (i) urgent circumstances require prompt action;

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

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

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

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

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

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

10 (h) The Special Secretary for the Office of Small, Minority, and Women Business
11 Affairs, in consultation with the Secretary of Transportation and the Attorney General,
12 shall establish guidelines for each unit to consider when determining the appropriate
13 minority business enterprise participation percentage goal and outreach for an emergency
14 procurement contract.

15 15–111.

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

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

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

27 (3) was awarded on the basis of:

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

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

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

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

- 1 (i) the name of each contractor;
- 2 (ii) the type and cost of the procurement contract; and
- 3 (iii) a description of the procurement.

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

6 (I) A DESCRIPTION OF the basis for the award;

7 (II) THE IDENTITY OF THE DEPARTMENT OR AGENCY THAT
8 AWARDED THE CONTRACT;

9 (III) THE IDENTITY OF ANY AGENCY OFFICIAL REQUIRED TO
10 AUTHORIZE THE CONTRACT FOR AWARD;

11 (IV) THE AWARD DATE OF THE PROCUREMENT CONTRACT AND
12 THE FINAL DATE OF THE CONTRACT TERM;

13 (V) THE DATE THE CONTRACT AWARD WAS POSTED TO
14 MARYLAND MARKETPLACE; AND

15 (VI) FOR PROCUREMENTS AWARDED UNDER § 13-108(B) OF
16 THIS ARTICLE (“EMERGENCY PROCUREMENT”):

17 1. THE NUMBER OF DAYS BETWEEN THE AGENCY
18 DECLARATION OF AN EMERGENCY PROCUREMENT AND THE CONTRACT AWARD
19 DATE;

20 2. THE DATE OF THE EMERGENCY DECLARATION FOR
21 EACH PROCUREMENT; AND

22 3. FOR AN AWARD THAT MUST BE REPORTED TO THE
23 BOARD, THE DATE THE AWARD WAS REPORTED TO THE BOARD.

24 (C) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, THE CHIEF
25 PROCUREMENT OFFICER SHALL SUBMIT TO THE GOVERNOR, THE LEGISLATIVE
26 POLICY COMMITTEE, THE SENATE BUDGET AND TAXATION COMMITTEE, ~~AND THE~~
27 SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE, THE
28 HOUSE APPROPRIATIONS COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT
29 OPERATIONS COMMITTEE, AND THE JOINT AUDIT AND EVALUATION COMMITTEE A
30 CONSOLIDATED REPORT THAT INCLUDES EACH REPORT REQUIRED UNDER
31 SUBSECTION (A) OF THIS SECTION.

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

5 ~~[(d)]~~ **(E)** A report to the General Assembly **OR A COMMITTEE OF THE**
 6 **GENERAL ASSEMBLY** under this section is subject to § 2–1257 of the State Government
 7 Article.

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

10 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31,
 11 2021, the Special Secretary for the Office of Small, Minority, and Women Business Affairs
 12 shall report to the Legislative Policy Committee, the Senate Budget and Taxation
 13 Committee, the Senate Education, Health, and Environmental Affairs Committee, the
 14 House Appropriations Committee, the House Health and Government Operations
 15 Committee, and the Joint Audit and Evaluation Committee, in accordance with § 2–1257
 16 of the State Government Article, on the status of establishing the guidelines for minority
 17 business enterprise participation goals required under Section 1 of this Act.

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

20 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
 21 4 of this Act, this Act shall take effect July 1, 2021.

Approved:

_____ Governor.

_____ President of the Senate.

_____ Speaker of the House of Delegates.