

HOUSE BILL 767

P2

EMERGENCY BILL

2lr2783

By: **Delegate Rosenberg**

Introduced and read first time: February 3, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Emergency Procurement – Contracts – Term Length and Renewal**

3 FOR the purpose of requiring a procurement officer to limit the contract term for an
4 emergency procurement to a certain period of time; prohibiting a procurement officer
5 from renewing a contract for an emergency procurement; requiring a procurement
6 officer to use certain procurement methods to award a new contract under certain
7 circumstances; and generally relating to emergency procurement contracts.

8 BY repealing and reenacting, without amendments,

9 Article – State Finance and Procurement

10 Section 13–108(a) and (b)(1) and (2)

11 Annotated Code of Maryland

12 (2021 Replacement Volume)

13 (As enacted by Section 2 of Chapters 4 and 8 of the Acts of the General Assembly of
14 the 2021 Special Session)

15 BY repealing and reenacting, with amendments,

16 Article – State Finance and Procurement

17 Section 13–108(b)(3)

18 Annotated Code of Maryland

19 (2021 Replacement Volume)

20 (As enacted by Section 2 of Chapters 4 and 8 of the Acts of the General Assembly of
21 the 2021 Special Session)

22 BY adding to

23 Article – State Finance and Procurement

24 Section 13–108(b)(9)

25 Annotated Code of Maryland

26 (2021 Replacement Volume)

27 (As enacted by Section 2 of Chapters 4 and 8 of the Acts of the General Assembly of
28 the 2021 Special Session)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – State Finance and Procurement**

4 13–108.

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

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

8 (2) are required to avoid or mitigate serious damage to public health,
9 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.

17 (2) (i) Except when delaying a procurement by up to 48 hours would
18 likely result in imminent harm, after obtaining the approval of the head of the unit and
19 before making an emergency procurement, the procurement officer shall obtain approval of
20 the use of emergency procurement procedures from the Chief Procurement Officer, or the
21 Chief Procurement Officer’s designee.

22 (ii) Within 48 hours after receiving a request to use emergency
23 procurement procedures, the Chief Procurement Officer or designee shall approve or
24 disapprove the request.

25 (iii) If the Chief Procurement Officer or designee does not approve or
26 disapprove the request to use emergency procurement procedures within 48 hours after
27 receiving the request, the request 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 quotes;

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

1 **(III) LIMIT THE CONTRACT TERM FOR THE EMERGENCY**
2 **PROCUREMENT TO 6 MONTHS;**

3 **[(iii)] (IV)** before awarding an emergency procurement contract to a
4 prospective contractor, evaluate the contractor's ability to perform the requirements of the
5 contract based on:

6 1. the length of time the contractor has been in business;

7 2. the contractor's level of experience providing the types and
8 amounts of supplies, services, maintenance, commodities, construction, or
9 construction-related services required under the contract; and

10 3. the contractor's history of successful procurement
11 contracts with the State and other jurisdictions;

12 **[(iv)] (V)** execute a written contract with the successful contractor
13 which includes the terms of the emergency procurement; and

14 **[(v)] (VI)** not more than 15 days after awarding the procurement
15 contract, submit to the Board a written report that gives the justification for use of the
16 emergency procurement procedure.

17 **(9) (I) A PROCUREMENT OFFICER MAY NOT RENEW A CONTRACT**
18 **EXECUTED UNDER PARAGRAPH (3) OF THIS SUBSECTION AFTER THE EXPIRATION OF**
19 **THE 6-MONTH CONTRACT TERM.**

20 **(II) TO MEET ANY NEED OF A UNIT NOT FULFILLED IN THE**
21 **6-MONTH TERM OF A CONTRACT EXECUTED UNDER PARAGRAPH (3) OF THIS**
22 **SUBSECTION, A PROCUREMENT OFFICER SHALL USE A PROCUREMENT METHOD**
23 **LISTED UNDER § 13-102(A)(1) THROUGH (4) OR (6) THROUGH (10) OF THIS**
24 **SUBTITLE TO AWARD A NEW CONTRACT.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
26 measure, is necessary for the immediate preservation of the public health or safety, has
27 been passed by a yea and nay vote supported by three-fifths of all the members elected to
28 each of the two Houses of the General Assembly, and shall take effect from the date it is
29 enacted.