

SENATE BILL 461

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By: **Senator Griffith**

Introduced and read first time: January 27, 2022

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Finance and Procurement – Procedures and Pricing and Selection**
3 **Committee for Preferred Providers**

4 FOR the purpose of renaming the Pricing and Selection Committee for Blind Industries
5 and Services of Maryland and the Employment Works Program to be the Pricing and
6 Selection Committee for Preferred Providers; requiring that Maryland Correctional
7 Enterprises provide the proposed prevailing average market price of certain goods
8 and services that are available from Maryland Correctional Enterprises to the
9 Pricing and Selection Committee; requiring the Pricing and Selection Committee to
10 review and verify the prevailing average market prices of certain goods and services;
11 altering the duties of the Department of Information Technology relating to
12 procurement; renaming the Purchasing Bureau in the Department of General
13 Services to be the Office of State Procurement, led by the Chief Procurement Officer;
14 establishing certain duties and authority of the Chief Procurement Officer; altering
15 the list of units that are defined as “designated procurement units”; authorizing the
16 Chief Procurement Officer to establish certain fees under certain circumstances;
17 authorizing certain types of procurement to be conducted by electronic means;
18 renaming the Electronic Transaction Fund in the Department to be the Operations
19 Revenue Fund; altering the procedures used by certain units when procuring certain
20 goods and services; repealing a requirement that a procurement officer post the
21 amount of each bid at the time it is received; establishing that the Employment
22 Works Program and an Employment Works Program vendor are not subject to
23 certain cost savings requirements; altering the duties of the Pricing and Selection
24 Committee; providing that certain provisions relating to the use of eMaryland
25 Marketplace do not apply to certain emergency procurements; altering the dates of
26 certain reporting requirements; and generally relating to State procurement.

27 BY repealing and reenacting, with amendments,
28 Article – Correctional Services
29 Section 3–515
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2017 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section 3A–301(a)
 Annotated Code of Maryland
 (2021 Replacement Volume)

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 3A–301(d) and (f), 3A–401, 4–206(a), 4–301, 4–302, 4–303, 4–307, 4–310,
 4–311, 4–312, 4–313, 4–315, 4–316, 13–101, 13–102.1, 13–111, 13–226,
 14–102, 14–106, 14–107, 14–405, 14–410(e), and 17–502
 Annotated Code of Maryland
 (2021 Replacement Volume)

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

Article – Correctional Services

3–515.

(a) A unit of State government shall purchase from Maryland Correctional Enterprises any goods or services that are available from Maryland Correctional Enterprises and that Maryland Correctional Enterprises can provide at a price not exceeding the prevailing average market price as determined by the [Department of General Services] **PRICING AND SELECTION COMMITTEE FOR PREFERRED PROVIDERS.**

(b) THE PRICING AND SELECTION COMMITTEE FOR PREFERRED PROVIDERS SHALL REVIEW AND VERIFY THE PREVAILING AVERAGE MARKET PRICES, AS PROPOSED BY MARYLAND CORRECTIONAL ENTERPRISES:

(1) WHEN CHANGES ARE MADE TO THE PRICING OF EXISTING GOODS AND SERVICES THAT ARE AVAILABLE FROM MARYLAND CORRECTIONAL ENTERPRISES; AND

(2) FOR NEW GOODS OR SERVICES THAT MARYLAND CORRECTIONAL ENTERPRISES INTENDS TO MAKE AVAILABLE.

(c) (1) The contracting unit shall inform each unit of State government for which it procures goods or services within 60 days after the award of a contract.

(2) Quarterly, each unit that requires goods or services for its operations shall inform Maryland Correctional Enterprises of its anticipated orders during the next

1 3-month period.

2 (3) If Maryland Correctional Enterprises is unable to provide any of the
3 goods or services under the contract, Maryland Correctional Enterprises shall notify the
4 contracting unit so that appropriate alternative action may be taken to meet the needs of
5 units of State government for which the contracting unit procures goods or services.

6 **[(c)] (D)** The Board of Public Works:

7 (1) shall suspend the application of subsection (a) of this section if the
8 Board of Public Works finds that the purposes of Division II of the State Finance and
9 Procurement Article are being unduly eroded due to the volume and scope of activities and
10 sales by Maryland Correctional Enterprises; and

11 (2) may suspend the application of subsection (a) of this section for data
12 entry services that involve information that is protected from disclosure under Title 4 of
13 the General Provisions Article.

14 **Article – State Finance and Procurement**

15 3A-301.

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

17 (d) (1) “Development” means all expenditures for a new information
18 technology system or an enhancement to an existing system including system:

19 (i) planning;

20 (ii) **[procurement;**

21 (iii)] creation;

22 **[(iv)] (III)** installation;

23 **[(v)] (IV)** testing; and

24 **[(vi)] (V)** initial training.

25 (2) “Development” does not include:

26 (i) ongoing operating costs, software or hardware maintenance,
27 routine upgrades, or modifications that merely allow for a continuation of the existing level
28 of functionality; or

29 (ii) expenditures made after a new or enhanced system has been

1 legally accepted by the user and is being used for the business process for which it was
2 intended.

3 (f) "Information technology" means all electronic information processing
4 [hardware and software], including:

5 (1) maintenance;

6 (2) telecommunications; [and]

7 **(3) HARDWARE;**

8 **(4) SOFTWARE; AND**

9 ~~(3)~~ **(5)** associated [consulting] services.

10 3A-401.

11 (a) The Department shall:

12 (1) coordinate the development, [procurement,] management, and
13 operation of telecommunication equipment, systems, and services by State government;

14 (2) acquire and manage common user telecommunication equipment,
15 systems, or services and charge units of State government for their proportionate share of
16 the costs of installations, maintenance, and operation of the common user
17 telecommunication equipment, systems, or services;

18 (3) promote compatibility of telecommunication systems by developing
19 policies, procedures, and standards for the acquisition and use of telecommunication
20 equipment, systems, and services by units of State government;

21 (4) coordinate State government telecommunication systems and services
22 by reviewing requests by units of State government for telecommunication equipment,
23 systems, or services;

24 (5) advise units of State government about planning, acquisition, and
25 operation of telecommunication equipment, systems, or services; and

26 (6) provide radio frequency coordination for State and local governments
27 in accordance with regulations of the Federal Communications Commission.

28 (b) The Department may make arrangement for a user other than a unit of State
29 government to have access to and use of State telecommunication equipment, systems, and
30 services and shall charge the user any appropriate amount to cover the cost of installation,
31 maintenance, and operation of the telecommunication equipment, system, or service

1 provided.

2 4–206.

3 (a) The following units are in the Department:

4 (1) the Board of Architectural Review;

5 (2) [the General Professional Services Selection Board;

6 (3) the Purchasing Bureau] **THE OFFICE OF STATE PROCUREMENT;**

7 and

8 [(4)] **(3)** any other unit that is in the Department under any other law.

9 4–301.

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

11 (b) “Bid” means a bid, proposal, or other response to a solicitation.

12 **(c) (1) “SERVICES” MEANS THE RENDERING OF TIME, EFFORT, OR WORK,**
13 **RATHER THAN THE FURNISHING OF A SPECIFIC PHYSICAL PRODUCT OTHER THAN**
14 **REPORTS INCIDENTAL TO THE REQUIRED PERFORMANCE.**

15 **(2) “SERVICES” INCLUDES MAINTENANCE,**
16 **CONSTRUCTION–RELATED SERVICES, ARCHITECTURAL SERVICES, ENGINEERING**
17 **SERVICES, AND THE PROFESSIONAL, PERSONAL, OR CONTRACTUAL SERVICES**
18 **PROVIDED BY ATTORNEYS, ACCOUNTANTS, PHYSICIANS, CONSULTANTS, AND OTHER**
19 **PROFESSIONALS WHO ARE INDEPENDENT CONTRACTORS.**

20 **[(c)] (D)** “Supplies” means tangible property, including equipment and
21 materials.

22 4–302.

23 There is [a Purchasing Bureau] **AN OFFICE OF STATE PROCUREMENT** in the
24 Department.

25 4–303.

26 The Secretary may delegate any power or duty set forth in Part I or Part II of this
27 subtitle to the Chief [of the Purchasing Bureau] **PROCUREMENT OFFICER OF THE**
28 **OFFICE OF STATE PROCUREMENT.**

1 4-307.

2 The Secretary **OR THE CHIEF PROCUREMENT OFFICER** shall provide a copy of
3 each award for supplies to the requisitioning unit.

4 4-310.

5 Except as otherwise specifically provided by law, each unit of the Executive Branch
6 of the State Government shall purchase all supplies **AND SERVICES** through or with the
7 approval of the Secretary **OR THE CHIEF PROCUREMENT OFFICER**.

8 4-311.

9 **[An] EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY LAW, AN** invoice for
10 supplies purchased by the Secretary, **BY THE CHIEF PROCUREMENT OFFICER**, or by any
11 unit that procures supplies under Division II of this article may not be paid until the invoice
12 has been approved by the Secretary, **THE CHIEF PROCUREMENT OFFICER**, or a designee
13 of the Secretary **OR THE CHIEF PROCUREMENT OFFICER**.

14 4-312.

15 **[Consistent] EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY LAW AND**
16 **CONSISTENT** with Division II of this article, the Secretary **OR CHIEF PROCUREMENT**
17 **OFFICER** shall set standards for supplies to be purchased by a unit, including standards
18 for electronic equipment used by State employees or the public for communications that are
19 consistent with the standards for nonvisual access information technology issued under §
20 3-410 of this article.

21 4-313.

22 Consistent with Division II of this article, the Secretary **OR THE CHIEF**
23 **PROCUREMENT OFFICER** shall contract for or purchase any supplies **OR SERVICES** for a
24 unit except:

25 **(1) an item that the Secretary OR CHIEF PROCUREMENT OFFICER:**

26 **[(1)] (I) determines is strictly perishable;**

27 **[(2)] (II) determines is impracticable for the unit to purchase through or**
28 **with the approval of the Secretary OR CHIEF PROCUREMENT OFFICER; or**

29 **[(3)] (III) permits the unit to purchase with the approval of the Secretary**
30 **OR CHIEF PROCUREMENT OFFICER; OR**

31 **(2) SUPPLIES OR SERVICES AUTHORIZED BY STATUTE TO BE**

1 **PROCURED BY ANOTHER PRIMARY PROCUREMENT UNIT OR DELEGATED TO**
2 **ANOTHER UNIT.**

3 4–315.

4 (a) An employee of a unit that procures supplies under Division II of this article
5 whose salary and expenses are paid from the fees of the employee's office may not pay any
6 contractor or seller for any article of any kind acquired for the unit unless the invoice
7 approved by the employee is also approved by the Secretary **OR CHIEF PROCUREMENT**
8 **OFFICER** or a designee of the Secretary **OR CHIEF PROCUREMENT OFFICER**.

9 (b) The Governor may remove an employee for any violation of the provisions of
10 this section.

11 4–316.

12 (a) Subject to the initial approval of the Secretary **OR CHIEF PROCUREMENT**
13 **OFFICER**, the appropriate purchasing unit for the following entities may use the services
14 of the Department to purchase **SERVICES**, materials, supplies, and equipment:

15 (1) a county;

16 (2) a municipality;

17 (3) a governmental unit in the State;

18 (4) a public or quasi-public agency that:

19 (i) receives State money; and

20 (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue
21 Code;

22 (5) a private elementary or secondary school that:

23 (i) either has been issued a certificate of approval from the State
24 Board of Education or is accredited by the Association of Independent Schools; and

25 (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue
26 Code; or

27 (6) a nonpublic institution of higher education as provided under § 17–106
28 of the Education Article.

29 (b) Notwithstanding subsection (a)(5) and (6) of this section, the Department may
30 not purchase religious materials on behalf of a private elementary or secondary school or a

1 nonpublic institution of higher education.

2 (c) The purchasing authority under this section is in addition to, and not a
3 substitution for, the purchasing power of an entity under another law.

4 13–101.

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

6 (b) “Designated procurement unit” means:

7 (1) [the Department of Budget and Management;

8 (2)] the Department of General Services;

9 [(3) the Department of Information Technology; or]

10 [(4)] (2) the Department of Transportation; OR

11 (3) THE DEPARTMENT OF INFORMATION TECHNOLOGY, ONLY WITH
12 RESPECT TO AN INFORMATION TECHNOLOGY MASTER CONTRACT EXECUTED
13 BEFORE JULY 1, 2022, UNTIL THE EARLIER OF:

14 (I) THE EXPIRATION DATE OF ALL INFORMATION TECHNOLOGY
15 MASTER CONTRACTS; OR

16 (II) JUNE 30, 2027.

17 (c) “eMaryland Marketplace” OR “EMARYLAND MARKETPLACE ADVANTAGE”
18 means the Internet–based procurement system managed by the Department of General
19 Services.

20 (d) “Evaluated bid price” means the price of a bid after adjustment in accordance
21 with objective measurable criteria.

22 (e) “Master contracting” means a streamlined procurement method that provides
23 for the qualification of bidders and offerors for the procurement of services, supplies, or
24 commodities.

25 (f) (1) “Objective measurable criteria” means standards that enable the State
26 to compare the economy, effectiveness, or value of the subject of the bids.

27 (2) “Objective measurable criteria” includes standards of reliability,
28 operational costs, maintainability, useful life, and residual value.

29 (g) “Person” includes, unless the context requires otherwise:

1 (1) the State;

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

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

4 (h) "Task order" means a procurement process in which only those vendors with
5 master contracts may compete to provide the services, supplies, or commodities under the
6 procurement.

7 13-102.1.

8 (a) A unit may not charge a fee to access eMaryland Marketplace.

9 (b) (1) Subject to approval by the Board of Public Works, the Chief
10 Procurement Officer may establish fees for the use of eMaryland Marketplace by an entity
11 that publishes a notice of a procurement, conducts a procurement, or publishes a notice of
12 award.

13 (2) The Chief Procurement Officer may not charge a unit, as defined in §
14 11-101(y) of this article, a fee under this subsection.

15 (c) **SUBJECT TO APPROVAL BY THE BOARD OF PUBLIC WORKS, THE CHIEF**
16 **PROCUREMENT OFFICER, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET**
17 **AND MANAGEMENT, MAY ESTABLISH FEES FOR:**

18 (1) **TRAINING;**

19 (2) **STRATEGIC SOURCING; AND**

20 (3) **ADMINISTRATIVE COSTS.**

21 [(c)] (d) (1) There is an [Electronic Transaction] **OPERATIONS REVENUE**
22 Fund in the Department of General Services.

23 (2) The Fund is a special, nonlapsing fund that is not subject to § 7-302 of
24 this article.

25 (3) The State Treasurer shall hold the Fund separately, and the
26 Comptroller shall account for the Fund.

27 (4) The Fund consists of any fees imposed and collected under [paragraph]
28 **SUBSECTION (b)(1) OR (C)** of this [subsection] **SECTION** and § 13-226(c) of this title.

29 (5) The Fund shall be used by the Department of General Services to cover

1 the actual documented direct and indirect [costs of administering contracts through the use
2 of electronic transactions] **OPERATING EXPENSES OF THE OFFICE OF STATE**
3 **PROCUREMENT.**

4 13–111.

5 (a) This section applies to the procurement of supplies[, with an estimated
6 contract value of \$1,000,000 or more,] **AND SERVICES** by a primary procurement unit.

7 (b) (1) Whenever the head of a primary procurement unit or designee
8 determines that it is in the best interest of the State for a procurement contract to be based
9 on auction bids, a procurement officer shall seek bids by issuing an invitation for auction
10 bids.

11 (2) Subject to subsection (c) of this section, an invitation for auction bids
12 shall include:

13 (i) the specifications of the procurement contract;

14 (ii) whether the procurement contract will be awarded based on the
15 lowest bid price or the lowest evaluated bid price;

16 (iii) if the procurement contract will be based on evaluated bid price,
17 the objective measurable criteria by which the lowest evaluated bid price will be
18 determined;

19 (iv) the small business preference, if designated under § 13–103 of
20 this subtitle; and

21 (v) the date and time when bidding will commence and the date and
22 time when bidding will end or the event upon which bidding will end.

23 (c) (1) In the discretion of the procurement officer, the invitation for auction
24 bids may:

25 (i) include a request for unpriced technical offers or samples;

26 (ii) direct bidders to submit price bids after the unit evaluates the
27 technical offers or samples and finds they are acceptable under the criteria set forth in the
28 invitation for auction bids; and

29 (iii) inform all bidders who submitted technical offers or samples of
30 the identity of each bidder who submitted an acceptable technical offer or sample.

31 (2) Price bids may not be received until after the unit has completed
32 evaluation of the technical offers or samples.

1 (3) A price bid may not be received at any time if the bid is submitted by a
2 bidder whose technical offer or sample has been evaluated as unacceptable to the unit.

3 (d) A unit shall give public notice of an invitation for auction bids in the same
4 manner as required for an invitation for bids.

5 (e) (1) (i) Multiple price bids are permitted in response to an invitation for
6 auction bids.

7 (ii) When a bidder submits multiple bids, each bid shall be judged
8 independently and shall not revoke previous bids of that bidder.

9 (2) A procurement officer shall:

10 (i) receive bids in public at the time and place designated in the
11 invitation for auction bids; and

12 (ii) record [and post] the amount of each bid at the time it is received.

13 (3) (i) The amount of a price bid shall be available for public inspection
14 from the time it is received.

15 (ii) The identity of the bidder submitting a price bid shall not be
16 available for public inspection until bidding has ended.

17 (4) Except as provided in paragraph (5) of this subsection, a bid is
18 irrevocable, after receipt, for the period specified in the invitation for auction bids.

19 (5) A procurement officer may allow a bidder to correct or withdraw a bid
20 if correction or withdrawal is:

21 (i) allowed under regulations adopted under this Division II
22 applicable to an invitation for bids; and

23 (ii) approved in writing by the Office of the Attorney General.

24 (f) (1) After obtaining any approval required by law, the procurement officer
25 shall award the procurement contract to the responsible bidder who submits the responsive
26 bid that:

27 (i) is the lowest bid price; or

28 (ii) if the invitation for auction bids so provides, is the lowest
29 evaluated bid price.

30 (2) If, after bids have been received, a procurement officer determines that
31 only one responsible bidder has submitted a responsive bid, the unit may negotiate the

1 procurement contract with that one bidder under the procedure for sole source
2 procurement.

3 (3) (i) After bids have been received, a procurement officer may award
4 a procurement contract on the basis of revised bids if:

5 1. all bids are rejected under § 13–206(b) of this title;
6 2. all bid prices exceed the funds available for the
7 procurement; or

8 3. with the approval of the head of a primary procurement
9 unit or a designee, the procurement officer determines that all bids are unreasonable as to
10 at least one requirement and delay that would result from issuing a new invitation for
11 auction bids with revised specifications or quantities would be fiscally disadvantageous or
12 otherwise not in the best interests of the State.

13 (ii) If there is more than one bidder, discussion about revised
14 specifications or quantities shall be conducted with all responsible bidders who submitted
15 responsive bids. The bidders shall be treated fairly and equally with respect to any
16 discussions.

17 (iii) If one of the conditions set forth under subparagraph (i) of this
18 paragraph exists, as promptly as possible, the procurement officer shall:

19 1. issue an invitation for revised auction bids, which shall
20 state whether the award will be made without competitive negotiations; and

21 2. requires a prompt response to that invitation.

22 (iv) An invitation for revised auction bids is not subject to the notice
23 requirements in subsection (d) of this section.

24 (v) After revised bids have been submitted, negotiations with
25 bidders may not be conducted unless the procurement officer determines that there is a
26 compelling reason to negotiate.

27 (vi) After revised bids have been received and any approval required
28 by law has been obtained, the procurement officer shall award the procurement contract to
29 the responsible bidder who submits a responsive bid that:

30 1. is the lowest bid price; or

31 2. if the invitation for revised bids so provides, is the lowest
32 evaluated bid price.

33 (g) Not more than 30 days after the execution and approval of a procurement

1 contract awarded under this section, a unit shall publish notice of the award in eMaryland
2 Marketplace.

3 13–226.

4 (a) Unless otherwise prohibited by law, a primary procurement unit may conduct
5 procurement, including the solicitation[, bidding] **OF BIDS OR PROPOSALS,**
6 **EVALUATION,** award, execution, and administration of a contract, by electronic means as
7 provided in the Uniform Electronic Transactions Act in Title 21 of the Commercial Law
8 Article.

9 (b) **Bidding OR SUBMITTING A PROPOSAL** on a procurement contract by
10 electronic means shall constitute consent by the bidder **OR PROPOSER** to conduct by
11 electronic means all elements of the procurement of that contract which the unit agrees to
12 conduct by electronic means.

13 (c) (1) (i) Except as provided in paragraph (2) of the subsection, a unit
14 utilizing electronic means to conduct procurement or a private contractor furnishing to the
15 State electronic means for conducting procurement may charge a reasonable fee, [as
16 determined in consultation with] **ON APPROVAL BY** the Chief Procurement Officer, to the
17 bidder, **PROPOSER, OR EACH CONTRACT AWARDEE** for the use of the electronic means.

18 (ii) Any fees collected under subparagraph (i) of this paragraph shall
19 be deposited in the [Electronic Transaction] **OPERATIONS REVENUE** Fund established
20 under § 13–102.1(c) of this subtitle.

21 (2) Unless approved by the Board of Public Works, a fee may not be charged
22 under this subsection.

23 (d) The terms and conditions of a procurement conducted under this section shall
24 comply with the Uniform Electronic Transactions Act in Title 21 of the Commercial Law
25 Article.

26 14–102.

27 (a) Notwithstanding any other provision of this Division II, a State or State aided
28 or controlled entity shall buy supplies and services in accordance with § 14–103 of this
29 subtitle.

30 (b) The procurement of services from [a sheltered workshop] **THE EMPLOYMENT**
31 **WORKS PROGRAM OR AN EMPLOYMENT WORKS PROGRAM VENDOR** is not subject to
32 the cost savings requirements of § 13–405 of the State Personnel and Pensions Article.

33 14–106.

34 (a) In this section, “Committee” means the Pricing and Selection Committee for

1 [Blind Industries and Services of Maryland and the Employment Works Program]
2 **PREFERRED PROVIDERS.**

3 (b) There is a Pricing and Selection Committee for [Blind Industries and Services
4 of Maryland and the Employment Works Program] **PREFERRED PROVIDERS.**

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

6 (1) the Secretary of Transportation or a designee;

7 (2) the Secretary of General Services or a designee;

8 (3) the Secretary of Public Safety and Correctional Services or a designee;

9 (4) the Assistant Secretary for Vocational Rehabilitation within the State
10 Department of Education or a designee; and

11 (5) the Secretary of Labor or a designee.

12 (d) A member of the Committee:

13 (1) may not receive compensation; but

14 (2) is entitled to reimbursement for expenses under the Standard State
15 Travel Regulations as provided in the State budget.

16 (e) (1) Blind Industries and Services of Maryland shall provide staff for the
17 Committee.

18 (2) The staff provided in accordance with paragraph (1) of this subsection
19 shall:

20 (i) be a blind or a visually impaired associate of Blind Industries
21 and Services of Maryland; and

22 (ii) complete work related to the duties of the Committee regarding
23 Blind Industries and Services of Maryland under the supervision and direction of the
24 Committee.

25 (f) The Committee shall:

26 (1) ensure that supplies and services provided by Blind Industries and
27 Services of Maryland or [a] **AN EMPLOYMENT WORKS PROGRAM** community service
28 provider create work opportunities for individuals who have a mental or physical disability,
29 including blindness, for which Blind Industries and Services of Maryland or the
30 **EMPLOYMENT WORKS PROGRAM** community service provider was established to assist;

1 (2) set the prices of supplies and services that Blind Industries and
2 Services of Maryland provides to reflect the fair market prices for the supplies and services;

3 **(3) REVIEW AND VERIFY THE PREVAILING AVERAGE MARKET PRICES,**
4 **AS PROPOSED BY MARYLAND CORRECTIONAL ENTERPRISES:**

5 **(I) WHEN CHANGES ARE MADE TO THE PRICING OF EXISTING**
6 **SUPPLIES AND SERVICES THAT ARE AVAILABLE FROM MARYLAND CORRECTIONAL**
7 **ENTERPRISES; AND**

8 **(II) FOR NEW SUPPLIES OR SERVICES THAT MARYLAND**
9 **CORRECTIONAL ENTERPRISES INTENDS TO MAKE AVAILABLE;**

10 **[(3)] (4)** establish procedures to govern procurement of supplies **[and],**
11 **services, AND OTHER SALES** from **EMPLOYMENT WORKS PROGRAM** community service
12 providers and individual with disability owned businesses;

13 **[(4)] (5)** from the State procurement list, choose appropriate supplies
14 **[and], services, AND OTHER SALES** for **EMPLOYMENT WORKS PROGRAM** community
15 service providers and individual with disability owned businesses to offer for procurement;

16 **[(5)] (6)** provide that the State procure those supplies **[and], services,**
17 **AND OTHER SALES** from **[a] AN EMPLOYMENT WORKS PROGRAM** community service
18 provider or an individual with disability owned business;

19 **[(6)] (7)** if supplies **[or], services, OR OTHER SALES** are not available for
20 procurement from a unit of the State **GOVERNMENT,** determine whether supplies **[or],**
21 **services, OR OTHER SALES** are available from **[a] AN EMPLOYMENT WORKS PROGRAM**
22 community service provider or an individual with disability owned business;

23 **[(7)] (8)** determine the fair market price of supplies **[and], services, AND**
24 **OTHER SALES** that **EMPLOYMENT WORKS PROGRAM** community service providers and
25 individual with disability owned businesses provide;

26 **[(8)] (9)** in accordance with market conditions, adjust prices for the
27 supplies **[and], services, AND OTHER SALES** that **EMPLOYMENT WORKS PROGRAM**
28 community service providers and individual with disability owned businesses provide; and

29 **[(9)] (10)** at the request of a community service provider or an individual
30 with disability owned business, review and, if appropriate, change the price of a supply or
31 service.

32 (g) In addition to the duties specified under subsection (f) of this section, the
33 committee shall:

1 (1) establish and periodically review eligibility policies or guidelines for
2 participating community service providers and individual with disability owned
3 businesses;

4 (2) maintain a current list of community service providers and individual
5 with disability owned businesses;

6 (3) periodically review and revise its list of community service providers
7 and individual with disability owned businesses; and

8 (4) send any revised list to the [Secretary of General Services] **CHIEF**
9 **PROCUREMENT OFFICER** who shall make the list available to each person responsible
10 for buying supplies or services for the State or a State aided or controlled entity.

11 14–107.

12 The Pricing and Selection Committee for [Blind Industries and Services of Maryland
13 and the Employment Works Program] **PREFERRED PROVIDERS** shall:

14 (1) (i) maintain a current list of supplies and services that Blind
15 Industries and Services of Maryland provides; [and]

16 (ii) maintain a current list of supplies [and], services, **AND OTHER**
17 **SALES** that community service providers and individual with disability owned businesses
18 provide; **AND**

19 **(III) MAINTAIN A CURRENT LIST OF SUPPLIES AND SERVICES**
20 **THAT MARYLAND CORRECTIONAL ENTERPRISES PROVIDES;**

21 (2) periodically review and revise the lists of supplies [and], services, **AND**
22 **OTHER SALES** maintained in accordance with item (1) of this section; and

23 (3) send the lists, and any revised lists, to the [Secretary of General
24 Services] **CHIEF PROCUREMENT OFFICER** who shall make the lists available to each
25 person responsible for buying supplies [or], services, **OR OTHER SALES** for the State or a
26 State aided or controlled entity.

27 14–405.

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

29 (2) “Environmentally preferable product or service” means a product or
30 service that throughout the full life cycle of the product or service:

1 (i) is energy efficient, water efficient, biobased, nonozone depleting,
2 made with recycled content, or nontoxic; or

3 (ii) has other attributes recognized as environmentally preferable by
4 the Maryland Green Purchasing Committee.

5 (b) (1) To encourage the maximum purchase of environmentally preferable
6 products and services, the Maryland Green purchasing Committee established under §
7 14–410 of this subtitle shall establish environmentally preferable specifications to be
8 adopted by State agencies.

9 (2) The environmentally preferable specifications shall be published and
10 maintained online by the Maryland Green Purchasing Committee for use by State agencies.

11 (c) Each State unit shall review annually the procurement specifications
12 currently used by the unit and, to the extent practicable:

13 (1) adopt the environmentally preferable specifications published by the
14 Maryland Green Purchasing Committee; and

15 (2) revise the unit's procurement specifications in accordance with §
16 14–410 of this subtitle.

17 (d) On or before [~~September~~] **OCTOBER** 1 of each year, each unit shall report to
18 the Department of General Services on the unit's procurement of environmentally
19 preferable products and services as a percentage of the unit's gross purchases during the
20 preceding fiscal year, including the types and quantities of products and services procured.

21 (e) (1) Except as provided in paragraph (2) of this subsection, this section is
22 broadly applicable to all procurements by the State if the quality of the product or service
23 is consistent with the requirements of the bid specifications.

24 (2) Only to the extent necessary to prevent the denial of federal money or
25 eliminate the inconsistency with federal law, this section does not apply to a procurement
26 by the State if the procurement officer determines that compliance with this section would:

27 (i) cause denial of federal money; or

28 (ii) be inconsistent with the requirements of federal law.

29 14–410.

30 (e) On or before [~~October 1~~] **DECEMBER 31** of each year, the Committee shall
31 report to the General Assembly, in accordance with § 2–1257 of the State Government
32 Article, on the Committee's activities and the progress made as a result of the
33 implementation of this section.

1 17-502.

2 (a) **THIS SECTION DOES NOT APPLY TO EMERGENCY PROCUREMENT UNDER**
3 **§ 13-108 OF THIS DIVISION II.**

4 (B) In addition to any other provision of law, the following persons shall use
5 eMaryland Marketplace to publish notice of a procurement [or] **AND** publish a notice of
6 award of a procurement that is at the same amount or exceeds the amount required by the
7 Board for a State contract to be published in eMaryland Marketplace:

8 (1) a unit of State government;

9 (2) a county;

10 (3) a municipality;

11 (4) a bicounty or multicounty governmental agency;

12 (5) a special tax district, sanitary district, drainage district, soil
13 conservation district, and water supply district;

14 (6) a public institution of higher education;

15 (7) a public school; and

16 (8) except for the Maryland Health and Higher Educational Facilities
17 Authority, an entity exempt from the provisions of this Division II in accordance with §
18 11-203 of this article.

19 [(b)] (C) This section may not be construed to prohibit a person listed in
20 subsection [(a)] (B) of this section from publishing notice of a procurement or publishing a
21 notice of award in accordance with any other law or policy.

22 [(c)] (D) An unintentional violation of this section may not constitute grounds to
23 challenge or appeal:

24 (1) the award of a procurement; or

25 (2) the process through which a procurement was conducted.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
27 1, 2022.