

HOUSE BILL 112

P2

8lr1416

By: **Delegate Grammer**

Introduced and read first time: January 15, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Responsible Bidders – Petition by Member of General Assembly**

3 FOR the purpose of authorizing a member of the General Assembly, within a certain period
4 of time after a procurement contract is awarded, to petition the Board of Public
5 Works to make a certain determination and, if the Board makes a certain
6 determination, to cancel the contract and instruct the procurement officer to award
7 the contract in a certain manner; and generally relating to responsible bidders and
8 procurement.

9 BY repealing and reenacting, without amendments,
10 Article – State Finance and Procurement
11 Section 13–103(e)
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2017 Supplement)

14 BY adding to
15 Article – State Finance and Procurement
16 Section 13–103(g)
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2017 Supplement)

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

21 **Article – State Finance and Procurement**

22 13–103.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) is the lowest bid price;

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

4 (iii) for procurement subject to § 11–202(3) of this article, is the bid
5 most favorable to the State.

6 (2) If, after competitive sealed bids have been opened, a procurement
7 officer determines that only 1 responsible bidder has submitted a responsive bid, the unit
8 may negotiate the procurement contract with that 1 bidder under the procedure for sole
9 source procurement.

10 (3) (i) After competitive sealed bids have been opened, a procurement
11 officer may award a procurement contract on the basis of revised bids if:

12 1. all bids are rejected under § 13–206(b) of this title;

13 2. all bid prices exceed the funds available for the
14 procurement; or

15 3. with the approval of the head of the unit or a designee, the
16 procurement officer determines that all bids are unreasonable as to at least 1 requirement
17 and the delay that would result from issuing a new invitation for bids with revised
18 specifications or quantities would be fiscally disadvantageous or otherwise not in the best
19 interests of the State.

20 (ii) If there is more than 1 bidder, discussions about revised
21 specifications or quantities shall be conducted with all responsible bidders who submitted
22 responsive bids. The bidders shall be treated fairly and equally with respect to any
23 discussions.

24 (iii) As promptly as possible, the procurement officer shall:

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

27 2. require a prompt response to that invitation.

28 (iv) An invitation for revised bids is not subject to the notice
29 requirements in subsection (c) of this section.

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

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

- 4 1. is the lowest bid price;
- 5 2. if the invitation for revised bids so provides, is the lowest
6 evaluated bid price; or
- 7 3. for procurement subject to § 11-202(3) of this article, is the
8 bid most favorable to the State.

9 (4) A responsible bid or proposal shall include the criteria specified in
10 subsection (a) of this section.

11 **(G) WITHIN 60 DAYS AFTER THE EXECUTION AND APPROVAL OF A**
12 **PROCUREMENT CONTRACT AWARDED UNDER THIS SECTION, A MEMBER OF THE**
13 **GENERAL ASSEMBLY MAY PETITION THE BOARD TO:**

14 **(1) DETERMINE WHETHER THE PERSON AWARDED THE CONTRACT IS**
15 **A RESPONSIBLE BIDDER; AND**

16 **(2) IF THE BOARD DETERMINES THE PERSON AWARDED THE**
17 **CONTRACT IS NOT A RESPONSIBLE BIDDER, CANCEL THE CONTRACT AND INSTRUCT**
18 **THE PROCUREMENT OFFICER TO AWARD THE CONTRACT TO THE NEXT**
19 **RESPONSIBLE BIDDER WHO SUBMITTED A RESPONSIVE BID THAT:**

20 **(I) IS THE LOWEST BID PRICE;**

21 **(II) IF THE INVITATION FOR BIDS SO PROVIDES, IS THE LOWEST**
22 **EVALUATED BID PRICE; OR**

23 **(III) FOR PROCUREMENT SUBJECT TO § 11-202(3) OF THIS**
24 **ARTICLE, IS THE BID MOST FAVORABLE TO THE STATE.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2018.