

SENATE BILL 157

P2

(PRE-FILED)

11r0654
CF HB 190

By: **Senator Ellis**

Requested: September 23, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Specialized Printing Services Contracts – Board of Public Works**
3 **Approval**

4 FOR the purpose of requiring the Board of Public Works to approve the award of a
5 procurement contract for specialized printing services before a unit may execute the
6 contract; prohibiting the Board from delegating its authority to approve the award
7 of a procurement contract for specialized printing services; defining a certain term;
8 altering certain definitions; and generally relating to the approval of specialized
9 printing services contracts.

10 BY repealing and reenacting, without amendments,
11 Article – State Finance and Procurement
12 Section 11–101(a), (d), (n), and (o)
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2020 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – State Finance and Procurement
17 Section 11–101(u) and (x) and 12–101
18 Annotated Code of Maryland
19 (2015 Replacement Volume and 2020 Supplement)

20 BY adding to
21 Article – State Finance and Procurement
22 Section 11–101(u–1)
23 Annotated Code of Maryland
24 (2015 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – State Finance and Procurement

11–101.

(a) In this Division II the following words have the meanings indicated unless:

(1) the context clearly requires a different meaning; or

(2) a different definition is provided for a particular title or provision.

(d) “Board” means the Board of Public Works.

(n) (1) “Procurement” means the process of:

(i) leasing real or personal property as lessee; or

(ii) buying or otherwise obtaining supplies, services, construction, construction related services, architectural services, engineering services, or services provided under an energy performance contract.

(2) “Procurement” includes the solicitation and award of procurement contracts and all phases of procurement contract administration.

(o) (1) “Procurement contract” means an agreement in any form entered into by a unit for procurement.

(2) “Procurement contract” does not include:

(i) a collective bargaining agreement with an employee organization;

(ii) an agreement with a contractual employee, as defined in § 1–101(d) of the State Personnel and Pensions Article;

(iii) a Medicaid, Judicare, or similar reimbursement contract for which law sets:

1. user or recipient eligibility; and

2. price payable by the State; or

(iv) a Medicaid contract with a managed care organization, as defined in § 15–101(e) of the Health – General Article as to which regulations adopted by the Department establish:

1. recipient eligibility;

- 1 2. minimum qualifications for managed care organizations;
- 2 and
- 3 3. criteria for enrolling recipients in managed care
- 4 organizations.

5 (u) (1) Except as provided in paragraph (3) of this subsection, “services”
 6 means:

- 7 (i) the labor, time, or effort of a contractor; and
- 8 (ii) any product or report necessarily associated with the rendering
- 9 of a service.

10 (2) “Services” includes:

11 (I) services provided by attorneys, accountants, physicians,
 12 consultants, and other professionals who are independent contractors; AND

13 (II) **SPECIALIZED PRINTING SERVICES.**

14 (3) “Services” does not include:

- 15 (i) construction related services;
- 16 (ii) architectural services;
- 17 (iii) engineering services; or
- 18 (iv) energy performance contract services.

19 (U-1) **“SPECIALIZED PRINTING SERVICES” MEANS SERVICES FOR THE**
 20 **PRINTING OF A BALLOT, AS DEFINED IN § 1-101 OF THE ELECTION LAW ARTICLE,**
 21 **OR A DOCUMENT THAT CONTAINS SENSITIVE OR PERSONALLY IDENTIFIABLE**
 22 **INFORMATION.**

23 (x) (1) “Supplies” means:

- 24 (i) insurance;
- 25 (ii) tangible personal property;
- 26 (iii) printing; and

1 (iv) services necessarily associated with insurance or tangible
2 personal property.

3 (2) "Supplies" does not include:

4 (i) an interest in real property; [or]

5 (ii) tangible personal property acquired or used in connection with
6 an energy performance contract; **OR**

7 **(III) SPECIALIZED PRINTING SERVICES.**

8 12-101.

9 (a) This section does not apply to capital expenditures by the Department of
10 Transportation or the Maryland Transportation Authority, in connection with State roads,
11 bridges, or highways, as provided in § 12-202 of this title.

12 (b) (1) The Board may control procurement by units.

13 (2) To implement the provisions of this Division II, the Board may:

14 (i) set policy;

15 (ii) adopt regulations, in accordance with Title 10, Subtitle 1 of the
16 State Government Article; and

17 (iii) establish internal operational procedures consistent with this
18 Division II.

19 (3) The Board shall ensure that the regulations of the primary
20 procurement units provide for procedures that are consistent with this Division II and Title
21 13, Subtitle 4 of the State Personnel and Pensions Article and, to the extent the
22 circumstances of a particular type of procurement or a particular unit do not require
23 otherwise, are substantially the same.

24 (4) **[The] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**
25 **THE** Board may delegate any of its authority that it determines to be appropriate for
26 delegation and may require prior Board approval for specified procurement actions.

27 (5) Except as limited by the Maryland Constitution, the Board may
28 exercise any control authority conferred on a primary procurement unit by this Division II
29 and, to the extent that its action conflicts with the action of the primary procurement unit,
30 the action of the Board shall prevail.

1 (6) The Board shall develop and submit to the General Assembly, in
2 accordance with § 2-1257 of the State Government Article, an annual report on the
3 procurement system that includes information on actions necessary to improve effective
4 broad-based competition in procurement.

5 **(C) (1) THE BOARD MUST APPROVE THE AWARD OF A PROCUREMENT**
6 **CONTRACT FOR SPECIALIZED PRINTING SERVICES BEFORE THE UNIT MAY EXECUTE**
7 **THE CONTRACT.**

8 **(2) THE BOARD MAY NOT DELEGATE ITS AUTHORITY TO APPROVE**
9 **THE AWARD OF A PROCUREMENT CONTRACT FOR SPECIALIZED PRINTING SERVICES.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2021.