

Chapter 774

(House Bill 1107)

AN ACT concerning

Procurement – Intergovernmental Cooperative Purchasing Agreements

FOR the purpose of requiring a certain procurement officer to make a certain determination before a primary procurement unit is authorized to take certain action regarding an intergovernmental cooperative purchasing agreement; requiring a certain determination to include certain evidence and a certain statement; requiring a primary procurement unit to post certain determinations on the primary procurement unit's Web site; clarifying that a certain contract be awarded in a certain manner, including compliance with certain notice requirements; requiring an intergovernmental cooperative purchasing agreement to be approved by a certain unit head and subject to certain other approval under certain circumstances; and generally relating to intergovernmental cooperative purchasing agreements.

BY repealing and reenacting, without amendments,
 Article – State Finance and Procurement
 Section 13–110(a)(1) and (4)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
 Article – State Finance and Procurement
 Section 13–110(b)
 Annotated Code of Maryland
 (2015 Replacement Volume and 2016 Supplement)

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

Article – State Finance and Procurement

13–110.

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

(4) “Intergovernmental cooperative purchasing agreement” means a contract:

(i) 1. entered into by at least one governmental entity and a person selected in a manner that is consistent with the purposes set forth under § 11–201 of this article;

2. that is available for use by the governmental entity entering the contract and at least one additional governmental entity which may, but need not be, an original party to the contract; and

3. that is intended to promote efficiency and savings that can result from intergovernmental cooperative purchasing; or

(ii) between a primary procurement unit and a person who, at the time the intergovernmental cooperative purchasing agreement is awarded, has a contract with the federal government or an agency or other instrumentality of the federal government, and who agrees to provide the unit with identical prices, terms, and conditions as stipulated in the federal contract.

(b) (1) Subject to § 12–107 of this article, [whenever] a primary procurement unit procurement officer [determines that it is in the best interest of the State to sponsor or participate in an intergovernmental cooperative purchasing agreement, with the approval of the unit head and subject to any other approval required by law,] **SHALL MAKE A DETERMINATION, IN ACCORDANCE WITH PARAGRAPH (2) OR (3) OF THIS SUBSECTION, BEFORE** the primary procurement unit may [become a party to or participate under the agreement]:

(I) INITIALLY SPONSOR OR PARTICIPATE IN AN INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT;

(II) RENEW AN INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT; OR

(III) MODIFY AN INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT.

(2) A DETERMINATION UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION SHALL BE IN WRITING AND INCLUDE:

(I) SUFFICIENT EVIDENCE THAT THE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT:

1. WILL PROVIDE COST BENEFITS TO THE STATE; OR

2. WILL PROMOTE ADMINISTRATIVE EFFICIENCIES OR PROMOTE INTERGOVERNMENTAL COOPERATION; AND

(II) A STATEMENT THAT THE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT:

- 1. IS IN THE BEST INTEREST OF THE STATE; AND**
- 2. IS NOT INTENDED TO EVADE THE PURPOSES OF THIS**

DIVISION II.

~~(2)~~ **(3)** A determination under PARAGRAPH (1)(II) OR (III) OF this subsection shall be in writing and include [a statement]:

(I) SUFFICIENT EVIDENCE that the intergovernmental cooperative purchasing agreement:

- [(i)] 1.** will provide cost benefits to the State[.]; **AND**
- 2.** **WILL** promote administrative efficiencies, or promote intergovernmental cooperation; and

(ii) A STATEMENT THAT THE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT:

- 1. IS IN THE BEST INTEREST OF THE STATE; AND**
- 2. is not intended to evade the purposes of this Division II.**

~~(3)~~ **(4)** A PRIMARY PROCUREMENT UNIT SHALL POST EACH DETERMINATION REQUIRED UNDER THIS SUBSECTION ON THE PRIMARY PROCUREMENT UNIT’S WEB SITE.

[(3)] ~~(4)~~ (5) If a primary procurement unit sponsors OR PARTICIPATES IN an intergovernmental cooperative purchasing agreement:

~~**(I) THE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT SHALL BE APPROVED BY THE UNIT HEAD AND IS SUBJECT TO ANY OTHER APPROVAL REQUIRED BY LAW;**~~

~~**[(i)] ~~(II)~~**~~ the contract shall be awarded in the same manner as the contract would be awarded under this Division II if the unit was the sole participant under the contract, **INCLUDING COMPLIANCE WITH ALL NOTICE REQUIREMENTS;** and

~~**[(ii)] ~~(III)~~**~~ all procedures under this Division II, including procedures governing contract claims and protests, shall apply.

[(4)] ~~(5)~~ (6) If a primary procurement unit participates in an intergovernmental cooperative purchasing agreement, any protest or contract claim involving the agreement shall be handled in accordance with the terms of the agreement.

(7) IF A PRIMARY PROCUREMENT UNIT SPONSORS OR PARTICIPATES IN AN INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT, THE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT SHALL BE:

(I) APPROVED BY THE UNIT HEAD; AND

(II) SUBJECT TO ANY OTHER APPROVAL REQUIRED BY LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved by the Governor, May 25, 2017.