

SENATE BILL 438

P2

3lr2571
CF 3lr2706

By: **Senator Pinsky**

Introduced and read first time: January 30, 2013

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement – Contracting for Services Outside the United States**

3 FOR the purpose of expanding the scope of services that a public employer is
4 prohibited from knowingly contracting for unless the services are to be provided
5 in the United States; and generally relating to State procurement and a
6 prohibition on contracting for certain services to be provided outside the United
7 States.

8 BY repealing and reenacting, with amendments,
9 Article – State Finance and Procurement
10 Section 12–111
11 Annotated Code of Maryland
12 (2009 Replacement Volume and 2012 Supplement)

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

15 **Article – State Finance and Procurement**

16 12–111.

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

18 (2) “Public employer” means:

19 (i) a unit;

20 (ii) a county;

21 (iii) a municipality;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iv) a county board of education; or

2 (v) a special taxing district.

3 (3) (i) Except as provided in subparagraph (ii) of this paragraph,
4 “services” has the meaning stated in § 11–101(t) of this article.

5 (ii) “Services” includes:

6 1. construction–related services;

7 2. architectural services;

8 3. engineering services; or

9 4. energy performance contract services.

10 (b) This section applies to a procurement contract with an estimated value of
11 \$2,000,000 or more.

12 (c) In response to a solicitation for a procurement contract issued by a public
13 employer, a bidder shall disclose to the public employer the following:

14 (1) whether the bidder or any contractor that the bidder will
15 subcontract with to perform the contract has plans, at the time the bid is submitted, to
16 perform any services required under the contract outside the United States; and

17 (2) if services required under the contract are anticipated to be
18 performed outside the United States:

19 (i) where the services will be performed; and

20 (ii) the reasons why it is necessary or advantageous to perform
21 the services outside the United States.

22 (d) (1) Except as provided in paragraph (2) of this subsection, a public
23 employer may not knowingly contract for [the following] services unless the services
24 are to be provided in the United States[:

25 (i) architectural services;

26 (ii) construction services;

27 (iii) engineering services; or

28 (iv) energy performance contract services].

1 (2) A public employer may contract for services [listed in paragraph
2 (1) of this subsection] that are provided outside the United States, if:

3 (i) the services are not available in the United States;

4 (ii) the price of the services in the United States exceeds by an
5 unreasonable amount the price of services provided outside the United States; or

6 (iii) the quality of the services in the United States is
7 substantially less than the quality of comparably priced services provided outside the
8 United States.

9 (3) The Board shall adopt regulations defining the following terms for
10 the purposes of this subsection:

11 (i) “unreasonable amount”; and

12 (ii) “substantially less”.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2013.