

HOUSE BILL 193

P2

HB 304/25 – HGO

(PRE–FILED)

6lr0805

CF SB 213

By: Delegate Kerr

Requested: September 9, 2025

Introduced and read first time: January 14, 2026

Assigned to: Government, Labor, and Elections

A BILL ENTITLED

1 AN ACT concerning

2 State Procurement – Transparency and Procedures

3 FOR the purpose of requiring a unit of State government to provide a certain debriefing of
4 a contract award to certain persons on request; adding an exemption to the
5 prohibition on an individual who assists in the drafting of specifications, an
6 invitation for bids, or a request for proposals from submitting a bid or proposal or
7 assisting in the submission of a bid or proposal; requiring a procurement contract to
8 include a certain clause pertaining to certain contract modifications related to
9 changes in law; altering the required contents of a certain change order; altering
10 certain procedures, time periods, and appeals related to certain protests; altering the
11 time within which a written notice of a claim relating to a certain procurement
12 contract shall be made; applying certain provisions related to a contract claim that
13 applied to construction contracts to certain other procurement contracts; requiring a
14 contractor, on request of a procurement officer, to provide certain information prior
15 to receiving payment on a claim; altering the procedures for reviewing and making
16 a certain determination related to a certain contract claim; and generally relating to
17 State procurement procedures.

18 BY adding to

19 Article – State Finance and Procurement

20 Section 13–104(h)

21 Annotated Code of Maryland

22 (2021 Replacement Volume and 2025 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – State Finance and Procurement

25 Section 13–212.1(b), 13–218(a), 15–112(b)(1), 15–218, and 15–219

26 Annotated Code of Maryland

27 (2021 Replacement Volume and 2025 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – State Finance and Procurement

4 13–104.

5 **(H) (1) AN UNSUCCESSFUL OFFEROR MAY SUBMIT A REQUEST TO THE**
6 **PROCUREMENT OFFICER FOR A DEBRIEFING OF THE RECOMMENDED CONTRACT**
7 **AWARD.**

8 **(2) AFTER RECEIVING A REQUEST FOR A DEBRIEFING UNDER**
9 **PARAGRAPH (1) OF THIS SUBSECTION, THE PROCUREMENT OFFICER SHALL**
10 **PROVIDE THE DEBRIEFING:**

(4) THE OFFICE OF STATE PROCUREMENT SHALL ESTABLISH
GUIDELINES FOR DEBRIEFINGS.

21 13-212.1.

22 (b) For purposes of subsection (a) of this section, assisting in the drafting of
23 specifications, an invitation for bids, or a request for proposals for a procurement does not
24 include:

25 (1) providing descriptive literature, such as catalogue sheets, brochures,
26 technical data sheets, or standard specification "samples", whether requested by an
27 executive unit or provided unsolicited;

(2) submitting written or oral comments on a specification prepared by an executive unit or on a solicitation for a bid or proposal when comments are solicited from two or more persons as part of a request for information or a prebid or preproposal process;

(4) providing architectural and engineering services for:

(i) programming, master planning, or other project planning

(ii) the design of a construction project if:

5 1. the design services do not involve lead or prime design
6 responsibilities or construction phase responsibilities on behalf of the State; and

11 (5) for a procurement of health, human, social, or educational services,
12 comments solicited from two or more persons as part of a request for information, including
13 written or oral comments on a draft specification, an invitation for bids, or a request for
14 proposals; OR

(6) PROVIDING INFORMATION THAT DOES NOT PROVIDE AN UNFAIR ADVANTAGE FOR ANY BIDDER OR OFFEROR.

17 13-218.

(a) Each procurement contract shall include clauses covering:

(1) termination for default;

(2) termination wholly or partly by the State for its convenience if the head of the primary procurement unit determines that termination is appropriate;

(3) variations that occur between estimated and actual quantities of work in a procurement contract;

(4) liquidated damages, as appropriate;

(5) specified excuses for nonperformance;

(6) except for real property leases, the unilateral right of the State to order
in writing:

(ii) a temporary stop or delay in performance;

1 (7) the obligation of the contractor to comply with the political contribution
2 reporting requirements under Title 14 of the Election Law Article, to which the contractor
3 may be subject as required under § 17–402 of this article; [and]

4 (8) nonvisual access for information technology as required under §
5 3A–312 of this article; AND

6 **(9) A REQUIREMENT FOR A CONTRACT MODIFICATION TO PROVIDE**
7 **AN EQUITABLE ADJUSTMENT TO COMPENSATE THE CONTRACTOR FOR INCREASES**
8 **IN THE COST OF AND TIME FOR CONTRACT PERFORMANCE DUE TO CHANGES IN LAW.**

9 15–112.

10 (b) (1) Except as provided in paragraphs (2) and (3) of this subsection, a unit
11 may not require a prime contractor and a prime contractor may not require a subcontractor
12 to begin change order work under a contract until the procurement officer for the unit issues
13 a written change order that specifies whether the work is to proceed, in compliance **WITH**
14 **ANY CHANGES IN LAW OR REGULATION OR** with the terms of the contract, on:

15 (i) an agreed-to price which may include a preestablished catalog
16 or unit prices based on local prevailing wage rates and equipment and material costs for
17 each task required for the change order as included in the bid documents at the time of bid;

18 (ii) a force account;

19 (iii) a construction change directive; or

20 (iv) a time and materials basis.

21 15–218.

22 (a) [Except as provided under § 15–219 of this subtitle, a] A procurement officer
23 who receives a **TIMELY** protest [or a contract claim from a contractor] shall comply with
24 this section.

25 (b) (1) On receipt of a **TIMELY** protest [or contract claim from a contractor], a
26 procurement officer:

27 (i) shall review the substance of the protest [or contract claim];

28 (ii) may request additional information or substantiation through an
29 appropriate procedure;

30 (iii) may discuss with interested parties and, if appropriate, may
31 conduct negotiations with the person initiating the protest [or contract claim]; and

(iv) shall comply with any applicable regulations.

(2) Unless clearly inappropriate, the procurement officer shall seek the advice of the Office of the Attorney General **ON ANY LEGAL ISSUES RAISED IN THE PROTEST.**

5 (c) (1) Subject to subsection (b) of this section and consistent with the State
6 budget and other applicable laws, the procurement officer shall:

(i) resolve the protest [or contract claim by agreement of the parties];

9 (ii) wholly or partly deny the protest [or contract claim]; or

(iii) wholly or partly grant the relief sought by the person who submitted the protest [or contract claim].

14 (d) Unless otherwise provided by regulation, the decision of the procurement
15 officer shall be reviewed promptly by:

(1) the head of the unit OR THE HEAD'S DESIGNEE; and

(2) the head of the principal department or other equivalent unit of which
the unit is a part **OR THE HEAD'S DESIGNEE.**

19 (e) [1(1) Except as provided under paragraph (3) of this subsection, the
20 reviewing authority shall approve, disapprove, or modify the decision of the procurement
21 officer within 180 days after receiving the contract claim or a longer period to which the
22 parties agree.

23 (2)] The action of the [reviewing authority under this subsection]
24 **PROCUREMENT OFFICER** shall be the final action of the unit.

[3] The reviewing authority may remand the proceeding with instructions to the procurement officer.

(4) On remand, the procurement officer shall proceed under subsection (b) of this section in accordance with those instructions.]

29 (f) (1) A decision [not to pay a contract claim] TO DENY A PROTEST is a final
30 action for the purpose of appeal to the Appeals Board.

1 (2) The failure to [reach] ISSUE a decision [within the time required under
2 subsection (e) of this section] **ON THE PROTEST WITHIN 60 DAYS AFTER RECEIPT** may
3 be deemed, at the **SOLE** option of the [contractor, to be a decision not to pay the contract
4 claim] **PROTESTOR, TO BE A DECISION TO DENY THE PROTEST.**

5 15–219.

6 (a) [Except to the extent a shorter period is prescribed by regulation governing
7 differing site conditions, a] **A contractor shall file a written notice of a claim relating to a
8 procurement contract [for construction] within [30] 60 days after [the basis for the claim
9 is known or should have been known] **THE LATER OF:****

10 **(1) A UNIT DENYING A REQUEST FOR EQUITABLE ADJUSTMENT; OR**

11 **(2) THE PARTIES REACHING AN IMPASSE IN DISCUSSIONS
12 ATTEMPTING TO RESOLVE THEIR DISAGREEMENT REGARDING THE REQUEST.**

13 (b) Unless extended by the unit, within 90 days after submitting a notice of a
14 contract claim under a procurement contract [for construction], a contractor shall submit
15 to the unit a written explanation that states:

16 (1) the amount of the contract claim;

17 (2) the facts on which the contract claim is based; and

18 (3) all relevant data and correspondence that may substantiate the
19 contract claim.

20 **(C) (1) ON RECEIPT OF A TIMELY CONTRACT CLAIM FROM A
21 CONTRACTOR, A PROCUREMENT OFFICER:**

22 **(I) SHALL REVIEW THE SUBSTANCE OF THE CONTRACT CLAIM;**

23 **(II) MAY REQUEST ADDITIONAL INFORMATION OR
24 SUBSTANTIATION THROUGH AN APPROPRIATE PROCEDURE;**

25 **(III) MAY CONDUCT NEGOTIATIONS WITH THE CONTRACTOR
26 INITIATING THE CONTRACT CLAIM; AND**

27 **(IV) SHALL COMPLY WITH ANY APPLICABLE REGULATIONS.**

28 **(2) UNLESS CLEARLY INAPPROPRIATE, THE PROCUREMENT OFFICER
29 SHALL SEEK THE ADVICE OF THE OFFICE OF THE ATTORNEY GENERAL ON ANY
30 LEGAL ISSUES.**

1 **(D) SUBJECT TO SUBSECTION (C) OF THIS SECTION AND CONSISTENT WITH**
2 **THE STATE BUDGET AND OTHER APPLICABLE LAWS, THE PROCUREMENT OFFICER**
3 **SHALL:**

- 4 **(1) RESOLVE THE CONTRACT CLAIM BY AGREEMENT OF THE PARTIES;**
5 **(2) WHOLLY OR PARTLY DENY THE CONTRACT CLAIM; OR**
6 **(3) WHOLLY OR PARTLY GRANT THE RELIEF SOUGHT BY THE**
7 **CLAIMANT.**

8 **[(c)] (E)** (1) Subject to paragraph (2) of this subsection, the head of the unit
9 engaged in procurement [of the construction] **OR THE HEAD'S DESIGNEE** shall review the
10 contract claim **AND THE DECISION OF THE PROCUREMENT OFFICER.**

11 (2) If the unit is part of a principal department or other equivalent unit,
12 the Secretary of the principal department or the equivalent official **OR THE SECRETARY'S**
13 **DESIGNEE OR THE OFFICIAL'S DESIGNEE** shall review the contract claim **AND THE**
14 **DECISION OF THE PROCUREMENT OFFICER**, unless review has been delegated by
15 regulation to the head of the unit.

16 **(3) THE ACTION OF THE PROCUREMENT OFFICER UNDER THIS**
17 **SUBSECTION SHALL BE THE FINAL ACTION OF THE UNIT.**

18 **[(d)]** The person who reviews a contract claim under subsection (c) of this section
19 shall:

- 20 (1) investigate the contract claim; and
21 (2) give the contractor written notice of a resolution of the contract claim:
22 (i) within 90 days after receiving the contract claim or a longer
23 period to which the parties agree, if the amount of the contract claim is not more than the
24 amount under which the accelerated procedure may be selected before the Appeals Board;
25 or
26 (ii) for any other contract claim, within 180 days after receiving the
27 contract claim or a longer period to which the parties agree.

28 **(e)] (F)** Recovery under a contract claim is not allowed for any expense
29 incurred:

- 30 (1) more than [30] **60** days before the [required submission of a notice of a
31 claim] **LAST DAY ON WHICH NOTICE OF A CLAIM IS PERMITTED TO BE FILED** under
32 subsection (a) of this section; or

1 (2) unless the time for submission of a claim is extended under subsection
2 (b) of this section, more than [120] **150** days before the [required submission of the claim]
3 **LAST DAY ON WHICH NOTICE OF A CLAIM IS PERMITTED TO BE FILED.**

4 [(f)] **(G)** (1) If the unit determines that it is responsible for a portion but not
5 all of the amount claimed by the contractor, subject to the terms of the contract, the unit
6 shall pay the undisputed amount.

7 (2) Payment of the undisputed amount:

8 (i) is not an admission of the liability of the unit on the claims; and
9 (ii) does not preclude recovery of the amount paid if it subsequently
10 is determined that the determination of the unit was not correct.

11 [(g) (1)] **(H)** A decision not to pay a contract claim is a final action for the
12 purpose of appeal to the Appeals Board.

13 [(2) The failure to reach a decision within the time required under
14 subsection (c) of this section may be deemed, at the option of the contractor, to be a decision
15 not to pay the contract claim.]

16 **(I) (1) THIS SUBSECTION APPLIES TO ALL CONTRACT CLAIMS,
17 INCLUDING CLAIMS THAT ARE PENDING ADMINISTRATIVELY IN COURT ON JULY 1,
18 2026.**

19 **(2) PRIOR TO AUTHORIZING PAYMENT ON A CLAIM, THE
20 PROCUREMENT OFFICER SHALL REQUIRE THE CONTRACTOR TO SUPPLEMENT THE
21 CLAIM WITH A CERTIFICATION BY A SENIOR OFFICER OR GENERAL PARTNER OF THE
22 CONTRACTOR OR THE SUBCONTRACTOR, AS APPLICABLE, THAT, TO THE BEST OF
23 THAT PERSON'S KNOWLEDGE AND BELIEF:**

24 **(I) THE CLAIM IS MADE IN GOOD FAITH;**

25 **(II) ALL SUPPORTING DATA IS ACCURATE AND COMPLETE; AND**

26 **(III) THE AMOUNT REQUESTED ACCURATELY REFLECTS THE
27 CONTRACT CLAIM FOR WHICH THE PERSON BELIEVES THE PROCUREMENT AGENCY
28 IS LIABLE.**

29 [(h)] **(J)** At the time of final payment, the unit shall:

30 (1) release the retainage due to the contractor; and

1 (2) pay any interest that:

2 (i) has accrued on the retainage from the time of payment of the
3 semifinal estimate; and

4 (ii) is due and payable to the contractor.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2026.