

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	05/07/2014	Date Filed with Division of State Documents
		06/10/2014
		Document Number
		14-005-R
		Date of Publication in MD Register
		7/11/2014

1. Desired date of publication in Maryland Register: 7/11/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

21 11 14 04

3. Name of Promulgating Authority

Board of Public Works

4. Name of Regulations Coordinator Telephone Number
Melissa D Hodges 410.260.7784

Mailing Address

Board of Public Works, 80 Calvert Street, Room 117

City State Zip Code
Annapolis MD 21401

Email
missy.hodges@maryland.gov

5. Name of Person to Call About this Document Telephone No.
Mary Jo Childs 410.260.7335

Email Address
maryjo.childs@maryland.gov

6. Check applicable items:

- ☐ New Regulations
- ☐ Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: .
- ☐ Repeal of Existing Regulations
- ☐ Recodification
- ☐ Incorporation by Reference of Documents Requiring DSD Approval

X- Reproposal of Substantively Different Text:

41: 1 Md. R 46 1/10/14
(vol.) (issue) (page nos) (date)

Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

☐ Yes **X-** No

8. Incorporation by Reference

☐ Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

X- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

X- OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

☐ Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Gregory Bedward, General Counsel, (telephone #410.260.7335) on 5/7/14. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Sheila McDonald

Title

Executive Secretary

Telephone No.

410.260.7335

Date

5/7/14

Title 21

STATE PROCUREMENT REGULATIONS

Subtitle 11 SOCIOECONOMIC POLICIES

21.11.14 American-Manufactured Goods and Services - Preferences

Authority: State Finance and Procurement Article, §12-101, Chapters 437 and 438, Laws of 2013

Notice of Proposed Action

[14-005-R]

The Board of Public Works proposes to adopt new regulation .04 under COMAR 21.11.14 American-Manufactured Goods and Services - Preference. This action was considered at a public meeting held on April 30, 2014, notice of which was published pursuant to State Government Article, Section 10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to implement the procurement preference for American-manufactured goods.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Mary Jo Childs, Procurement Advisor, Board of Public Works, 80 Calvert St, Room 117, or call 410-260-7335, or email to maryjo.childs@maryland.gov, or fax to 410-974-5240. Comments will be accepted through . A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 15
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
No
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
NA
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
Any price increases that may result from the imposition of a price preference would likely be offset by a reduction in other costs such as shipping.
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
Any increased costs resulting from the requirement for American-manufactured goods are likely to be passed to the procuring unit.
- G. Small Business Worksheet:

Attached Document:

Title 21 STATE PROCUREMENT REGULATIONS

Subtitle 11 SOCIOECONOMIC POLICIES

Chapter 14 American-Manufactured Goods and Services — Preferences

Authority: State Finance and Procurement Article, §12-101, Annotated Code of Maryland; Chapters 437 and 438, Laws of 2013

ALL NEW

.04 American-Manufactured Goods.

A. In this regulation, the following words have the meanings indicated.

B. Terms Defined.

(1) "American-manufactured goods" means goods that are manufactured or assembled in the United States;

(2) "Emergency life safety and property safety goods" means any goods when provided for the installation in, as part of, or as an addition to a system designed to:

(a) Prevent, respond to, alert regarding, suppress, control, or extinguish an emergency or the cause of an emergency that threatens life or property; or

(b) Assist in evacuation in the event of an emergency that threatens life or property.

(3) Emergency life safety and property safety goods includes:

(a) Systems or items for or relating to:

- (i) Fire alarms;*
- (ii) Fire sprinklers;*
- (iii) Fire suppression;*
- (iv) Fire extinguishing;*
- (v) Security;*
- (vi) Gas detection;*
- (vii) Intrusion detection;*
- (viii) Access control;*
- (ix) Video surveillance and recording;*

- (x) *Mass notification;*
- (xi) *Public address;*
- (xii) *Emergency lighting;*
- (xiii) *Patient wandering;*
- (xiv) *Infant tagging; and*
- (xv) *Nurse call.*

(b) *Information technologies and telecommunications products and technologies that are used for the purposes listed in*

§B(2) of this regulation.

(4) *“Goods” means tangible or movable personal property other than money or investment securities.*

(5) *“Information Technologies and Telecommunications Products and Technologies” means electronic information processing hardware or software used to generate, acquire, store, transform, process, retrieve, utilize, make available, transmit, or manipulate information or hardware or software used in the transmission of information, images, pictures, voice, or data by radio, video, or other electronic or impulse means.*

(6) *“Public work” means a structure or work, including a bridge, building, ditch, road, alley, waterwork, or sewage disposal plant, that:*

(a) Is constructed for public use or benefit; or

(b) Is paid for wholly or in part by public money.

(c) “Public work” does not include, unless let to a contract, a structure or work whose construction is performed by a public service company under order of the Public Service Commission or other public authority regardless of:

(i) Public supervision or direction; or

(ii) Payment wholly or in part from public money.

(7) *“Reasonably available quantities” means at least 90 percent of the goods procured by the public body are available within the public body’s delivery schedule.*

(8) *“Substantially less quality” means not in compliance with applicable safety and durability standards including warranty terms.*

(9) *“Unreasonable amount” means more than 5 percent over the lowest financial proposal or bid offering goods manufactured or assembled outside the United States.*

C. *Except as provided in §D of this regulation, a public body shall require a contractor or subcontractor to use or supply American-manufactured goods in the performance of a contract for:*

(1) Constructing or maintaining a public work; or

(2) Buying or manufacturing machinery or equipment that is to be installed at a public work site.

D. *A public body may contract for goods described in §C of this regulation that are manufactured or assembled outside the United States:*

(1) If the head of the public body determines that:

(a) The price of the American-manufactured goods exceeds by an unreasonable amount the price of similar manufactured goods that are not manufactured in the United States;

(b) The goods or similar goods are not manufactured or available for purchase in the United States in reasonably available quantities;

(c) The quality of the goods or similar goods manufactured in the United States is substantially less than the quality of comparably-priced, similar and available goods that are not manufactured in the United States; or

(d) The procurement of a manufactured good would be inconsistent with the public interest; or

(2) To procure emergency life safety and property safety goods.

E. *In each bid or proposal subject to the requirements of this regulation, a bidder or offeror shall certify to the public body:*

(1) Whether the offered goods are emergency life safety and property safety goods;

(2) If the offered goods are not exempt from the requirements of this regulation, whether the offered goods are provided in the United States;

(3) If a bid or proposal offers goods that are provided in the United States and outside the United States, which goods are provided in the United States.

END ALL NEW