

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 109 (Senator Conway)
Education, Health, and Environmental Affairs

Procurement - Prohibitions on Participation

This bill establishes that existing provisions that preclude participation in State procurements under specified circumstances apply for at least two years – specifically from the date of issuance of the first relevant invitation for bids (IFB) or request for proposals (RFP) until the later of either (1) two years from the date of issuance or (2) the awarding of a contract or reissuance of the IFB or RFP. The prohibitions do not apply to a subsequent IFB or RFP for which the specifications are reused after the initial prohibition is no longer applicable. The bill also clarifies that the existing prohibitions apply to a person that employs the individual *during the period of assistance*.

Fiscal Summary

State Effect: None. The bill is technical and procedural in nature and has no material effect on governmental finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: An individual who assists an Executive Branch procurement unit in drafting specifications, an IFB, or an RFP for a procurement, or who assists in the selection or award made in response to an IFB or RFP, may not submit a bid or proposal for that procurement or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement. Likewise, a person that employs the individual who provides such assistance may not submit a bid or proposal or assist or represent another

person submitting a bid or proposal for that procurement. There is no time limit placed on these prohibitions, but the bill's time limit applies to the prohibitions.

The prohibitions against submitting a bid or proposal do not apply to:

- providing descriptive literature or samples, whether solicited or unsolicited;
- submitting written or oral comments on a specification when comments are solicited from two or more persons as part of a request for information or a prebid or preproposal process;
- providing specifications for a sole source procurement under State procurement law;
- providing architectural and engineering services for **either** programming, master planning, or other project planning services **or** the design of a construction contract if design services do not involve lead or prime design responsibilities on behalf of the State (and that construction contract has an anticipated value of between \$2.5 million and \$100.0 million or the payment to the design contractor does not exceed \$500,000); or
- comments solicited from two or more persons as part of a request for information for a procurement for health, human, social, or educational services.

Additional Information

Prior Introductions: HB 195 of 2016, as amended by the House, was substantially similar to this bill. It also passed the Senate with amendments. However, a conference committee was not appointed to reconcile the differences between the two versions of the bill.

Cross File: None.

Information Source(s): Department of General Services; Board of Public Works; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2017
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