

SENATE BILL 109

P2
HB 195/16 – HGO

7lr1575
CF HB 283

By: **Senator Conway**

Introduced and read first time: January 13, 2017

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 14, 2017

CHAPTER _____

1 AN ACT concerning

2 **Procurement – Prohibitions on Participation**

3 FOR the purpose of providing that certain prohibitions on participation in procurement
4 apply only for a certain period of time following the issuance of an invitation for bids
5 or a request for proposals; providing that certain prohibitions on participation in
6 procurement do not apply to certain invitations for bids or requests for proposals;
7 and generally relating to the prohibitions on participation in procurement.

8 BY repealing and reenacting, with amendments,
9 Article – State Finance and Procurement
10 Section 13–212.1
11 Annotated Code of Maryland
12 (2015 Replacement Volume and 2016 Supplement)

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

15 **Article – State Finance and Procurement**

16 13–212.1.

17 (a) **[An] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, AN**
18 individual who assists an executive unit in the drafting of specifications, an invitation for
19 bids, a request for proposals for a procurement, or the selection or award made in response

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 to an invitation for bids or a request for proposals, or a person that employs the individual
2 **DURING THE PERIOD OF ASSISTANCE**, may not:

3 (1) submit a bid or proposal for that procurement; or

4 (2) assist or represent another person, directly or indirectly, who is
5 submitting a bid or proposal for that procurement.

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

9 (1) providing descriptive literature, such as catalogue sheets, brochures,
10 technical data sheets, or standard specification “samples”, whether requested by an
11 executive unit or provided unsolicited;

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

15 (3) providing specifications for a sole source procurement made in
16 accordance with § 13–107 of this article;

17 (4) providing architectural and engineering services for:

18 (i) programming, master planning, or other project planning
19 services; or

20 (ii) the design of a construction project if:

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

23 2. A. the anticipated value of the procurement contract at
24 the time of advertisement is at least \$2,500,000 and not more than \$100,000,000; or

25 B. regardless of the amount of the procurement contract, the
26 payment to the individual or person for the design services does not exceed \$500,000; or

27 (5) for a procurement of health, human, social, or educational services,
28 comments solicited from two or more persons as part of a request for information, including
29 written or oral comments on a draft specification, an invitation for bids, or a request for
30 proposals.

31 (c) A unit that receives comments as described in subsection (b)(2) and (5) of this
32 section shall retain:

1 (1) any written comments; and

2 (2) a record of any oral comments.

3 (D) (1) THE PROHIBITIONS ESTABLISHED UNDER SUBSECTION (A) OF
4 THIS SECTION APPLY FROM THE DATE OF ISSUANCE OF THE FIRST INVITATION FOR
5 BIDS OR REQUEST FOR PROPOSALS FOR WHICH THE SPECIFICATIONS WERE
6 INITIALLY DRAFTED UNTIL THE LATER OF:

7 (I) 2 YEARS FROM THE DATE OF ISSUANCE; OR

8 (II) THE SELECTION OR AWARD OF A PROCUREMENT CONTRACT
9 IN RESPONSE TO THE ISSUANCE OF THE INVITATION FOR BIDS OR REQUEST FOR
10 PROPOSALS OR A REISSUANCE OF THE INVITATION FOR BIDS OR REQUEST FOR
11 PROPOSALS FOR WHICH THE SPECIFICATIONS WERE INITIALLY DRAFTED.

12 (2) THE PROHIBITIONS ESTABLISHED UNDER SUBSECTION (A) OF
13 THIS SECTION DO NOT APPLY TO A SUBSEQUENT INVITATION FOR BIDS OR REQUEST
14 FOR PROPOSALS FOR WHICH THE SPECIFICATIONS ARE REUSED AFTER THE INITIAL
15 PROHIBITION IS NO LONGER APPLICABLE IN ACCORDANCE WITH PARAGRAPH (1) OF
16 THIS SUBSECTION.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.