

# HOUSE BILL 195

P2

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By: **Delegates Krebs, W. Miller, Rose, and West**

Introduced and read first time: January 21, 2016

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Prohibition on Participation**

3 FOR the purpose of altering to whom certain provisions of law apply that prohibit certain  
4 participation in procurement; providing that the prohibition against a certain person  
5 participating in a certain procurement applies only for a certain period of time  
6 following the issuance of an invitation for bids or a request for proposals; and  
7 generally relating to the prohibition 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)

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 individual who assists an executive unit in the drafting of specifications,  
18 an invitation for bids, a request for proposals for a procurement, or the selection or award  
19 made in response to an invitation for bids or a request for proposals, or a person that  
20 employs the individual,] **FOR 1 YEAR FOLLOWING THE ISSUANCE OF AN INVITATION  
21 FOR BIDS OR A REQUEST FOR PROPOSALS FOR A PROCUREMENT, A PERSON WHO  
22 HAS ASSISTED AN EXECUTIVE UNIT IN DRAFTING THE SPECIFICATIONS FOR THE  
23 INVITATION FOR BIDS OR REQUEST FOR PROPOSALS OR WHO HAS ASSISTED IN THE  
24 SELECTION OR AWARD MADE IN RESPONSE TO THE INVITATION FOR BIDS OR  
25 REQUEST FOR PROPOSALS** may not:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

15 (4) providing architectural and engineering services for:

16 (i) programming, master planning, or other project planning  
17 services; or

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

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

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

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

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

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

31 (1) any written comments; and

1                   (2)     a record of any oral comments.

2                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
3     October 1, 2016.