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By: **Delegates McIntosh, Benson, Bobo, and Swain**  
Introduced and read first time: February 10, 2000  
Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 16, 2000

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Government - Procurement - Conflict of Interests**

3 FOR the purpose of providing that an individual who assists in a selection or award  
4 made in response to a solicitation for bids or a request for proposal in a State  
5 procurement, or the employer of that individual, may not submit a bid or  
6 proposal or assist another person who submits a bid or proposal; ~~extending this~~  
7 ~~prohibition and existing prohibitions relating to conflict of interests in State~~  
8 ~~procurement to an individual who employs the individual who assists in the~~  
9 ~~procurement process; requiring an individual under contract with an executive~~  
10 ~~unit of State government, who assists in, influences, or otherwise affects the~~  
11 ~~formation, award, or execution of a State procurement to file a disclosure~~  
12 ~~statement containing information relating to the individual's consultants,~~  
13 ~~employer, employer's corporate structure, and employer's subsidiaries; requiring~~  
14 ~~disclosure of the clients of the individual, the individual's employer, and any~~  
15 ~~subsidiaries of the individual's employer, and the general nature of the work~~  
16 ~~performed for each client~~ requiring that an invitation for bids or request for  
17 proposals for the selection of a consultant who will assist in specified State  
18 contracting activities require the submission of an affidavit addressing conflicts  
19 of interest; requiring the Board of Public Works to adopt certain regulations;  
20 and generally relating to prohibitions against and disclosures relating to  
21 conflicts of interest in the State procurement process.

22 BY repealing and reenacting, with amendments,  
23 Article - State Government  
24 Section 15-508  
25 Annotated Code of Maryland  
26 (1999 Replacement Volume)

1 BY adding to  
2 Article - ~~State Government~~ State Finance and Procurement  
3 Section ~~15-509~~ 13-212  
4 Annotated Code of Maryland  
5 (~~1999~~ 1995 Replacement Volume and 1999 Supplement)

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

8 **Article - State Government**

9 15-508.

10 (a) An individual OR A PERSON THAT EMPLOYS AN INDIVIDUAL who assists  
11 an executive unit in the drafting of specifications, an invitation for bids, [or] a  
12 request for proposals for a procurement, or THE SELECTION OR AWARD MADE IN  
13 RESPONSE TO AN INVITATION FOR BIDS OR REQUEST FOR PROPOSALS [a person that  
14 employs the individual,] may not:

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

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

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

21 (1) providing descriptive literature such as catalogue sheets, brochures,  
22 technical data sheets, or standard specification "samples", whether requested by an  
23 executive agency or provided on an unsolicited basis;

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

28 (3) providing specifications for a sole source procurement made in  
29 accordance with § 13-107 of the State Finance and Procurement Article; or

30 (4) providing architectural and engineering services for programming,  
31 master planning, or other project planning services.

32 ~~15-509.~~

33 ~~(A) AN INDIVIDUAL UNDER CONTRACT WITH AN EXECUTIVE UNIT OF THE~~  
34 ~~STATE WHO ASSISTS IN, INFLUENCES, OR OTHERWISE AFFECTS THE FORMATION,~~  
35 ~~AWARD, OR EXECUTION OF ANY STATE CONTRACT, PURCHASE, OR SALE SHALL FILE~~

~~1 A STATEMENT WITH THE ETHICS COMMISSION THAT CONTAINS THE SCHEDULES  
2 DISCLOSING THE INFORMATION AND INTERESTS SPECIFIED IN THIS SECTION.~~

~~3 (B) THE STATEMENT SHALL INCLUDE A SCHEDULE LISTING:~~

~~4 (1) ALL CURRENT PRIVATE OR PUBLIC SECTOR CLIENTS FROM WHOM  
5 THE CONSULTANT HAS RECEIVED A FEE FOR SERVICES IN CONNECTION WITH  
6 CONTRACT ACTIVITIES OR OTHER AREAS REGULATED BY THE EXECUTIVE UNIT;~~

~~7 (2) THE GENERAL NATURE OF THE WORK PERFORMED FOR EACH OF  
8 THE CLIENTS LISTED; AND~~

~~9 (3) ANY SUBCONSULTANT WHO ASSISTED IN THE PERFORMING OF THE  
10 SERVICES, ACCOMPANIED BY A SEPARATE SCHEDULE MEETING THE REQUIREMENTS  
11 OF ITEMS (1) AND (2) OF THIS SUBSECTION WITH RESPECT TO THAT  
12 SUBCONSULTANT.~~

~~13 (C) IF THE INDIVIDUAL IS EMPLOYED BY A CORPORATION OR IF A CLIENT  
14 LISTED IN SUBSECTION (B)(1) OF THIS SECTION IS A CORPORATION, THE STATEMENT  
15 REQUIRED UNDER THIS SECTION SHALL INCLUDE, FOR EACH CORPORATION:~~

~~16 (1) A SCHEDULE OF THE OFFICERS, DIRECTORS, AND EACH DIRECT OR  
17 INDIRECT OWNER OF ANY EQUITY SECURITY OR OTHER OWNERSHIP INTEREST IN  
18 THE CORPORATION;~~

~~19 (2) A SCHEDULE OF ANY APPLICABLE PARENT CORPORATION OF THE  
20 CORPORATION AND ALL SUBSIDIARY CORPORATIONS OF THAT PARENT  
21 CORPORATION;~~

~~22 (3) A SCHEDULE OF ANY SUBSIDIARY CORPORATIONS OF THE  
23 CORPORATION; AND~~

~~24 (4) A SCHEDULE LISTING:~~

~~25 (I) ANY CLIENTS OF THE APPLICABLE PARENT OR SUBSIDIARY  
26 CORPORATIONS THAT HAVE RECEIVED A FEE FOR SERVICES IN CONNECTION WITH  
27 CONTRACT ACTIVITIES OR OTHER AREAS REGULATED BY THE EXECUTIVE UNIT; AND~~

~~28 (II) THE GENERAL NATURE OF THE WORK PERFORMED FOR EACH  
29 OF THE CLIENTS LISTED.~~

~~30 (D) IF THE CORPORATION IS A PUBLICLY TRADED CORPORATION, THE  
31 DISCLOSURE UNDER SUBSECTION (C)(1) OF THIS SECTION NEED ONLY CONTAIN THE  
32 NAMES AND ADDRESSES OF THOSE KNOWN TO THE CORPORATION TO BENEFICIALLY  
33 OWN 5% OR MORE OF THE PUBLICLY HELD SECURITIES OF THE CORPORATION.~~

1 Article - State Finance and Procurement2 13-212.

3 (A) EACH INVITATION FOR BIDS OR REQUEST FOR PROPOSALS FOR A  
4 CONTRACT THAT WILL INVOLVE THE SELECTION OF A CONSULTANT WHO IS TO  
5 ASSIST THE UNIT IN THE FORMATION, AWARD, OR EXECUTION OF ANY STATE  
6 CONTRACT SHALL REQUIRE THAT A BIDDER OR OFFEROR PROVIDE TO THE UNIT AN  
7 AFFIDAVIT THAT DISCLOSES ANY ACTUAL OR POTENTIAL CONFLICT OF INTEREST OF  
8 WHICH THE BIDDER OR OFFEROR KNOWS, OR CAN REASONABLY BE EXPECTED TO  
9 KNOW, IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS SECTION.

10 (B) THE BOARD SHALL ADOPT REGULATIONS CONCERNING THE DISCLOSURE  
11 AND EVALUATION OF CONFLICT OF INTERESTS UNDER THIS SECTION.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2000.