

HOUSE BILL 1196

P2

2lr2949

By: **Delegates Ready and Pena–Melnik**

Introduced and read first time: February 10, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Participation in Procurement – Conflict of Interest – Exemption**

3 FOR the purpose of authorizing certain units of State government to solicit certain
4 comments relating to certain specifications for State procurement of health,
5 human, social, or educational services before issuing certain requests for
6 proposals; authorizing a person that submits certain comments relating to a
7 procurement to submit a proposal for the procurement under certain
8 circumstances; and generally relating to conflicts of interest and participation in
9 procurement.

10 BY repealing and reenacting, with amendments,
11 Article – State Government
12 Section 15–508
13 Annotated Code of Maryland
14 (2009 Replacement Volume and 2011 Supplement)

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

17 **Article – State Government**

18 15–508.

19 (a) [An] **EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN**
20 individual or a person that employs an individual who assists an executive unit in the
21 drafting of specifications, an invitation for bids, a request for proposals for a
22 procurement, or the selection or award made in response to an invitation for bids or
23 request for proposals may not:

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
6 not include:

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

10 (2) submitting written comments on a specification prepared by an
11 agency or on a solicitation for a bid or proposal when comments are solicited from two
12 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 the State Finance and Procurement 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
22 contract at the time of advertisement is at least \$2,500,000 and not more than
23 \$100,000,000; or

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

27 (5) providing specifications for an unsolicited proposal procurement
28 made in accordance with § 13–107.1 of the State Finance and Procurement Article.

29 **(C) (1) BEFORE A UNIT ISSUES A REQUEST FOR PROPOSALS FOR THE**
30 **PROCUREMENT OF HEALTH, HUMAN, SOCIAL, OR EDUCATIONAL SERVICES, THE**
31 **UNIT MAY SOLICIT WRITTEN COMMENTS FROM TWO OR MORE PERSONS**
32 **RELATING TO DRAFT SPECIFICATIONS FOR THE PROCUREMENT.**

1 **(2) IF THE UNIT ENSURES THAT THE FINAL SPECIFICATIONS FOR**
2 **THE PROCUREMENT COMPLY WITH § 13–205(A) OF THE STATE FINANCE AND**
3 **PROCUREMENT ARTICLE, A PERSON THAT SUBMITS WRITTEN COMMENTS**
4 **UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY SUBMIT A PROPOSAL FOR**
5 **THE PROCUREMENT.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2012.