

CHAPTER 283

(House Bill 629)

AN ACT concerning

State Ethics Law – Architectural and Engineering Services – Procurement

FOR the purpose of providing that certain persons who do not have certain design responsibilities and are not involved in the construction phase of certain procurements on behalf of the State are eligible to be part of certain teams bidding on certain construction projects under the State procurement law, subject to certain conditions; repealing certain termination provisions in law; requiring the Maryland Department of Transportation to provide certain reports; and generally relating to permissible participation in certain procurements by certain persons.

BY repealing and reenacting, with amendments,
Chapter 84 of the Acts of the General Assembly of 2004
Section 3, 7, and 8

BY repealing
Chapter 84 of the Acts of the General Assembly of 2004
Section 5

BY repealing and reenacting, with amendments,
Chapter 549 of the Acts of the General Assembly of 2006
Section 2

BY repealing and reenacting, without amendments,
Article – State Government
Section 15–508
Annotated Code of Maryland
(2004 Replacement Volume and 2007 Supplement)

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

Chapter 84 of the Acts of 2004

SECTION 3. AND BE IT FURTHER ENACTED, That on or before September 30, 2005, and annually thereafter [through September 30, 2008, inclusive], the Maryland Department of Transportation shall report to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly regarding the implementation of this Act by the Department during the immediately

preceding fiscal year, including the impact of this Act on small business and minority business enterprises.

[SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding the abrogation of this Act, this Act shall be applicable to any procurement contract in connection with a project or program for which:

(1) final review under the National Environmental Policy Act or the Maryland Environmental Policy Act is completed on or before June 30, 2008; or

(2) an appropriation has been included on or before June 30, 2008, in the development and evaluation portion of the Consolidated Transportation Program.]

SECTION 7. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall take effect July 1, 2004. [It shall remain effective for a period of 4 years and 3 months and, at the end of September 30, 2008, with no further action required by the General Assembly, Section 3 of this Act shall be abrogated and of no further force and effect.]

SECTION 8. AND BE IT FURTHER ENACTED, That, except as provided in Sections 6 and 7 of this Act, this Act shall take effect July 1, 2004. [It shall remain effective for a period of 4 years and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

Chapter 549 of the Acts of 2006

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2006. [It shall remain effective for a period of 2 years and, at the end of June 30, 2008, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.]

Article – State Government

15–508.

(a) An individual or a person that employs an individual who assists an executive unit in the drafting of specifications, an invitation for bids, a request for proposals for a procurement, or the selection or award made in response to an invitation for bids or request for proposals may not:

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

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

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

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

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

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

(4) providing architectural and engineering services for:

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

(ii) the design of a construction project if:

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2008.

Approved by the Governor, April 24, 2008.