

(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; or

~~(4) providing architectural and engineering services for programming, master planning, or other project planning services, INCLUDING PRELIMINARY DESIGN SERVICES THAT INVOLVE NO CONSTRUCTION PHASE RESPONSIBILITIES~~

(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 anticipated value of the procurement contract at the time of advertisement is at least \$2,500,000 and not more than [\$40,000,000] \$100,000,000; and

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

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

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 4. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any project or program that has been advertised for construction before the effective date of this Act.

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: