

SENATE BILL 23

P2

71r0985

By: **Senators Conway, Britt, and Kelley**

Introduced and read first time: January 15, 2007

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Small Business Reserve Program – Sunset Extension**

3 FOR the purpose of continuing until a certain date the provisions of the State
4 Procurement Law relating to procurements from small businesses under the
5 Small Business Reserve Program; and generally relating to the Small Business
6 Reserve Program.

7 BY repealing and reenacting, without amendments,
8 Article – State Finance and Procurement
9 Section 14–501 through 14–505
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2006 Supplement)

12 BY repealing and reenacting, with amendments,
13 Chapter 75 of the Acts of the General Assembly of 2004
14 Section 2

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

17 **Article – State Finance and Procurement**

18 14–501.

19 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (b) “Designated procurement unit” means:
- 2 (1) the State Treasurer;
- 3 (2) the Department of Budget and Management;
- 4 (3) the Department of Business and Economic Development;
- 5 (4) the Department of the Environment;
- 6 (5) the Department of General Services;
- 7 (6) the Department of Health and Mental Hygiene;
- 8 (7) the Department of Housing and Community Development;
- 9 (8) the Department of Human Resources;
- 10 (9) the Department of Juvenile Services;
- 11 (10) the Department of Labor, Licensing, and Regulation;
- 12 (11) the Department of Natural Resources;
- 13 (12) the State Department of Education;
- 14 (13) the Department of State Police;
- 15 (14) the Department of Public Safety and Correctional Services;
- 16 (15) the Department of Transportation;
- 17 (16) the University System of Maryland;
- 18 (17) the Maryland Port Commission;
- 19 (18) the State Retirement Agency;
- 20 (19) the Maryland Insurance Administration;
- 21 (20) the Maryland Stadium Authority;
- 22 (21) the State Lottery Agency; and

1 (22) the Morgan State University.

2 (c) “Small business” means:

3 (1) a certified minority business enterprise, as defined in § 14–301 of
4 this title, that meets the criteria specified under paragraph (2) of this subsection; or

5 (2) a business, other than a broker, that meets the following criteria:

6 (i) the business is independently owned and operated;

7 (ii) the business is not a subsidiary of another business;

8 (iii) the business is not dominant in its field of operation;

9 (iv) the wholesale operations of the business did not employ
10 more than 50 persons, and the gross sales of the business did not exceed an average of
11 \$2,000,000 in its most recently completed 3 fiscal years;

12 (v) the retail operations of the business did not employ more
13 than 25 persons, and the gross sales of the business did not exceed an average of
14 \$2,000,000 in its most recently completed 3 fiscal years;

15 (vi) the manufacturing operations of the business did not employ
16 more than 100 persons, and the gross sales of the business did not exceed an average
17 of \$2,000,000 in its most recently completed 3 fiscal years;

18 (vii) the service operations of the business did not employ more
19 than 100 persons, and the gross sales of the business did not exceed an average of
20 \$2,000,000 in its most recently completed 3 fiscal years; and

21 (viii) the construction operations of the business did not employ
22 more than 50 persons, and the gross sales of the business did not exceed an average of
23 \$7,000,000 in its most recently completed 3 fiscal years.

24 (d) “Small business reserve” means those procurements that are limited to
25 responses from small businesses under § 14–502(b) of this subtitle.

26 14–502.

27 (a) Except as provided in subsection (d) of this section, this subtitle applies to
28 all procurements by a designated procurement unit.

1 (b) This subsection does not apply to procurements subject to Subtitle 1 of
2 this title.

3 (c) A designated procurement unit shall structure its procurement
4 procedures to achieve a minimum of 10 percent of the unit's total dollar value of goods,
5 supplies, services, maintenance, construction, construction-related services,
6 architectural service, and engineering service contracts to be made directly to small
7 businesses.

8 (d) The total dollar value of procurements by a designated procurement unit
9 does not include the value of contracts to which this section does not apply because of
10 a conflict with federal law.

11 14-503.

12 (a) The Department of General Services shall adopt regulations to establish
13 procedures for compiling and maintaining a comprehensive bidder's list of qualified
14 small businesses that shall be posted on the Department's website.

15 (b) Each designated procurement unit shall ensure compliance with the
16 regulations set forth in subsection (a) of this section.

17 14-504.

18 (a) Any procurement by a designated procurement unit of goods, supplies,
19 services, maintenance, construction, construction-related services, architectural
20 services, and engineering services shall be eligible for designation for the small
21 business reserve.

22 (b) A solicitation for procurement that has been designated for a small
23 business reserve shall be published in the same manner as required for an invitation
24 for bids as set forth in § 13-103(c) of this article.

25 (c) The procurement officer of a designated procurement unit shall award a
26 procurement contract designated for a small business reserve to the small business
27 that submits a responsive bid that:

28 (1) is the lowest bid price;

29 (2) if the invitation for bids so provides, is the lowest evaluated bid
30 price; or

1 (3) is the bid or proposal most favorable to the State within the small
2 business reserve.

3 14–505.

4 (a) Within 90 days after the end of each fiscal year, each designated
5 procurement unit shall submit a report on the operation and effectiveness of the Small
6 Business Reserve Program that complies with subsection (d)(2) of this section to the
7 Board of Public Works.

8 (b) Within 60 days after receipt of all reports required under subsection (a) of
9 this section, the Board of Public Works shall compile the information and report on the
10 operation and effectiveness of the entire Small Business Reserve Program to the
11 Legislative Policy Committee, subject to § 2–1246 of the State Government Article.

12 (c) Within 60 days after the enactment of the budget bill by the General
13 Assembly, each designated procurement unit shall submit a report to the Governor’s
14 Office of Minority Affairs that complies with the reporting requirements set forth in
15 COMAR 21.11.01.06.

16 (d) (1) Within 90 days after the end of each fiscal year, each unit shall
17 submit a report to the Governor’s Office of Minority Affairs that complies with the
18 requirements of paragraph (2) of this subsection.

19 (2) For the preceding fiscal year, the report shall:

20 (i) state the total number and the dollar value of payments the
21 unit made to small businesses under designated small business reserve contracts;

22 (ii) state the total number and the dollar value of payments the
23 unit made to small businesses under nondesignated small business reserve contracts,
24 including purchase card procurements;

25 (iii) state the total dollar value of payments the unit made under
26 procurement contracts; and

27 (iv) contain other such information as required by the
28 Governor’s Office of Minority Affairs.

29 (e) On or before December 31 of each year, the Governor’s Office of Minority
30 Affairs shall submit to the Board of Public Works and, subject to § 2–1246 of the State
31 Government Article, to the Legislative Policy Committee a report summarizing the
32 information the office receives under subsection (b) of this section.

