

SENATE BILL 197

P2

1lr1536

(PRE-FILED)

By: **Senator Ellis**

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Minority Business Participation Goals – Waiver**

3 FOR the purpose of prohibiting certain units of State government from waiving certain
4 minority business enterprise goals for certain procurement contracts; making a
5 conforming change; and generally relating to minority business participation in
6 State procurement.

7 BY repealing and reenacting, without amendments,

8 Article – State Finance and Procurement

9 Section 14–302(a)(1)(i)1. and (7)

10 Annotated Code of Maryland

11 (2015 Replacement Volume and 2020 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – State Finance and Procurement

14 Section 14–302(a)(9)(i) and (iii)

15 Annotated Code of Maryland

16 (2015 Replacement Volume and 2020 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – State Finance and Procurement**

20 14–302.

21 (a) (1) (i) 1. Except for leases of real property, each unit shall structure
22 procurement procedures, consistent with the purposes of this subtitle, to try to achieve an
23 overall percentage goal of the unit’s total dollar value of procurement contracts being made
24 directly or indirectly to certified minority business enterprises.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (7) If a unit establishes minority business enterprise participation goals for
2 a contract, a contractor, including a contractor that is a certified minority business
3 enterprise, shall:

4 (i) identify specific work categories appropriate for subcontracting;

5 (ii) at least 10 days before bid opening, solicit minority business
6 enterprises, through written notice that:

7 1. describes the categories of work under item (i) of this
8 paragraph; and

9 2. provides information regarding the type of work being
10 solicited and specific instructions on how to submit a bid;

11 (iii) attempt to make personal contact with the firms in item (ii) of
12 this paragraph;

13 (iv) offer to provide reasonable assistance to minority business
14 enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

15 (v) in order to publicize contracting opportunities to minority
16 business enterprises, attend prebid or preproposal meetings or other meetings scheduled
17 by the unit; and

18 (vi) upon acceptance of a bid or proposal, provide the unit with a list
19 of minority businesses with whom the contractor negotiated, including price quotes from
20 minority and nonminority firms.

21 (9) (i) 1. If a contractor, including a certified minority business
22 enterprise, does not achieve all or a part of the minority business enterprise participation
23 goals on a contract, the unit shall make a finding of whether the contractor has
24 demonstrated that the contractor took all necessary and reasonable steps to achieve the
25 goals, including compliance with paragraph (7) of this subsection.

26 2. **[A] EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 3**
27 **OF THIS SUBPARAGRAPH, A** waiver of any part of the minority business enterprise goals
28 for a contract shall be granted if a contractor provides a reasonable demonstration of
29 good-faith efforts to achieve the goals.

30 **3. A UNIT MAY NOT WAIVE ANY PART OF THE MINORITY**
31 **BUSINESS ENTERPRISE GOALS FOR:**

32 **A. AN EMERGENCY OR EXPEDITED PROCUREMENT**
33 **CONTRACT; OR**

1 **B. A CONTRACT FOR THE PURCHASE OF COMMODITIES.**

2 (iii) The head of the unit may waive any of the requirements of this
3 subsection relating to the establishment, use, and waiver of contract goals for a sole source[,
4 expedited, or emergency] procurement in which the public interest cannot reasonably
5 accommodate use of those requirements.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
7 1, 2021.