

### ***House Bill 500 - Procurement Reform Act of 2025***

**Position:** Support

**Committee:** Procurement Subcommittee, Budget and Taxation Committee

**Date:** March 26, 2025

**From:** Atif Chaudhry, Secretary, DGS

The Department of General Services (“DGS”), on behalf of the Moore-Miller Administration, strongly supports House Bill 500, the Procurement Reform Act (PRA) of 2025. The PRA is a comprehensive effort to make procurement more transparent, inclusive, and efficient. This legislation will benefit businesses, taxpayers, and the State workforce. This legislation introduces key improvements to streamline processes, promote workforce diversity, and improve procurement preferences. These reforms will foster a more inclusive business environment, allowing a wider range of businesses to compete fairly for State contracts. DGS requests a favorable report on the PRA as a comprehensive and bold step toward improving access for all Maryland businesses to procurement contracts. Importantly, the bill includes amendments developed through intensive discussions and reflecting the input of the State Comptroller, State Treasurer, and other agencies and stakeholders.

#### Streamlining and Efficiency

The PRA would eliminate the \$50,000 floor and extend the Small Business Reserve (SBR) designation to all procurements valued at, or below, \$1 million. This broadens the scope of eligible contracts for small businesses and creates a more inclusive procurement environment. Under current law, procurements valued between \$50,000 and \$500,000 are designated for the SBR. This existing framework unnecessarily limits small business opportunities on procurements below the \$50,000 threshold. Removing the \$50,000 floor and raising the ceiling increases procurement opportunities for Maryland's small businesses, including Minority Business Enterprises (MBE) and Veteran-Owned Small Business Enterprises (VSBE), as all certified MBEs and VSBEs are eligible to register and qualify for the State's SBR program.

The PRA would further allow Procurement Officers to modify contracts in the best interest of the State, provided the modifications (a) do not materially alter the scope of work, and (b) do not exceed the small procurement threshold. Procurement Officers can already award contracts under a small procurement threshold (currently \$100,000) without Board of Public Works (BPW) approval, but must submit subsequent modifications – including modifications valued below the small procurement threshold – for BPW review and approval, creating avoidable delays and complicating contract management. The PRA would allow Procurement Officers to modify contracts within the small procurement threshold; and the bill would allow modifications up to \$200,000 approved by the Chief Procurement Officer (CPO). Under the PRA, the BPW retains oversight through the reporting on the Procurement Agency Activity Report (PAAR) and has the ability to remand and request a modification to change or amend a modification they don't agree with. DGS firmly believes that these legislative changes will enhance the cost-effectiveness of State contracting processes, alleviate BPW workload by reserving its attention for more complex matters, and grant procurement units the flexibility to adapt contracts as necessary, in the best interests of the State.

The PRA allows the CPO or their designee, instead of the Department of Budget and Management (DBM), to determine the types of procurements eligible for the noncompetitive negotiations source selection method and corrects an oversight in earlier procurement reform legislation that removed DBM as a primary procurement unit and moved all services under DGS as the primary procurement unit. This change will streamline and centralize procurement policies and processes within OSP under the direction of the CPO. Moving this authority from DBM to DGS and the CPO will both (1) further centralize procurement decisions under one primary procurement control agency, thus ensuring prompt action can be taken when needed to determine the classes of procurement eligible for noncompetitive negotiation and reducing the steps involved with approval processes, which will streamline these processes and make them more effective, and (2) assist in developing procurement methods for acquiring emerging technologies and meeting highly specialized requirements, ensuring efficiency and effectiveness in public procurement.

#### Methods of Source Selection and Workforce Diversity

The PRA would allow the CPO to establish source selection methods with the approval of the BPW, creating parity between the CPO's responsibility and attendant decision-making authority around source selection methods. This will create improved accountability and role clarity, enhanced flexibility and responsiveness, and administrative efficiency. Under current law, the CPO lacks the authority to establish source selection methods and to approve intergovernmental cooperative purchasing agreements (ICPAs). As a result, all ICPA requests must be approved by the Secretary of the Department of General Services.

The PRA would enhance the efficiency of the master contracting process, allowing Procurement Officers to focus on a more manageable number of task orders. This legislation seeks to optimize the master contracting process by revising solicitation requirements. Despite master contracting being designed to facilitate a streamlined procurement process, current law mandates solicitations valued between \$100,000 and \$500,000 be sent to all master contractors. This requirement forces Procurement Officers to review numerous task orders (sometimes hundreds), leading to inefficiencies and unnecessary delays, particularly for relatively small procurements. The changes included in the PRA will enhance the efficiency of the master contracting process, allowing Procurement Officers to focus their efforts on a more manageable number of task orders by soliciting Master Contractors on a rotating basis. The legislation makes master contracting a more attractive way of streamlining the procurement cycle time, serving as an efficient tool for agencies, while also promoting the use of small businesses as an agency could reserve a contract only for SBRs.

The PRA mandates oral presentations for competitive sealed procurements and master contracts when the award is anticipated to exceed \$2,000,000 for architectural and engineering services, \$10,000,000 for construction and construction-related services, and \$5,000,000 for other procurements, including information technology (IT) and professional services. Procurement Officers will have the discretion to waive oral presentations if they can provide a written justification indicating the immateriality of the evaluation. Under current law, Procurement Officers may, but are not required to, use oral presentations when evaluating bids. Whereas asynchronous reviews of written proposals favor larger organizations that can afford proposal writers, oral presentations afford small and minority businesses – particularly those new to State contracting – opportunities to clarify their intent during question-and-answer sessions. Under the PRA, oral presentations will provide clearer communication between vendors and State evaluation committees. Clear multi-faceted communication provides deeper insights into proposals and allows committee members to ask pertinent questions.

The PRA would require Workforce Diversity Plans for contracts over \$500,000 and Supplier Diversity Plans for those over \$250,000. This change will update Maryland's procurement practices to mirror best practices in other states, including Massachusetts, where the Supplier Diversity Program (SDP) mandates that prime suppliers awarded large contracts formulate a supplier diversity plan that outlines specific commitments. Under current law, the State has limited visibility into vendors' diversity initiatives, and there are no formal requirements for Workforce Diversity Plans. The Workforce Diversity Plan and Supplier Diversity Plan will provide OSP and other State agencies with valuable insights into vendors' workforce diversity efforts. It will also inform future policy decisions and support the Moore-Miller objective to develop a more diverse and equitable workforce.

The PRA would codify authority granted under regulations by enabling the CPO, or their designee, to cancel solicitations or reject all bids and proposals. Current statute mandates BPW approval for a unit to cancel a solicitation or reject all bids or proposals. This requirement creates a conflict between statutory obligations and existing regulations, as the BPW has delegated this authority to the head of the control agency under COMAR 21.06.02.01. By streamlining solicitation cancellation and bid rejection protocols, this legislation creates responsibility-authority parity and enhances the State's ability to efficiently respond to changing requirements and funding dynamics.

#### Procurement Preferences

The PRA will allow the procurement officer to amend MBE and VSBE participation schedules when done in consultation with the MBE or VSBE liaison, and will also better align MBE and VSBE laws. Existing law unnecessarily restricts amending MBE and VSBE participation schedules, which unintentionally harms minority and veteran-owned small businesses that have proposed to work in good faith with prime contractors on procurements with MBE or VSBE participation goals. Procurement officers are required to reject bids or proposals when MBE and VSBE forms are not completed accurately, forcing the State to consider higher-priced bids or not evaluating technical proposals. In some cases, this results in a single bid or proposal to be considered or a failed procurement with no other options.

The PRA will enhance competitiveness for procurements with MBE and VSBE participation goals by ensuring that prime contractors are able to amend their participation schedule after submission of a bid or proposal, while still committing to meet the overall goal or goals when deemed appropriate by the procurement officer.

In addition, the PRA would allow Procurement Officers to modify MBE and VSBE participation goals at any point before contract execution. Existing law was largely created in response to a business landscape that was uninviting to minority businesses, and today agencies are prohibited from setting goals on certain contracts despite opportunities to do so and vendors willing to participate. The PRA addresses these limitations by clarifying that agencies may consider modifying MBE and VSBE participation goals at any point before contract execution. Furthermore, goals can be adjusted after contract execution, if it is deemed in the best interest of the State, with approval from the head of the agency and through a negotiated amendment to the contract and participation schedule with agreement from the prime contractor. Maryland has an opportunity to adopt procurement best practices and join 87% of public procurement offices across the nation that permit negotiation of non-mandatory terms and conditions after tentative award. Under the PRA, agencies will be encouraged to engage with prime contractors to include these vendors as subcontractors in more contracts, fostering their growth and competitiveness, while also

enhancing reporting accuracy for MBE and VSBE participation in contracts, ensuring that contributions of these enterprises are adequately recognized and tracked.

The PRA also establishes a new Veteran-Owned Small Business Reserve, which will restrict procurement opportunities to businesses that qualify as VSBEs, empowering the Department of Veterans and Military Families and the Maryland Military Department to designate procurements as eligible for this reserve. Creating a dedicated procurement mechanism will significantly enhance the opportunities for VSBEs to secure State contracts. Agencies closest to the veteran community will be better positioned to promote the use of VSBEs and will directly contribute to an increase in contracts awarded to these enterprises and support the growth of veteran-owned businesses. While the Administration has successfully increased statewide goals for the utilization of VSBEs there is currently no specific procurement mechanism that allows agencies to solicit work exclusively from VSBEs, similar to the existing SBR program.

The PRA proposes to reduce reporting burdens for MBEs. Under current law, MBEs must submit monthly reports detailing all payments received, which can create unnecessary burdens, particularly when an MBE does not anticipate performing any work during certain periods of the contract. This legislation provides the Governor's Office of Small, Minority & Women Business Affairs (GOSBA) the authority to establish specific reporting parameters to reduce the reporting burden on MBEs while allowing the State to effectively monitor payments. Easing reporting requirements for MBEs will better support businesses, while facilitating a more efficient process without compromising oversight. This legislative change does not alter existing obligations for prime contractors to pay MBE subcontractors for work performed or the mechanisms available to MBEs for disputing delayed or missed payments.

In addition, the PRA would centralize socioeconomic programs in GOSBA. Centralizing these programs within GOSBA will foster a closer relationship between small businesses, MBEs, VSBEs, and the State, as well as contribute to the development and implementation of policies that support small, socially, and economically disadvantaged businesses.

#### Prompt Payments

The PRA will require payments under SBR contracts within 15 days of invoice approval. Current law requires the State to pay businesses within 30 days after a payment becomes due. However, this delay can disproportionately impact small and minority-owned businesses, which often operate with limited cash flow. The PRA will improve the payment timeline by requiring the State to make payments within 15 days after the payment becomes due and the unit has received a proper invoice under an SBR contract. Facilitating faster payments will help small businesses reduce their reliance on credit and potentially lower operational costs, while the new and improved process will encourage more small businesses – particularly MBEs and VSBEs – to engage in State contracting.

#### Clarification of Terms, Delegation, and Procurement Law

The PRA would extend the delegation authority of the Department of General Services Secretary to the Chief Performance Officer. Recognizing that current law already mandates the CPO's responsibility for "all procurement activity for the Executive Branch of State government," this change will enable a more cohesive and efficient procurement framework, helping to streamline operations through clarified delegation and facilitating faster decision-making.

In addition, the PRA would clarify the definition of “statewide contract.” Under current law, the term "statewide contract" is not currently defined in law, leading to confusion with other contract types, such as master contracts. This ambiguity can result in delays in procurement processes and inconsistency among procurement offices and stakeholders. This legislation will ensure a uniform understanding across all procurement offices. Additionally, it will clarify definitions related to IT services and supplies, categorize certain IT products as supplies, and allow procurement under DGS’ full delegation for supplies and commodities. These provisions will enhance operational efficiency, reduce procurement delays, and foster a consistent framework for all stakeholders by establishing a clear definition of statewide contracts and streamlining the classification of IT products.

#### Workforce Development and Good Labor Initiatives

The PRA would establish a requirement for internships and apprenticeships on certain state contracts. This proposal seeks to leverage state contracting to expand the utilization of two workforce training strategies - internships and registered apprenticeships - leading to new career pathway opportunities for countless Marylanders. Specifically, the PRA would create a requirement that covered procurements utilize either an internship or registered apprenticeship program. The CPO, in consultation with the Secretary of Labor, will create guidelines to determine the scope of what procurements will be covered by these provisions.

Under this legislation, the Secretary of Labor will create guidelines to assist units in ensuring contractor compliance with this legislation, including determining liabilities when a contractor fails to use apprentices or interns as provided in the bid or proposal. This approach will make Maryland self-sufficient in providing meaningful internships and minimize workforce shortages. Studies have shown that students who obtain internships in Maryland for their field of study, stay in Maryland for their careers and help grow Maryland’s economy. Similarly, apprentices who learn a trade in Maryland or gain other in-demand portable job skills via a registered apprenticeship program, pursue jobs in Maryland that can support their families and will contribute to the State’s workforce and economy.

In addition, the PRA will establish a Good Labor Practices Evaluation Factor to provide a scoring preference for contractors who pledge, via affidavit, to adopt specified good labor practices. The bill provides a “carrot” in the form of a Good Labor Evaluation Factor for Competitive Sealed Proposals (CSP) procurements up to 10% if a point system is used or otherwise ranked in relative order of importance if a point system is not used. An offeror must submit an affidavit with its proposal attesting to 10 good labor practices standards as defined in the bill for any State contract that it works on and maintain those good labor practices to receive the evaluation factor.

For these reasons, DGS requests a favorable report on House Bill 500, the Procurement Reform Act (PRA) as a comprehensive and bold step toward improving access for all Maryland businesses to State procurement contracts.

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