

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
State Procurement Regulations
(DLS Control No. 14-187)**

Overview and Legal and Fiscal Impact

This proposed regulation requires the head of each designated procurement unit to designate an employee to be the Small Business Reserve Liaison Officer in the administration of that unit's small business reserve program.

There are no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulation of COMAR Affected

State Procurement Regulations:

Socioeconomics Policies: Small Business Procurements: COMAR 21.11.01.06

Legal Analysis

Background

Chapter 75 of 2004 established the Small Business Reserve Program and defined a small business as either a certified minority-owned business or a business other than a broker that is independently owned and operated, not a subsidiary of another firm, and not dominant in its field of operation. Additionally, to qualify as a small business, a business must meet either of the following criteria in its most recently completed three fiscal years: (1) the firm did not employ more than 25 people in its retail operations; 50 people in either its wholesale or construction operations; or 100 people in either its service, manufacturing, or architectural and engineering operations; or (2) average gross sales did not exceed \$2.0 million for manufacturing operations, \$3.0 million for retail operations, \$4.0 million for wholesale operations, \$4.5 million for architectural and engineering services, \$7.0 million for construction operations, and \$10.0 million for service operations.

The Small Business Reserve Program requires most State procurement units to structure their procurements so that at least 10% of the total dollar value of their procurements is made directly to small businesses.

Summary of Regulation

This proposed regulation requires the head of each designated procurement unit to designate an employee to be the Small Business Reserve Liaison Officer in the administration of that unit's small business reserve program. The proposed regulation requires that the liaison

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officer be a high level employee who reports directly to the agency head or head of the designated procurement unit. The liaison officer shall be responsible for coordinating the procurement unit's outreach efforts to the small business community, ensuring compliance with the small business reserve program, assisting in the resolution of small business reserve contracting issues, and submitting any required small business reserve program reports or information.

Legal Issue

There are no legal issues of concern.

Statutory Authority and Legislative Intent

The Board of Public Works cites §§ 12-101 and 14-504 of the State Finance and Procurement Article as legal authority for this regulation. This authority is overbroad, legal authority for this regulation is found in § 12-101 of the State Finance and Procurement Article. This authority is correct and complete.

Section 12-101 of the State Finance and Procurement Article grants the Board broad authority over State procurements and authorizes the Board to adopt regulations to implement Division II of the article.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The board advises that the designation of a Small Business Reserve program liaison can be accomplished with existing resources and that most agencies already have a designated liaison. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The board advises that the regulation has minimal or no economic impact on small businesses in the State. The designation of a liaison may increase the operational efficiency of the Small Business Reserve program, which may provide a minimal economic benefit to small businesses. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Georgeanne A. Carter – (410) 946/(301) 970-5350

Fiscal Analysis: Michael C. Rubenstein – (410) 946/(301) 970-5510