

BY: Senator Mooney

AMENDMENTS TO SENATE BILL NO. 884
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “date;” insert “specifying a goal for the award of a certain minimum dollar value of procurement contracts to certain minority business enterprises classified by a certain certification agency as Hispanic-owned;”; and in line 9, after “Section” insert “14-302 and”.

AMENDMENT NO. 2

On page 1, after line 19, insert:

“14-302.

(a) (1) Except for leases of real property and except as provided in paragraphs (2) and (3) of this subsection, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

(i) a minimum of 7% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American-owned businesses;

(ii) a minimum of 10% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women-owned businesses; [and]

(III) A MINIMUM OF 3% OF THE UNIT'S TOTAL DOLLAR VALUE OF PROCUREMENT CONTRACTS IS TO BE MADE DIRECTLY OR INDIRECTLY FROM CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED BY THE CERTIFICATION AGENCY AS HISPANIC-OWNED BUSINESSES; AND

(Over)

[(iii)] (IV) an overall minimum of 25% of the unit's total dollar value of procurement contracts is to be made directly or indirectly from all certified minority business enterprises.

(2) (i) Except as provided in paragraph (3) of this subsection, in procurement for construction, each unit shall structure procurement procedures, consistent with the purposes of this subtitle, to try to achieve the following results:

1. a minimum of 7% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as African American-owned businesses;

2. a minimum of 10% of the unit's total dollar value of construction contracts is to be made directly or indirectly from certified minority business enterprises classified by the certification agency as women-owned businesses; [and]

3. A MINIMUM OF 3% OF THE UNIT'S TOTAL DOLLAR VALUE OF CONSTRUCTION CONTRACTS IS TO BE MADE DIRECTLY OR INDIRECTLY FROM CERTIFIED MINORITY BUSINESS ENTERPRISES CLASSIFIED BY THE CERTIFICATION AGENCY AS HISPANIC-OWNED BUSINESSES; AND

[3.] 4. an overall minimum of 25% of the unit's total dollar value of construction contracts is to be made directly or indirectly from all certified minority business enterprises.

(ii) The unit shall:

1. consider the practical severability of the construction projects;
and

2. implement a program that will enable the unit to evaluate each contract to determine the appropriateness of the goal.

(3) With respect to the Maryland Department of Transportation, the provisions of paragraph (2)(i) of this subsection shall apply only to construction contracts in excess of \$50,000.

(4) Each unit shall meet the maximum feasible portion of the goals stated in paragraphs (1), (2), and (3) of this subsection by using race-neutral measures to facilitate minority business enterprise participation in the procurement process.

(5) To achieve the result specified in paragraph (1) or (2) of this subsection, a contractor, including a contractor that is a certified minority business enterprise, shall:

(i) identify specific work categories appropriate for subcontracting;

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

1. describes the categories of work under item (i) of this subparagraph; and

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

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

(iv) assist minority business enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

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

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

(6) (i) The unit shall make a finding whether the contractor complied, in good faith, with paragraph (5) of this subsection.

(Over)

(ii) If the unit finds the contractor complied with paragraph (5) of this subsection, the unit may not require the contractor to renegotiate any subcontract in order to achieve a different result.

(7) If, during the performance of a contract, a certified minority business enterprise contractor or subcontractor becomes ineligible to participate in the Minority Business Enterprise Program because one or more of its owners has a personal net worth that exceeds the amount specified in § 14-301(i)(3) of this subtitle:

(i) that ineligibility alone may not cause the termination of the certified minority business enterprise's contractual relationship for the remainder of the term of the contract; and

(ii) the certified minority business enterprise's participation under the contract shall continue to be counted toward the program and contract goals.

(b) (1) The provisions of §§ 14-301(f) and 14-303 of this subtitle and subsection (a) of this section are inapplicable to the extent that any unit determines the provisions to be in conflict with any applicable federal program requirement.

(2) The determination under this subsection shall be included with the report required under § 14-305 of this subtitle.”.