

HOUSE BILL 1300

P2

9lr2853

By: **Delegates Taylor, Braveboy, Carter, Glenn, Haynes, Hucker, Ivey, Levi, Rice, V. Turner, and Vaughn**

Introduced and read first time: February 13, 2009

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Procurement – Small Business Preference Program – Expansion**

3 FOR the purpose of applying the requirements of the Small Business Preference
4 Program to all units of the Executive Branch; and generally relating to the
5 Small Business Preference Program.

6 BY repealing and reenacting, without amendments,
7 Article – State Finance and Procurement
8 Section 14–201
9 Annotated Code of Maryland
10 (2006 Replacement Volume and 2008 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 14–202 through 14–208
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2008 Supplement)

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

18 **Article – State Finance and Procurement**

19 14–201.

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

21 (b) “Disabled veteran” means a veteran who has been certified by the U.S.
22 Department of Veterans Affairs as having a service–connected disability regardless of
23 the disability rating.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(c) “Disabled veteran–owned small business” means a small business that is at least 51% owned and controlled by one or more individuals who are disabled veterans.

(d) “Small business” means a business that meets the qualifications established under § 14–203 of this subtitle.

(e) “Small business preference” means a purchase request for which bids are invited from a list of qualified bidders that includes small businesses.

(f) “Veteran” means a veteran as defined in 38 U.S.C. § 101(2) who is domiciled in Maryland.

(g) “Veteran–owned small business” means a small business that is at least 51% owned and controlled by one or more individuals who are veterans.

14–202.

(a) This subtitle applies to procurement of supplies, services, and construction related services by **ANY UNIT**:

(1) the Department of General Services;

(2) the Department of Transportation;

(3) the University System of Maryland;

(4) Morgan State University; and

(5) as provided in subsection (b) of this section, the Department of Public Safety and Correctional Services in connection with construction of a State correctional facility under § 12–107 of this article].

(b) For procurements in connection with the construction of a State correctional facility, the Department of Public Safety and Correctional Services shall:

(1) apply the percentage price preferences established by the Department of General Services under this subtitle; and

(2) follow the same procedures established by the Department of General Services to comply with this subtitle.

14–203.

(a) By regulation, the [Secretary of General Services, the Secretary of Transportation, the Chancellor of the University System of Maryland, and the

President of Morgan State University each] **UNIT** shall specify the criteria that a business must meet to qualify as a small business.

(b) (1) The criteria for qualification as a small business may vary among industries to reflect their particular characteristics.

(2) Regulations adopted under this section shall include, for each class of business, the maximum number of employees a business may have to qualify as a small business.

14–204.

The [Secretary of General Services, the Secretary of Transportation, and the Chancellor of the University System of Maryland each] **UNIT** shall adopt regulations to establish procedures for:

(1) compiling and maintaining a comprehensive bidder's list of small businesses;

(2) locating potential sources for various construction related services, supplies, and services and affirmatively seeking to locate potential minority business enterprise sources for those construction related services, supplies, and services;

(3) helping small businesses to comply with the procedures for bidding on procurement contracts;

(4) examining requests for construction related services, supplies, and services to determine when an invitation for bids may be designated for the Small Business Preference Program;

(5) bidding for a procurement contract designated for a small business preference;

(6) simplifying procurement specifications and terms, to increase the opportunities for small business participation;

(7) investigating the responsibility of bidders on small business preferences; and

(8) explaining to a small business the reason for which its bid for a small business preference was rejected.

14–205.

The Department of Business and Economic Development shall help the [Secretaries of General Services and Transportation and the Chancellor of the

1 University System of Maryland] **UNIT** in establishing procedures to carry out §
2 14–204(1) and (2) of this subtitle.

3 14–206.

4 (a) In this section, “percentage preference” means the percent of the lowest
5 responsive bid submitted by a responsible bidder who is not a small business by which
6 a responsive bid by a small business may:

7 (1) exceed the lowest bid; and

8 (2) be awarded a procurement contract under this subtitle.

9 (b) Subject to the approval of the Board, the [Secretary of General Services,
10 the Secretary of Transportation, and the Chancellor of the University System of
11 Maryland each] **UNIT**:

12 (1) shall establish a percentage preference, not to exceed 8%, for each
13 industry as follows:

14 (i) a base percentage preference not to exceed 5% for all small
15 businesses; and

16 (ii) two additional preferences to the percentage preference set
17 forth in item (i) of this paragraph as follows:

18 1. 2% for veteran–owned small businesses; and

19 2. 3% for disabled veteran–owned small businesses; and

20 (2) may vary the percentage preference determined in item (1)(i) of
21 this subsection among industries to account for their particular characteristics.

22 14–207.

23 (a) The [Secretary of General Services, the Secretary of Transportation, and
24 the Chancellor of the University System of Maryland each] **UNIT** may designate, for
25 the Small Business Preference Program, procurement of certain supplies, services, or
26 construction related services that have been requested through or with the approval of
27 the [Secretary or Chancellor] **HEAD OF THE UNIT**.

28 (b) The invitation for bids on a procurement that has been designated for a
29 small business preference shall be sent to small businesses and regular bidders to
30 establish a reasonable price range commensurate with current market conditions.

31 (c) The [Secretary of General Services, the Secretary of Transportation, or
32 the Chancellor of the University System of Maryland] **UNIT** shall award a

1 procurement contract designated for a small business preference to the small business
2 that:

3 (1) is a responsible bidder; and

4 (2) submits the lowest responsive bid from a small business if the
5 difference between that bid and the lowest responsive bid submitted by a responsible
6 bidder who is not a small business does not exceed the percentage preference
7 established under § 14–206 of this subtitle.

8 14–208.

9 (a) Within 90 days after the end of each fiscal year, the [Secretary of General
10 Services, the Secretary of Transportation, and the Chancellor of the University System
11 of Maryland each] UNIT shall submit a report on the operation and effectiveness of the
12 Small Business Preference Program to the Board.

13 (b) Within 60 days after receipt of all reports required under subsection (a) of
14 this section, the Board shall compile the information and report on the entire Small
15 Business Preference Program to the Legislative Policy Committee, subject to § 2–1246
16 of the State Government Article.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2009.