

SENATE BILL 71

P2

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(PRE-FILED)

By: **Chair, Education, Health, and Environmental Affairs Committee (By Request – Departmental – General Services)**

Requested: September 24, 2009

Introduced and read first time: January 13, 2010

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Small Business Reserve Program – Sunset Extension**

3 FOR the purpose of continuing until a certain date the provisions of the State
4 Procurement Law relating to the Small Business Reserve Program; making a
5 technical change; and generally relating to the Small Business Reserve
6 Program.

7 BY repealing and reenacting, without amendments,
8 Article – State Finance and Procurement
9 Section 14–501 and 14–503 through 14–505
10 Annotated Code of Maryland
11 (2009 Replacement Volume)

12 BY repealing and reenacting, with amendments,
13 Article – State Finance and Procurement
14 Section 14–502
15 Annotated Code of Maryland
16 (2009 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Chapter 75 of the Acts of the General Assembly of 2004, as amended by
19 Chapter 514 of the Acts of the General Assembly of 2007
20 Section 2

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

23 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 14-501.

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

3 (b) "Designated procurement unit" means:

4 (1) the State Treasurer;

5 (2) the Department of Information Technology;

6 (3) the Department of Business and Economic Development;

7 (4) the Department of the Environment;

8 (5) the Department of General Services;

9 (6) the Department of Health and Mental Hygiene;

10 (7) the Department of Housing and Community Development;

11 (8) the Department of Human Resources;

12 (9) the Department of Juvenile Services;

13 (10) the Department of Labor, Licensing, and Regulation;

14 (11) the Department of Natural Resources;

15 (12) the State Department of Education;

16 (13) the Department of State Police;

17 (14) the Department of Public Safety and Correctional Services;

18 (15) the Department of Transportation;

19 (16) the University System of Maryland;

20 (17) the Maryland Port Commission;

21 (18) the State Retirement Agency;

22 (19) the Maryland Insurance Administration;

23 (20) the Maryland Stadium Authority;

24 (21) the State Lottery Agency;

1 (22) the Morgan State University; and

2 (23) the Maryland Transportation Authority.

3 (c) “Small business” means:

4 (1) a certified minority business enterprise, as defined in § 14–301 of
5 this title, that meets the criteria specified under paragraph (2) of this subsection; or

6 (2) a business, other than a broker, that meets the following criteria:

7 (i) the business is independently owned and operated;

8 (ii) the business is not a subsidiary of another business;

9 (iii) the business is not dominant in its field of operation;

10 (iv) the wholesale operations of the business did not employ
11 more than 50 persons, and the gross sales of the business did not exceed an average of
12 \$4,000,000 in its most recently completed 3 fiscal years;

13 (v) the retail operations of the business did not employ more
14 than 25 persons, and the gross sales of the business did not exceed an average of
15 \$3,000,000 in its most recently completed 3 fiscal years;

16 (vi) the manufacturing operations of the business did not employ
17 more than 100 persons, and the gross sales of the business did not exceed an average
18 of \$2,000,000 in its most recently completed 3 fiscal years;

19 (vii) the service operations of the business did not employ more
20 than 100 persons, and the gross sales of the business did not exceed an average of
21 \$10,000,000 in its most recently completed 3 fiscal years;

22 (viii) the construction operations of the business did not employ
23 more than 50 persons, and the gross sales of the business did not exceed an average of
24 \$7,000,000 in its most recently completed 3 fiscal years; and

25 (ix) the architectural and engineering services of the business
26 did not employ more than 100 persons, and the gross sales of the business did not
27 exceed an average of \$4,500,000 in its most recently completed 3 fiscal years.

28 (d) “Small business reserve” means those procurements that are limited to
29 responses from small businesses under § 14–502(b) of this subtitle.

30 14–502.

31 (a) Except as provided in subsection (d) of this section, this subtitle applies to
32 all procurements by a designated procurement unit.

1 (b) This subsection does not apply to procurements subject to Subtitle 1 of
2 this title.

3 (c) A designated procurement unit shall structure its procurement
4 procedures to achieve a minimum of 10% of the unit's total dollar value of goods,
5 supplies, services, maintenance, construction, construction-related services, AND
6 architectural [service,] and engineering service contracts to be made directly to small
7 businesses.

8 (d) The total dollar value of procurements by a designated procurement unit
9 does not include the value of contracts to which this section does not apply because of
10 a conflict with federal law.

11 14-503.

12 (a) The Department of General Services shall adopt regulations to establish
13 procedures for compiling and maintaining a comprehensive bidder's list of qualified
14 small businesses that shall be posted on the Department's website.

15 (b) Each designated procurement unit shall ensure compliance with the
16 regulations set forth in subsection (a) of this section.

17 14-504.

18 (a) Any procurement by a designated procurement unit of goods, supplies,
19 services, maintenance, construction, construction-related services, architectural
20 services, and engineering services shall be eligible for designation for the small
21 business reserve.

22 (b) A solicitation for procurement that has been designated for a small
23 business reserve shall be published in the same manner as required for an invitation
24 for bids as set forth in § 13-103(c) of this article.

25 (c) The procurement officer of a designated procurement unit shall award a
26 procurement contract designated for a small business reserve to the small business
27 that submits a responsive bid that:

28 (1) is the lowest bid price;

29 (2) if the invitation for bids so provides, is the lowest evaluated bid
30 price; or

31 (3) is the bid or proposal most favorable to the State within the small
32 business reserve.

33 14-505.

1 (a) Within 90 days after the end of each fiscal year, each designated
2 procurement unit shall submit a report on the operation and effectiveness of the Small
3 Business Reserve Program that complies with subsection (d)(2) of this section to the
4 Board of Public Works.

5 (b) Within 60 days after receipt of all reports required under subsection (a) of
6 this section, the Board of Public Works shall compile the information and report on the
7 operation and effectiveness of the entire Small Business Reserve Program to the
8 Legislative Policy Committee, subject to § 2–1246 of the State Government Article.

9 (c) Within 60 days after the enactment of the budget bill by the General
10 Assembly, each designated procurement unit shall submit a report to the Governor’s
11 Office of Minority Affairs that complies with the reporting requirements set forth in
12 COMAR 21.11.01.06.

13 (d) (1) Within 90 days after the end of each fiscal year, each unit shall
14 submit a report to the Governor’s Office of Minority Affairs that complies with the
15 requirements of paragraph (2) of this subsection.

16 (2) For the preceding fiscal year, the report shall:

17 (i) state the total number and the dollar value of payments the
18 unit made to small businesses under designated small business reserve contracts;

19 (ii) state the total number and the dollar value of payments the
20 unit made to small businesses under nondesignated small business reserve contracts,
21 including purchase card procurements;

22 (iii) state the total dollar value of payments the unit made under
23 procurement contracts; and

24 (iv) contain other such information as required by the
25 Governor’s Office of Minority Affairs.

26 (e) On or before December 31 of each year, the Governor’s Office of Minority
27 Affairs shall submit to the Board of Public Works and, subject to § 2–1246 of the State
28 Government Article, to the Legislative Policy Committee a report summarizing the
29 information the Office receives under subsection (b) of this section.

30 **Chapter 75 of the Acts of 2004, as amended by Chapter 514 of the Acts of 2007**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2004. It shall remain effective for a period of [6] 12 years and, at the end of
33 September 30, [2010] 2016, with no further action required by the General Assembly,
34 this Act, and any regulations adopted under the provisions of this Act, shall be
35 abrogated and of no further force and effect.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2010.