

SENATE BILL 479

P2, P1

3lr1327

By: **Senator Sydnor**

Introduced and read first time: February 3, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Small, Minority, and Women Business Enterprises –**
3 **Establishment and Duties**

4 FOR the purpose of renaming the Governor’s Office of Small, Minority, and Women
5 Business Affairs to be the Department of Small, Minority, and Women Business
6 Enterprises; establishing the Department as a principal department of the Executive
7 Branch of State government; transferring certain authority relating to procurement
8 preference programs to the Department; providing that the head of the Department
9 is the Secretary of the Department of Small, Minority, and Women Business
10 Enterprises; establishing the State Board of Contract Preference Appeals in the
11 Department to hear and decide all appeals arising under certain procurement
12 preference programs; establishing a Development Office in the Department;
13 establishing the Small and Minority Business Development Program to provide
14 financial assistance to certain small and minority businesses; establishing the Small
15 and Minority Business Development Fund as a special, nonlapsing fund; requiring
16 interest earnings of the Fund to be credited to the Fund; requiring the Secretary to
17 employ and assign minority business enterprise liaisons to each unit of the Executive
18 Branch of State government; establishing certain duties of the liaisons; altering
19 certain requirements of the mentorship program for minority businesses; requiring
20 the Department to maintain and publish on its website a list of prime contractors
21 who persistently fail to meet contract goals; altering the definition of “responsible
22 bidder or offeror” to exclude contractors who persistently fail to meet contract goals;
23 altering the personal net worth threshold for the definition of “socially and
24 economically disadvantaged individual” for the purposes of qualifying as a certified
25 minority business enterprise; and generally relating to the Department of Small,
26 Minority, and Women Business Enterprises.

27 BY repealing and reenacting, with amendments,
28 Article – Business Regulation
29 Section 19–106(d)
30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2015 Replacement Volume and 2022 Supplement)
- 2 BY repealing and reenacting, with amendments,
3 Article – Economic Development
4 Section 5–1901(g)(3)(iii), 5–2103(a)(1)(iii), 5–2202(c), and 14–103(d) and (e)
5 Annotated Code of Maryland
6 (2018 Replacement Volume and 2022 Supplement)
- 7 BY repealing and reenacting, with amendments,
8 Article – Education
9 Section 11–1001(d) and (e)
10 Annotated Code of Maryland
11 (2022 Replacement Volume)
- 12 BY repealing and reenacting, with amendments,
13 Article – Environment
14 Section 9–345(d)(5), 9–421(d)(5), 9–1605.2(i)(5)(v), and 9–1605.3(f)(2)(v)
15 Annotated Code of Maryland
16 (2014 Replacement Volume and 2022 Supplement)
- 17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 13–3302(f)(2)(i)3., 13–3305.2(a), and 20–1004(21)
20 Annotated Code of Maryland
21 (2019 Replacement Volume and 2022 Supplement)
- 22 BY repealing and reenacting, with amendments,
23 Article – Housing and Community Development
24 Section 4–501.1(d) and (e)
25 Annotated Code of Maryland
26 (2019 Replacement Volume and 2022 Supplement)
- 27 BY repealing and reenacting, with amendments,
28 Article – Insurance
29 Section 20–303(c)(3) and (4)
30 Annotated Code of Maryland
31 (2017 Replacement Volume and 2022 Supplement)
- 32 BY repealing and reenacting, with amendments,
33 Article – Public Utilities
34 Section 7–704.1(d)(4)(iii) and (i)(3)(i)
35 Annotated Code of Maryland
36 (2020 Replacement Volume and 2022 Supplement)
- 37 BY repealing and reenacting, with amendments,
38 Article – State Finance and Procurement

1 Section 3–610(c) and (d), 6–222(f)(3) and (4), 6–226(a)(2)(ii)170. and 171.,
2 10A–404(c)(1), 11–101(s), 12–105(c)(1)(vii), 13–108(h), 14–203(a), 14–204,
3 14–206, 14–207(a), 14–301, 14–302(a), 14–303(b)(20), 14–304, 14–305,
4 14–308(c), 14–502(f)(1), 14–502.1(c), 14–503, 14–505, 14–602(a), 14–604,
5 14–604.1, and 15–202

6 Annotated Code of Maryland
7 (2021 Replacement Volume and 2022 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article – State Finance and Procurement
10 Section 6–226(a)(2)(i) and 11–101(a)
11 Annotated Code of Maryland
12 (2021 Replacement Volume and 2022 Supplement)

13 BY adding to
14 Article – State Finance and Procurement
15 Section 6–226(a)(2)(ii)172.
16 Annotated Code of Maryland
17 (2021 Replacement Volume and 2022 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – State Government
20 Section 8–201, 9–1A–10(a)(1) and (b)(2), (3), and (4), 9–1A–23(d)(2), 9–1A–36(l)(3),
21 9–1E–07(b)(3)(i), 9–1E–15(h)(3) and (i)(3); 9–301 through 9–303, 9–303.1,
22 9–303.2, 9–303.3, and 9–304 through 9–306 to be under the amended subtitle
23 “Subtitle 3. Department of Small, Minority, and Women Business
24 Enterprises”; and 9–20C–02(c)(5)
25 Annotated Code of Maryland
26 (2021 Replacement Volume and 2022 Supplement)

27 BY adding to
28 Article – State Government
29 Section 9–303.4, 9–303.5, and 9–303.6
30 Annotated Code of Maryland
31 (2021 Replacement Volume and 2022 Supplement)

32 BY repealing and reenacting, with amendments,
33 Article – State Personnel and Pensions
34 Section 21–116(d)(3) and (4) and 35–302(d)(3) and (4)
35 Annotated Code of Maryland
36 (2015 Replacement Volume and 2022 Supplement)

37 BY repealing and reenacting, with amendments,
38 Article – Tax – Property
39 Section 11–101(d)
40 Annotated Code of Maryland
41 (2019 Replacement Volume and 2022 Supplement)

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

3 **Article – Business Regulation**

4 19–106.

5 (d) The Department of Commerce and the [Office] **DEPARTMENT** of Small,
6 Minority, and Women Business [Affairs] **ENTERPRISES** shall:

7 (1) develop and maintain a State Equity Report that compiles diversity
8 data for each entity on:

9 (i) the membership of underrepresented communities in the entity’s
10 board or executive leadership; and

11 (ii) the support of underrepresented communities in the entity’s
12 mission; and

13 (2) adopt regulations to carry out this section, including directives for State
14 agencies and entities to comply with the requirements in this section.

15 **Article – Economic Development**

16 5–1901.

17 (g) (3) In order to award grants and loans in accordance with paragraph (1) of
18 this subsection, the Department shall develop partnerships with:

19 (iii) the [Governor’s Office] **DEPARTMENT** of Small, Minority, and
20 Women Business [Affairs] **ENTERPRISES**.

21 5–2103.

22 (a) (1) The Advisory Commission consists of the following members:

23 (iii) the [Special] Secretary of the [Governor’s Office] **DEPARTMENT**
24 of Small, Minority, and Women Business [Affairs, or the Special] **ENTERPRISES, OR THE**
25 Secretary’s designee;

26 5–2202.

27 (c) The Department, in consultation with the [Governor’s Office] **DEPARTMENT**
28 of Small, Minority, and Women Business [Affairs] **ENTERPRISES**, shall administer the
29 Program.

1 14–103.

2 (d) In conjunction with the [Governor’s Office] **DEPARTMENT** of Small, Minority,
3 and Women Business [Affairs] **ENTERPRISES**, the Department shall develop guidelines to
4 assist it in identifying and evaluating qualified minority business enterprises in order to
5 help it achieve the objective for greater use of minority business enterprises for brokerage
6 and investment management services under this article.

7 (e) On or before September 1 each year, the Department shall submit a report to
8 the [Governor’s Office] **DEPARTMENT** of Small, Minority, and Women Business [Affairs]
9 **ENTERPRISES** and, subject to § 2–1257 of the State Government Article, the General
10 Assembly on:

11 (1) the identity of the minority business enterprise brokerage and
12 investment management services firms used by any fund established under this article in
13 the immediately preceding fiscal year;

14 (2) the percentage and dollar value of the assets under the custody of each
15 entity that are under the investment control of minority business enterprise brokerage and
16 investment management services firms in each allocated asset class; and

17 (3) the measures the entity undertook in the immediately preceding fiscal
18 year in accordance with subsection (c)(2) of this section.

19 **Article – Education**

20 11–1001.

21 (d) In conjunction with the [Governor’s Office] **DEPARTMENT** of Small, Minority,
22 and Women Business [Affairs] **ENTERPRISES**, the Commission shall develop guidelines
23 to assist the Commission in identifying and evaluating qualified minority business
24 enterprises in order to help the Commission achieve the objective for greater use of minority
25 business enterprises for brokerage and investment management services for any fund
26 established under this Division III.

27 (e) On or before September 1 each year, the Commission shall submit a report to
28 the [Governor’s Office] **DEPARTMENT** of Small, Minority, and Women Business [Affairs]
29 **ENTERPRISES** and, subject to § 2–1257 of the State Government Article, the General
30 Assembly on:

31 (1) The identity of the minority business enterprise brokerage and
32 investment management services firms used by the Commission in the immediately
33 preceding fiscal year;

1 (2) The percentage and dollar value of the Commission’s assets in any fund
2 established under this article that are under the investment control of minority business
3 enterprise brokerage and investment management services firms in each allocated asset
4 class; and

5 (3) The measures the Commission undertook in the immediately preceding
6 fiscal year in accordance with subsection (c)(2) of this section.

7 Article – Environment

8 9–345.

9 (d) For financial assistance over \$500,000 awarded under the Fund, the applicant
10 shall demonstrate, to the satisfaction of the Department, that steps were taken to include
11 small business enterprises, minority business enterprises, and women’s business
12 enterprises by:

13 (5) Using the services and assistance of the [Maryland Department of
14 Transportation and the Governor’s Office] **DEPARTMENT** of Small, Minority, and Women
15 Business [Affairs] **ENTERPRISES** in identifying and soliciting small business enterprises,
16 minority business enterprises, and women’s business enterprises.

17 9–421.

18 (d) For financial assistance over \$500,000 awarded under the Fund, the applicant
19 shall demonstrate, to the satisfaction of the Department, that steps were taken to include
20 small business enterprises, minority business enterprises, and women’s business
21 enterprises by:

22 (5) Using the services and assistance of the [Maryland Department of
23 Transportation and the Governor’s Office] **DEPARTMENT** of Small, Minority, and Women
24 Business [Affairs] **ENTERPRISES** in identifying and soliciting small business enterprises,
25 minority business enterprises, and women’s business enterprises.

26 9–1605.2.

27 (i) (5) The grant agreement shall require a grantee to demonstrate, to the
28 satisfaction of the Department, that steps were taken to include small business enterprises,
29 minority business enterprises, and women’s business enterprises by:

30 (v) Using the services and assistance of the [Maryland Department
31 of Transportation and the Governor’s Office] **DEPARTMENT** of Small, Minority, and
32 Women Business [Affairs] **ENTERPRISES** in identifying and soliciting small business
33 enterprises, minority business enterprises, and women’s business enterprises.

34 9–1605.3.

1 (f) (2) For financial assistance over \$500,000 awarded under the Fund, the
2 grantee shall demonstrate, to the satisfaction of the Department, that steps were taken to
3 include small businesses, certified minority business enterprises, and certified minority
4 business enterprises classified as women-owned businesses by:

5 (v) Using the services and assistance of the [Department of
6 Transportation and the Governor's Office] **DEPARTMENT** of Small, Minority, and Women
7 Business [Affairs] **ENTERPRISES** in identifying and soliciting small businesses, certified
8 minority business enterprises, and certified minority business enterprises classified as
9 women-owned businesses.

10 Article – Health – General

11 13–3302.

12 (f) (2) The outreach required under paragraph (1)(i) of this subsection shall
13 include:

14 (i) Developing partnerships with:

15 3. The [Governor's Office] **DEPARTMENT** of Small,
16 Minority, and Women Business [Affairs] **ENTERPRISES**;

17 13–3305.2.

18 (a) The Commission, in consultation with the [certification agency as defined in
19 § 14–301 of the State Finance and Procurement Article, the Governor's Office]
20 **DEPARTMENT** of Small, Minority, and Women Business [Affairs,] **ENTERPRISES** and the
21 Office of the Attorney General, shall:

22 (1) Evaluate a study of the medical cannabis industry and market to
23 determine whether there is a compelling interest to implement remedial measures,
24 including the application of the State Minority Business Enterprise Program under Title
25 14, Subtitle 3 of the State Finance and Procurement Article or a similar program, to assist
26 minorities and women in the medical cannabis industry;

27 (2) Evaluate race-neutral programs or other methods that may be used to
28 address the needs of minority and women applicants and minority and women-owned
29 businesses seeking to participate in the medical cannabis industry; and

30 (3) Submit emergency regulations, in accordance with Title 10, Subtitle 1
31 of the State Government Article, to implement remedial measures, if necessary and to the
32 extent permitted by State and federal law, based on the findings of the study evaluated
33 under item (1) of this subsection.

1 20–1004.

2 The Office shall:

3 (21) Work collaboratively with the [Governor’s Office] **DEPARTMENT** of
4 Small, Minority, and Women Business [Affairs] **ENTERPRISES** as the Office determines
5 necessary;

6 **Article – Housing and Community Development**

7 4–501.1.

8 (d) In conjunction with the [Governor’s Office] **DEPARTMENT** of Small, Minority,
9 and Women Business [Affairs] **ENTERPRISES**, the Department shall develop guidelines to
10 assist it in identifying and evaluating qualified minority business enterprises in order to
11 help the Department achieve the objective for greater use of minority business enterprises
12 for brokerage and investment management services for the funds established under this
13 subtitle.

14 (e) On or before September 1 each year, the Department shall submit a report to
15 the [Governor’s Office] **DEPARTMENT** of Small, Minority, and Women Business [Affairs]
16 **ENTERPRISES** and, subject to § 2–1257 of the State Government Article, the General
17 Assembly on:

18 (1) the identity of the minority business enterprise brokerage and
19 investment management services firms used by the Department in the immediately
20 preceding fiscal year;

21 (2) the percentage and dollar value of the assets in the funds established
22 under this subtitle that are under the investment control of minority business enterprise
23 brokerage and investment management services firms in each allocated asset class; and

24 (3) the measures the Department undertook in the immediately preceding
25 fiscal year in accordance with subsection (c)(2) of this section.

26 **Article – Insurance**

27 20–303.

28 (c) (3) In conjunction with the [Governor’s Office] **DEPARTMENT** of Small,
29 Minority, and Women Business [Affairs] **ENTERPRISES**, the financial management
30 committee shall develop guidelines to assist the committee in identifying and evaluating
31 qualified minority business enterprises in order to help the Fund achieve the objective for
32 greater use of minority business enterprises for brokerage and investment management
33 services.

1 (4) On or before September 1 each year, the financial management
2 committee shall submit a report to the [Governor's Office] **DEPARTMENT** of Small,
3 Minority, and Women Business [Affairs] **ENTERPRISES** and, subject to § 2-1257 of the
4 State Government Article, the General Assembly on:

5 (i) the identity of the minority business enterprise brokerage and
6 investment management services firms used by the financial management committee in
7 the immediately preceding fiscal year;

8 (ii) the percentage and dollar value of the Fund assets that are under
9 the investment control of minority business enterprise brokerage and investment
10 management services firms in each allocated asset class; and

11 (iii) the measures the financial management committee undertook in
12 the immediately preceding fiscal year in accordance with paragraph (2)(ii) of this
13 subsection.

14 **Article – Public Utilities**

15 7-704.1.

16 (d) (4) (iii) The [Governor's Office] **DEPARTMENT** of Small, Minority, and
17 Women Business [Affairs] **ENTERPRISES**, in consultation with the Office of the Attorney
18 General, shall provide assistance to all potential applicants and potential minority
19 investors to satisfy the requirements under subparagraph (ii)1 and 3 of this paragraph.

20 (i) (3) (i) On or before 6 months after the issuance of an order approving
21 an OREC application, the [Governor's Office] **DEPARTMENT** of Small, Minority, and
22 Women Business [Affairs] **ENTERPRISES**, in consultation with the Office of the Attorney
23 General and an approved applicant, shall establish a clear plan for setting reasonable and
24 appropriate minority business enterprise participation goals and procedures for each phase
25 of the qualified offshore wind project.

26 **Article – State Finance and Procurement**

27 3-610.

28 (c) (1) Prior to the release of State funds for a capital project that meets the
29 conditions of subsection (b) of this section, the [Governor's Office] **DEPARTMENT** of Small,
30 Minority, and Women Business [Affairs] **ENTERPRISES** shall:

31 (i) review the capital project for subcontracting opportunities under
32 the provisions of Title 14, Subtitle 3 of this article; and

33 (ii) if practicable, establish minority business enterprise subgoals for
34 the capital project.

1 (2) In setting subgoals under this subsection, the [Governor's Office]
2 **DEPARTMENT** of Small, Minority, and Women Business [Affairs] **ENTERPRISES** shall
3 consider the availability and capacity of minority business enterprises in Maryland and in
4 the county where the project is located to fulfill the subgoal.

5 (d) (1) If the [Governor's Office] **DEPARTMENT** of Small, Minority, and
6 Women Business [Affairs] **ENTERPRISES** establishes minority business enterprise
7 subgoals for the capital project, the recipient of the State funds shall:

8 (i) certify to the Department that the recipient expects to achieve
9 the subgoals; or

10 (ii) request a waiver of all or part of the subgoals from the
11 [Governor's Office] **DEPARTMENT** of Small, Minority, and Women Business [Affairs]
12 **ENTERPRISES**.

13 (2) The [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
14 Business [Affairs] **ENTERPRISES** shall review a request for a waiver under paragraph
15 (1)(ii) of this subsection and report the revised subgoals for the capital project to the
16 Department.

17 6-222.

18 (f) (3) In conjunction with the [Governor's Office] **DEPARTMENT** of Small,
19 Minority, and Women Business [Affairs] **ENTERPRISES**, the Treasurer shall develop
20 guidelines to assist in identifying and evaluating qualified minority business enterprises
21 in order to help the Treasurer achieve the objective for greater use of minority business
22 enterprises for brokerage and investment management services under this section.

23 (4) On or before September 1 each year, the Treasurer shall submit a report
24 to the [Governor's Office] **DEPARTMENT** of Small, Minority, and Women Business
25 [Affairs] **ENTERPRISES** and, subject to § 2-1257 of the State Government Article, the
26 General Assembly on:

27 (i) the identity of the minority business enterprise brokerage and
28 investment management services firms used by the Treasurer in the immediately
29 preceding fiscal year;

30 (ii) the percentage and dollar value of the assets under the custody
31 of the Treasurer that are under the investment control of minority business enterprise
32 brokerage and investment management services firms for each allocated asset class; and

33 (iii) the measures the Treasurer undertook in the immediately
34 preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

1 6–226.

2 (a) (2) (i) Notwithstanding any other provision of law, and unless
3 inconsistent with a federal law, grant agreement, or other federal requirement or with the
4 terms of a gift or settlement agreement, net interest on all State money allocated by the
5 State Treasurer under this section to special funds or accounts, and otherwise entitled to
6 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
7 Fund of the State.

8 (ii) The provisions of subparagraph (i) of this paragraph do not apply
9 to the following funds:

10 170. the Cannabis Public Health Fund; [and]

11 171. the Community Reinvestment and Repair Fund; AND

12 **172. THE SMALL AND MINORITY BUSINESS**
13 **DEVELOPMENT FUND.**

14 10A–404.

15 (c) (1) The Board of Public Works may not approve a public–private
16 partnership agreement under § 10A–203 of this title until the reporting agency, in
17 consultation with the [Governor’s Office] **DEPARTMENT** of Small, Minority, and Women
18 Business [Affairs] **ENTERPRISES**, the Office of the Attorney General, and the private
19 entity, if permissible, establishes reasonable and appropriate minority business enterprise
20 participation goals and procedures for the project.

21 11–101.

22 (a) In this Division II the following words have the meanings indicated unless:

23 (1) the context clearly requires a different meaning; or

24 (2) a different definition is provided for a particular title or provision.

25 (s) “Responsible bidder or offeror” means a person who:

26 (1) has the capability in all respects to perform fully the requirements for
27 a procurement contract; [and]

28 (2) possesses the integrity and reliability that will ensure good faith
29 performance; AND

30 **(3) IS NOT A CONTRACTOR WHO PERSISTENTLY FAILS TO MEET**
31 **CONTRACT GOALS AS DETERMINED UNDER § 14–305(C) OF THIS ARTICLE.**

1 12-105.

2 (c) (1) The Council consists of the following 20 members:

3 (vii) the [Special] Secretary [for the Office] **OF THE DEPARTMENT**
4 of Small, Minority, and Women Business [Affairs] **ENTERPRISES**;

5 13-108.

6 (h) The [Special] Secretary [for the Office] **OF THE DEPARTMENT** of Small,
7 Minority, and Women Business [Affairs] **ENTERPRISES**, in consultation with the
8 [Secretary of Transportation and the] Attorney General, shall establish guidelines for each
9 unit to consider when determining the appropriate minority business enterprise
10 participation percentage goal and outreach for an emergency procurement contract.

11 14-203.

12 (a) By regulation, the [Secretary of General Services, the Secretary of
13 Transportation, the Chancellor of the University System of Maryland, and the President of
14 Morgan State University each] **SECRETARY OF THE DEPARTMENT OF SMALL,**
15 **MINORITY, AND WOMEN BUSINESS ENTERPRISES** shall specify the criteria that a
16 business must meet to qualify as a small business.

17 14-204.

18 The Secretary of General Services, the Secretary of Transportation, and the
19 Chancellor of the University System of Maryland, **IN CONSULTATION WITH THE**
20 **SECRETARY OF THE DEPARTMENT OF SMALL, MINORITY, AND WOMEN BUSINESS**
21 **ENTERPRISES** each shall adopt regulations to establish procedures for:

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

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

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

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

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

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

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

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

9 14–206.

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

13 (1) exceed the lowest bid; and

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

15 (b) [Subject to the approval of the Board, the] **THE** Secretary of [General
16 Services, the Secretary of Transportation, and the Chancellor of the University System of
17 Maryland each] **THE DEPARTMENT OF SMALL, MINORITY, AND WOMEN BUSINESS**
18 **ENTERPRISES:**

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

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

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

25 1. 2% for veteran–owned small businesses; and

26 2. 3% for disabled veteran–owned small businesses; and

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

29 14–207.

30 (a) The Secretary of General Services, the Secretary of Transportation, and the
31 Chancellor of the University System of Maryland each, **IN CONSULTATION WITH THE**

1 **SECRETARY OF THE DEPARTMENT OF SMALL, MINORITY, AND WOMEN BUSINESS**
2 **ENTERPRISES**, may designate, for the Small Business Preference Program, procurement
3 of certain supplies, services, or construction related services that have been requested
4 through or with the approval of the Secretary or Chancellor.

5 14–301.

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

7 (b) “Certification” means the determination that a legal entity is a minority
8 business enterprise for the purposes of this subtitle.

9 [(c) “Certification agency” means the agency designated by the Board of Public
10 Works under § 14–303(b) of this subtitle to certify and decertify minority business
11 enterprises.]

12 [(d)] (C) “Certified minority business enterprise” means a minority business
13 enterprise that holds a certification.

14 (D) **“DEPARTMENT” MEANS THE DEPARTMENT OF SMALL, MINORITY, AND**
15 **WOMEN BUSINESS ENTERPRISES.**

16 (e) “Economically disadvantaged individual” means a socially disadvantaged
17 individual whose ability to compete in the free enterprise system has been impaired due to
18 diminished capital and credit opportunities as compared to others in the same or similar
19 line of business who are not socially disadvantaged.

20 [(e–1)] (F) “Industry type” means the following procurement categories:

21 (1) construction;

22 (2) architectural and engineering services and other construction–related
23 professional services;

24 (3) maintenance;

25 (4) information technology;

26 (5) services; and

27 (6) goods, supplies, and equipment.

28 [(f)] (G) “Minority business enterprise” means any legal entity, except a joint
29 venture, that is:

30 (1) organized to engage in commercial transactions;

1 (2) at least 51% owned and controlled by 1 or more individuals who are
2 socially and economically disadvantaged; and

3 (3) managed by, and the daily business operations of which are controlled
4 by, one or more of the socially and economically disadvantaged individuals who own it.

5 **[(g)] (H)** “Minority business enterprise participation schedule” means a schedule
6 included in the submission of a bid or offer that identifies:

7 (1) the certified minority business enterprises that a bidder or offeror
8 agrees to use in the performance of the contract; and

9 (2) the percentage of contract value attributed to each certified minority
10 business enterprise.

11 **[(h)] (I)** “Nonprofit entity” means a corporation that:

12 (1) is incorporated in the State or otherwise qualified to do business in the
13 State;

14 (2) has been determined by the Internal Revenue Service to be exempt from
15 taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code; and

16 (3) is organized to promote the interests of physically or mentally disabled
17 individuals.

18 **[(i)] (J)** (1) Subject to paragraphs (2) and (3) of this subsection, “personal net
19 worth” means the net value of the assets of an individual remaining after total liabilities
20 are deducted.

21 (2) “Personal net worth” includes the individual’s share of assets held
22 jointly or as community property with the individual’s spouse.

23 (3) “Personal net worth” does not include:

24 (i) the individual’s ownership interest in the applicant or a certified
25 minority business enterprise;

26 (ii) the individual’s equity in his or her primary place of residence;
27 or

28 (iii) up to \$500,000 of the cash value of any qualified retirement
29 savings plans or individual retirement accounts.

30 **[(j)] (K)** “Race-neutral measure” means a method that is or can be used to assist
31 all small businesses.

1 **(L) “SECRETARY” MEANS THE SECRETARY OF THE DEPARTMENT OF**
2 **SMALL, MINORITY, AND WOMEN BUSINESS ENTERPRISES.**

3 **[(k)] (M)** (1) Subject to paragraphs (2) and (3) of this subsection, and in
4 accordance with the State’s most recent disparity study, “socially and economically
5 disadvantaged individual” means a citizen or lawfully admitted permanent resident of the
6 United States who is:

7 (i) in any of the following minority groups:

8 1. African American – an individual having origins in any of
9 the black racial groups of Africa;

10 2. American Indian/Native American – an individual having
11 origins in any of the original peoples of North America and who is a documented member
12 of a North American tribe, band, or otherwise has a special relationship with the United
13 States or a state through treaty, agreement, or some other form of recognition. This
14 includes an individual who claims to be an American Indian/Native American and who is
15 regarded as such by the American Indian/Native American community of which the
16 individual claims to be a part, but does not include an individual of Eskimo or Aleutian
17 origin;

18 3. Asian – an individual having origins in the Far East,
19 Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community
20 of which the person claims to be a part;

21 4. Hispanic – an individual of Mexican, Puerto Rican, Cuban,
22 Central or South American, or other Spanish culture or origin, regardless of race, and who
23 is regarded as such by the community of which the person claims to be a part;

24 5. physically or mentally disabled – notwithstanding the
25 State’s most recent disparity study, an individual who has an impairment that
26 substantially limits one or more major life activities, who is regarded generally by the
27 community as having such a disability, and whose disability has substantially limited his
28 or her ability to engage in competitive business; or

29 6. women – a woman, regardless of race or ethnicity; or

30 (ii) otherwise found by the [certification agency] **DEPARTMENT** to
31 be a socially and economically disadvantaged individual.

32 (2) There is a rebuttable presumption that an individual who is a member
33 of a minority group under paragraph (1)(i) of this subsection is socially and economically
34 disadvantaged.

1 (3) An individual whose personal net worth exceeds **[\$1,500,000]**
2 **\$6,500,000**, as adjusted annually for inflation according to the Consumer Price Index, may
3 not be found to be economically disadvantaged.

4 **[(l)] (N)** “Socially disadvantaged individual” means an individual who has been
5 subjected to racial or ethnic prejudice or cultural bias within American society because of
6 membership in a group and without regard to individual qualities. Social disadvantage
7 must stem from circumstances beyond the control of the individual.

8 14–302.

9 (a) (1) (i) 1. Except for leases of real property, each unit shall structure
10 procurement procedures, consistent with the purposes of this subtitle, to try to achieve an
11 overall percentage goal of the unit’s total dollar value of procurement contracts being made
12 directly or indirectly to certified minority business enterprises.

13 2. Notwithstanding subparagraph 1 of this
14 subparagraph, the following contracts may not be counted as part of a unit’s total dollar
15 value of procurement contracts:

16 A. a procurement contract awarded in accordance with
17 Subtitle 1 of this title;

18 B. a procurement contract awarded to a nonprofit entity in
19 accordance with requirements mandated by State or federal law; and

20 C. a procurement by the Maryland Developmental
21 Disabilities Administration of the Maryland Department of Health for family and
22 individual support services, community residential services, resource coordination services,
23 behavioral support services, vocational and day services, and respite services, as those
24 terms are defined in regulations adopted by the Maryland Department of Health.

25 (ii) 1. The overall percentage goal shall be established on a
26 biennial basis by the **[Special] Secretary [for the Office of Small, Minority, and Women**
27 **Business Affairs]**, in consultation with the **[Secretary of Transportation and the] Attorney**
28 **General**.

29 2. During any year in which there is a delay in establishing
30 the overall goal, the previous year’s goal will apply.

31 (iii) 1. In consultation with the **[Secretary of Transportation and**
32 **the] Attorney General**, the **[Special] Secretary [for the Office of Small, Minority, and**
33 **Women Business Affairs]** shall establish guidelines on a biennial basis for each unit to
34 consider while determining whether to set subgoals for the minority groups listed in §
35 14–301(k)(1)(i)1, 2, 3, 4, and 6 of this subtitle.

1 2. During any year in which there is a delay in establishing
2 the subgoal guidelines, the previous year's subgoal guidelines will apply.

3 (iv) 1. The [Special] Secretary [for the Office of Small, Minority,
4 and Women Business Affairs], in consultation with the [Secretary of Transportation and
5 the] Attorney General, shall establish goals and subgoal guidelines that, to the maximum
6 extent feasible, approximate the level of minority business enterprise participation that
7 would be expected in the absence of discrimination.

8 2. In establishing overall goals and subgoal guidelines, the
9 [Special] Secretary [for the Office of Small, Minority, and Women Business Affairs] shall
10 provide for public participation by consulting with minority, women's, and general
11 contractor groups, community organizations, and other officials or organizations that could
12 be expected to have information concerning:

13 A. the availability of minority- and women-owned
14 businesses;

15 B. the effects of discrimination on opportunities for
16 minority- and women-owned businesses; and

17 C. the State's operation of the Minority Business Enterprise
18 Program.

19 (v) In establishing overall goals, the factors to be considered shall
20 include:

21 1. the relative availability of minority- and women-owned
22 businesses to participate in State procurement as demonstrated by the State's most recent
23 disparity study;

24 2. past participation of minority business enterprises in
25 State procurement, except for procurement related to leases of real property; and

26 3. other factors that contribute to constitutional goal setting.

27 (vi) Notwithstanding § 12-101 of this article, the [Special] Secretary
28 [for the Office of Small, Minority, and Women Business Affairs] shall adopt regulations in
29 accordance with Title 10, Subtitle 1 of the State Government Article setting forth the
30 State's overall goal.

31 (2) The [Special] Secretary [for the Office of Small, Minority, and Women
32 Business Affairs], in consultation with the [Secretary of Transportation and the] Attorney
33 General, shall establish guidelines for each unit to consider when determining the
34 appropriate minority business enterprise participation percentage goal for a procurement
35 contract in accordance with paragraph (3) of this subsection.

1 (3) Each unit shall:

2 (i) consider the practical severability of all contracts and, in
3 accordance with § 11–201 of this article, may not bundle contracts;

4 (ii) implement a program that will enable the unit to evaluate each
5 contract to determine the appropriate minority business enterprise participation goals, if
6 any, for the contract based on:

7 1. the potential subcontract opportunities available in the
8 prime procurement contract;

9 2. the availability of certified minority business enterprises
10 to respond competitively to the potential subcontract opportunities;

11 3. the contract goal guidelines established under paragraph
12 (2) of this subsection;

13 4. the subgoal guidelines established under paragraph (1)(iii)
14 of this subsection; and

15 5. other factors that contribute to constitutional goal setting;

16 (iii) monitor and collect data with respect to prime contractor
17 compliance with contract goals; and

18 (iv) institute corrective action when prime contractors do not make
19 good–faith efforts to comply with contract goals.

20 (4) Units may not use quotas or any project goal–setting process that:

21 (i) solely relies on the State’s overall numerical goal, or any other
22 jurisdiction’s overall numerical goal; or

23 (ii) fails to incorporate the analysis outlined in paragraph (3)(ii) of
24 this subsection.

25 (5) (i) A woman who is also a member of an ethnic or racial minority
26 group may be certified in that category in addition to the gender category.

27 (ii) For purposes of achieving the goals in this subsection, a certified
28 minority business enterprise may participate in a procurement contract and be counted as
29 a woman–owned business, a business owned by a member of an ethnic or racial group, or
30 both, if the business has been certified in both categories.

1 (6) Each unit shall meet the maximum feasible portion of the State's
2 overall goal established in accordance with this subsection by using race-neutral measures
3 to facilitate minority business enterprise participation in the procurement process.

4 (7) If a unit establishes minority business enterprise participation goals for
5 a contract, a contractor, including a contractor that is a certified minority business
6 enterprise, shall:

7 (i) identify specific work categories appropriate for subcontracting;

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

10 1. describes the categories of work under item (i) of this
11 paragraph; and

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

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

16 (iv) offer to provide reasonable assistance to minority business
17 enterprises to fulfill bonding requirements or to obtain a waiver of those requirements;

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

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

24 (8) The [Special] Secretary [for the Office of Small, Minority, and Women
25 Business Affairs] shall:

26 (i) in consultation with the [Secretary of Transportation and the]
27 Attorney General, establish procedures governing how the participation of minority
28 business enterprise prime contractors is counted toward contract goals; and

29 (ii) notwithstanding § 12-101 of this article, adopt regulations
30 setting forth the procedures established in accordance with this paragraph.

31 (9) (i) 1. If a contractor, including a certified minority business
32 enterprise, does not achieve all or a part of the minority business enterprise participation
33 goals on a contract, the unit shall make a finding of whether the contractor has

1 demonstrated that the contractor took all necessary and reasonable steps to achieve the
2 goals, including compliance with paragraph (7) of this subsection.

3 2. A waiver of any part of the minority business enterprise
4 goals for a contract shall be granted if a contractor provides a reasonable demonstration of
5 good-faith efforts to achieve the goals.

6 (ii) If the unit determines that a waiver should be granted in
7 accordance with subparagraph (i) of this paragraph, the unit may not require the contractor
8 to renegotiate any subcontract in order to achieve a different result.

9 (iii) The head of the unit may waive any of the requirements of this
10 subsection relating to the establishment, use, and waiver of contract goals for a sole source,
11 expedited, or emergency procurement in which the public interest cannot reasonably
12 accommodate use of those requirements.

13 (iv) 1. Except for waivers granted in accordance with
14 subparagraph (iii) of this paragraph, when a waiver determination is made, the unit shall
15 issue the determination in writing.

16 2. The head of the unit shall:

17 A. keep one copy of the waiver determination and the reasons
18 for the determination; and

19 B. forward one copy of the waiver determination to the
20 [Governor's Office of Small, Minority, and Women Business Affairs] **DEPARTMENT**.

21 (v) On or before July 31 of each year, each unit shall submit directly
22 to the Board of Public Works and the [Governor's Office of Small, Minority, and Women
23 Business Affairs] **DEPARTMENT** an annual report of waivers requested and waivers
24 granted under this paragraph.

25 (vi) The report required under subparagraph (v) of this paragraph
26 shall contain the following information on those contracts where the unit considered a
27 contractor's request for waiver of all or a portion of the minority business enterprise goals:

28 1. the contract titles, numbers, and dates;

29 2. the number of waiver requests received;

30 3. the number of waiver requests granted; and

31 4. any other information specifically requested by the Board.

1 (10) (i) 1. This paragraph applies to a bidder or offeror after
2 submission of a bid or proposal and before the execution of a contract with an expected
3 degree of minority business enterprise participation.

4 2. If the bidder or offeror determines that a minority
5 business enterprise identified in the minority business enterprise participation schedule
6 has become or will become unavailable or ineligible to perform the work required under the
7 contract, the bidder or offeror shall notify the unit within 72 hours of making the
8 determination.

9 (ii) 1. If a minority business enterprise identified in the minority
10 business enterprise participation schedule submitted with a bid or offer has become or will
11 become unavailable or ineligible to perform the work required under the contract, the
12 bidder or offeror may submit a written request with the unit to amend the minority
13 business enterprise participation schedule.

14 2. The request to amend the minority business enterprise
15 participation schedule shall indicate the bidder's or offeror's efforts to substitute another
16 certified minority business enterprise to perform the work that the unavailable or ineligible
17 minority business enterprise would have performed.

18 (iii) A minority business enterprise participation schedule may not
19 be amended unless:

20 1. the bidder or offeror provides a satisfactory explanation of
21 the reason for inclusion of the unavailable or ineligible firm on the minority business
22 enterprise participation schedule; and

23 2. the amendment is approved by the unit's procurement
24 officer after consulting with the [unit's] minority business enterprise liaison **ASSIGNED BY**
25 **THE DEPARTMENT TO THE UNIT.**

26 (11) (i) This paragraph applies after execution of a contract with an
27 expected degree of minority business enterprise participation.

28 (ii) The minority business enterprise participation schedule,
29 including any amendment, shall be attached to and made a part of the executed contract.

30 (iii) 1. A. Except as provided in subsubsubparagraph B of this
31 subsubparagraph, for purposes of this subparagraph, good cause for removal of a certified
32 minority business enterprise after contract execution includes documented
33 nonperformance by the minority business enterprise or election by the certified minority
34 business enterprise to cease work on the contract.

35 B. Failure of a certified minority business enterprise to
36 provide a bond requested by a contractor in violation of § 13–227 of this article may not be
37 considered nonperformance by the minority business enterprise.

1 2. A contractor may not terminate or otherwise cancel the
2 contract of a certified minority business enterprise subcontractor listed in the minority
3 business enterprise participation schedule without showing good cause and obtaining the
4 prior written consent of the minority business enterprise liaison and approval of the head
5 of the unit.

6 3. The unit shall send a copy of the written consent obtained
7 under subsubparagraph 2 of this subparagraph to the [Governor's Office of Small, Minority,
8 and Women Business Affairs] **DEPARTMENT**.

9 (iv) A minority business enterprise participation schedule may not
10 be amended after the date of contract execution unless the request is approved by the head
11 of the unit and the contract is amended.

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

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

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

21 (13) (i) Except as provided in subparagraph (ii) of this paragraph, a
22 nonprofit entity participating as a minority business enterprise on a procurement contract
23 awarded by a unit before July 1, 2015, may continue to participate in the contract until the
24 contract expires or otherwise terminates, including all options, renewals, and other
25 extensions.

26 (ii) 1. The nonprofit entity's participation may not be counted
27 toward achieving the minority business enterprise participation goals in this subsection.

28 2. The unit may not require that a certified minority
29 business enterprise be substituted for the nonprofit entity in order to meet the minority
30 business enterprise goals for the procurement contract.

31 (14) (i) For purposes of this paragraph and paragraph (15) of this
32 subsection, "regular dealer":

33 1. means a firm that owns, operates, or maintains a store, a
34 warehouse, or any other establishment in which the materials, supplies, articles, or
35 equipment are of the general character described by the specifications required under the

1 contract and are bought, kept in stock, or regularly sold or leased to the public in the usual
2 course of business; and

3 2. does not include a packager, a broker, a manufacturer's
4 representative, or any other person that arranges or expedites transactions.

5 (ii) A unit may apply only 60% of the costs of the materials and
6 supplies provided by the certified minority business enterprise if the certified minority
7 business enterprise is a regular dealer for purposes of achieving the minority business
8 enterprise contract goal.

9 (15) With respect to materials or supplies purchased from a certified
10 minority business enterprise that is neither a manufacturer nor a regular dealer:

11 (i) a unit may apply the entire amount of fees or commissions
12 charged for assistance in the procurement of the materials and supplies, fees, or
13 transportation charges for the delivery of materials and supplies required on a procurement
14 toward minority business enterprise contract goals, provided a unit determines the fees to
15 be reasonable and not excessive as compared with fees customarily allowed for similar
16 services; and

17 (ii) a unit may not apply any portion of the costs of the materials and
18 supplies toward minority business enterprise goals.

19 14–303.

20 (b) These regulations shall include:

21 (20) a requirement that each unit work with the [Governor's Office of Small,
22 Minority, and Women Business Affairs] **DEPARTMENT** to designate certain procurements
23 as being excluded from the requirements of § 14–302(a) of this subtitle;

24 14–304.

25 (a) (1) The [certification agency] **DEPARTMENT** shall develop and maintain a
26 directory of all certified minority business enterprises.

27 (2) The directory shall be accessible to the public through the Internet.

28 (3) For each minority business enterprise included in the directory, the
29 [certification agency] **DEPARTMENT** shall include the following information:

30 (i) all contract information available to the [certification agency]
31 **DEPARTMENT** for the minority business enterprise;

1 (ii) the certification number and minority status of the minority
2 business enterprise;

3 (iii) contact information for up to three professional references for the
4 minority business enterprise; and

5 (iv) any other information the [certification agency] **DEPARTMENT**
6 considers necessary or appropriate to encourage participation in the procurement process
7 by minority business enterprises.

8 (4) The [certification agency] **DEPARTMENT** shall:

9 (i) update the directory at least monthly;

10 (ii) identify as recently certified in the directory each minority
11 business enterprise that has obtained certification during the calendar year; and

12 (iii) include in the directory a list of all minority business enterprises
13 that have become ineligible to participate in the Minority Business Enterprise Program
14 because:

15 1. one or more of its owners has a personal net worth that
16 exceeds the amount specified in § 14–301(i)(3) of this subtitle; or

17 2. the minority business enterprise no longer meets the
18 standards developed under § 14–303(b)(13) of this subtitle.

19 (b) In the same manner and with the same fees as provided by law in civil cases,
20 in a matter regarding the decertification of a certified minority business enterprise, the
21 [certification agency] **DEPARTMENT** may:

22 (1) subpoena witnesses;

23 (2) administer oaths; and

24 (3) compel the production of records, books, papers, and other documents.

25 (c) If a person fails to comply with a subpoena issued under subsection (b) of this
26 section, or fails to produce documents or other evidence, on petition of the [certification
27 agency] **DEPARTMENT**, a court of competent jurisdiction may pass an order directing
28 compliance with the subpoena or compelling the production of documents or other evidence.

29 14–305.

30 (a) (1) Within 90 days after the end of the fiscal year, each unit shall report to
31 the [Governor's Office of Small, Minority, and Women Business Affairs, the certification

1 agency] **DEPARTMENT**, and, subject to § 2–1257 of the State Government Article, the Joint
2 Committee on Fair Practices and Personnel Oversight.

3 (2) A report under this subsection shall for the preceding fiscal year:

4 (i) state the total number and value of procurement contracts
5 between the unit and certified minority business enterprises, by specific category of
6 minority business enterprise and by industry type, including whether the minority
7 business enterprise participated as a prime contractor or as a subcontractor;

8 (ii) indicate the percentage that those procurement contracts
9 represent, by specific category of minority business enterprise and by industry type, of the
10 total number and value of procurement contracts;

11 (iii) state the total number and the names of certified minority
12 business enterprises that participated as prime contractors or as subcontractors on
13 procurement contracts awarded by a unit;

14 (iv) for each minority business included in the report under item (iii)
15 of this paragraph, list all procurement contracts awarded by a unit to the minority business
16 enterprise, including a description of the contract and industry type;

17 (v) provide the results of each compliance assessment conducted by
18 the unit under § 14–303(b)(15) of this subtitle, including for each contract completed during
19 the fiscal year:

20 1. the names of each prime contractor and each
21 subcontractor that participated in the contract;

22 2. the type of good or service provided by the contract;

23 3. the minority business enterprise participation goal for the
24 contract;

25 4. whether a waiver was granted for the minority business
26 enterprise participation goal;

27 5. the total dollar value of payments made to each prime
28 contractor and by each prime contractor to each subcontractor during the contract term;

29 6. whether each subcontractor is a certified minority
30 business enterprise; and

31 7. if applicable, a description of factors that may have
32 contributed to failure to achieve the minority business enterprise participation goal for the
33 contract, including documented nonperformance or unavailability of a minority business
34 enterprise; and

1 (vi) contain other such information as required by the [Governor's
2 Office of Small, Minority, and Women Business Affairs and the certification agency]
3 **DEPARTMENT** and approved by the Board.

4 (3) As to procurement contracts for architectural services and engineering
5 services reported under paragraph (2) of this subsection, the report shall identify by
6 separate category of minority business enterprise procurements for:

7 (i) architectural services; and

8 (ii) engineering services.

9 (4) A report under this subsection shall be in a form prescribed by the
10 [Governor's Office of Small, Minority, and Women Business Affairs and the certification
11 agency] **DEPARTMENT** and approved by the Board.

12 (5) The [Special] Secretary [for the Office of Small, Minority, and Women
13 Business Affairs] may waive the requirement for a unit to report minority business
14 participation by industry type under paragraph (2) of this subsection if the spending
15 threshold for the industry type is too low for the unit to provide sufficient data.

16 (b) (1) On or before December 31 of each year, the [Governor's Office of Small,
17 Minority, and Women Business Affairs] **DEPARTMENT** shall submit to the Board of Public
18 Works and, subject to § 2-1257 of the State Government Article, to the Legislative Policy
19 Committee a report summarizing the information the [Office] **DEPARTMENT** receives
20 under subsection (a) of this section.

21 (2) If applicable, the report submitted under paragraph (1) of this
22 subsection shall include minority business enterprise participation data for each unit by
23 industry type.

24 (3) This report may be prepared in conjunction with the annual report
25 required under § 9-306 of the State Government Article.

26 (c) (1) In this subsection, "mitigating factors" includes documented
27 nonperformance or unavailability of a minority business enterprise designated for a
28 contract.

29 (2) The [Governor's Office of Small, Minority, and Women Business
30 Affairs] **DEPARTMENT** and the Office of State Procurement in the Department of General
31 Services, in consultation with the Office of the Attorney General and the Board of Public
32 Works, shall adopt by regulation criteria used to determine that a prime contractor has
33 persistently failed to meet contract goals in the absence of mitigating factors.

1 (3) The criteria adopted under paragraph (2) of this subsection shall
2 include the results of the compliance assessments made under subsection (a)(2)(v) of this
3 section.

4 (4) The [Governor's Office of Small, Minority, and Women Business
5 Affairs] **DEPARTMENT** shall refer prime contractors identified under the criteria adopted
6 under paragraph (2) of this subsection to the Office of the Attorney General for debarment
7 under § 16-203(d)(4) of this article.

8 **(5) THE DEPARTMENT SHALL MAINTAIN AND PUBLISH ON ITS**
9 **WEBSITE A LIST OF PRIME CONTRACTORS WHO, BASED ON THE CRITERIA ADOPTED**
10 **UNDER PARAGRAPH (2) OF THIS SUBSECTION, PERSISTENTLY FAIL TO MEET**
11 **CONTRACT GOALS IN THE ABSENCE OF MITIGATING FACTORS.**

12 14-308.

13 (c) The [Governor's Office of Small, Minority, and Women Business Affairs]
14 **DEPARTMENT** shall make available a fraud hotline for reporting violations of this section.

15 14-502.

16 (f) (1) The [Special] Secretary [for the Office] **OF THE DEPARTMENT** of
17 Small, Minority, and Women Business [Affairs] **ENTERPRISES**, in consultation with the
18 Attorney General, shall establish standards and guidelines for participation in the Small
19 Business Reserve Program every 5 years.

20 14-502.1.

21 (c) (1) A procurement may be exempt from designation under subsection (b) of
22 this section if the [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
23 Business [Affairs] **ENTERPRISES** certifies, concurrently with review of any waiver
24 determinations for certified minority business enterprise participation contract goals, that
25 it is not practicable to do so.

26 (2) The Office of State Procurement in the Department of General Services
27 shall assist the [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
28 Business [Affairs] **ENTERPRISES** in establishing procedures and guidelines for the
29 exemption of procurements under paragraph (1) of this subsection.

30 14-503.

31 (a) The [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
32 Business [Affairs] **ENTERPRISES** shall adopt regulations to establish procedures for
33 compiling and maintaining a comprehensive bidder's list of qualified small businesses that
34 shall be posted on the Internet.

1 (b) The [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
2 Business [Affairs] **ENTERPRISES** shall:

3 (1) establish guidelines for Small Business Reserve Program
4 administration;

5 (2) ensure agency compliance with the Small Business Reserve Program;

6 (3) provide training and technical assistance to agency personnel; and

7 (4) collect data regarding the State's utilization of small business reserve
8 vendors.

9 (c) Each unit shall ensure compliance with the regulations set forth in subsection
10 (a) of this section.

11 14-505.

12 (a) Within 60 days after the enactment of the budget bill by the General
13 Assembly, each unit shall submit a report to the [Governor's Office] **DEPARTMENT** of
14 Small, Minority, and Women Business [Affairs] **ENTERPRISES** that complies with the
15 reporting requirements set forth in COMAR 21.11.01.06.

16 (b) (1) Within 90 days after the end of each fiscal year, each unit shall submit
17 a report to the [Governor's Office] **DEPARTMENT** of Small, Minority, and Women Business
18 [Affairs] **ENTERPRISES** that complies with the requirements of paragraph (2) of this
19 subsection.

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

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

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

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

28 (iv) contain other such information as required by the [Governor's
29 Office] **DEPARTMENT** of Small, Minority, and Women Business [Affairs] **ENTERPRISES**.

30 (c) On or before December 31 of each year, the [Governor's Office] **DEPARTMENT**
31 of Small, Minority, and Women Business [Affairs] **ENTERPRISES** shall submit to the
32 Board of Public Works and, subject to § 2-1257 of the State Government Article, to the

1 Legislative Policy Committee a report summarizing the information the [Office]
2 **DEPARTMENT** receives under subsection (b) of this section.

3 14–602.

4 (a) (1) A unit shall structure procurement procedures, consistent with the
5 purposes of this subtitle, to try to achieve or exceed an overall percentage goal of the unit’s
6 total dollar value of procurement contracts to be made directly or indirectly with
7 veteran–owned small business enterprises.

8 (2) The [Office] **DEPARTMENT** of Small, Minority, and Women Business
9 [Affairs] **ENTERPRISES** shall adopt regulations that establish the overall percentage goal.

10 14–604.

11 The [Governor’s Office] **DEPARTMENT** of Small, Minority, and Women Business
12 [Affairs] **ENTERPRISES** shall:

13 (1) adopt regulations to implement this subtitle;

14 (2) establish procedures for tracking and reporting participation of
15 veteran–owned small business enterprises under this subtitle; and

16 (3) on or before December 1 of each year, report to the Legislative Policy
17 Committee on:

18 (i) the number and dollar value of contracts awarded to
19 veteran–owned small business enterprises under this subtitle, including the total dollar
20 value of payments made to veteran–owned small business enterprises under existing
21 contracts; and

22 (ii) an evaluation of the effectiveness of the program under this
23 subtitle.

24 14–604.1.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) “Advisory Committee” means the Advisory Committee on
27 Veteran–Owned Small Business Enterprises.

28 (3) [“Office” means the Office] **“DEPARTMENT” MEANS THE**
29 **DEPARTMENT** of Small, Minority, and Women Business [Affairs] **ENTERPRISES**.

30 (4) [“Special Secretary” means the Special] **“SECRETARY” MEANS THE**
31 **Secretary [for] OF the [Office] DEPARTMENT**.

1 (b) The [Office] **DEPARTMENT** shall establish an Advisory Committee on
2 Veteran–Owned Small Business Enterprises.

3 (c) The [Special] Secretary shall be Chair of the Advisory Committee and the
4 [Office] **DEPARTMENT** shall provide staff support.

5 (d) The Advisory Committee consists of individuals that the [Special] Secretary
6 considers will assist the Office in studying and developing policies to further the purposes
7 of this subtitle, including representatives from:

8 (1) the Department of Commerce;

9 (2) the Department of General Services;

10 (3) the Governor’s Office of Performance Improvement;

11 (4) the Department of Veterans Affairs; and

12 (5) certified veteran–owned small business enterprises.

13 (e) The Advisory Committee shall meet at least two times each year.

14 (f) The Advisory Committee shall:

15 (1) review the annual report and evaluation submitted to the Legislative
16 Policy Committee in accordance with § 14–604 of this subtitle to:

17 (i) identify any areas of the program that need improvement; and

18 (ii) recommend possible actions that may achieve the necessary
19 improvements; and

20 (2) ensure that a continuous oversight and improvement structure exists
21 for the program.

22 15–202.

23 Except to the extent authorized by regulation by the [Board] **DEPARTMENT OF**
24 **SMALL, MINORITY, AND WOMEN BUSINESS ENTERPRISES**, this subtitle does not apply
25 to a [protest concerning any act or omission by a procurement agency] **COMPLAINT MADE**
26 **ALLEGING A VIOLATION OF A REQUIREMENT ESTABLISHED IN SUBTITLE 2, 3, 5, OR**
27 **6 [under] OF Title 14 [, Subtitle 6] of this article.**

1 8–201.

2 (a) The Executive Branch of the State government shall have not more than 21
3 principal departments, each of which shall embrace a broad, functional area of that Branch.

4 (b) The principal departments of the Executive Branch of the State government
5 are:

6 (1) Aging;

7 (2) Agriculture;

8 (3) Budget and Management;

9 (4) Commerce;

10 (5) Disabilities;

11 (6) Emergency Management;

12 (7) the Environment;

13 (8) General Services;

14 (9) Health;

15 (10) Housing and Community Development;

16 (11) Human Services;

17 (12) Information Technology;

18 (13) Juvenile Services;

19 (14) Labor;

20 (15) Natural Resources;

21 (16) Planning;

22 (17) Public Safety and Correctional Services;

23 (18) **SMALL, MINORITY, AND WOMEN BUSINESS ENTERPRISES;**

24 **(19)** State Police;

25 **[(19)] (20)** Transportation; and

1 [(20)] (21) Veterans Affairs.

2 9-1A-10.

3 (a) (1) (i) An applicant or a licensee is subject to:

4 1. the minority business participation goal established for a
5 unit by the [Special] Secretary [for the Office] **OF THE DEPARTMENT** of Small, Minority,
6 and Women Business [Affairs] **ENTERPRISES** under § 14-302(a)(1)(ii) of the State Finance
7 and Procurement Article; and

8 2. any other corresponding provisions of law under Title 14,
9 Subtitle 3 of the State Finance and Procurement Article.

10 (ii) The minority business participation goal shall apply to:

11 1. construction related to video lottery terminals; and

12 2. procurement related to the operation of video lottery
13 terminals, including procurement of equipment and ongoing services.

14 (b) (2) The [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
15 Business [Affairs] **ENTERPRISES** shall monitor a licensee's compliance with subsection
16 (a)(1) and (2) of this section.

17 (3) The [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
18 Business [Affairs] **ENTERPRISES** shall report to the Commission at least every 6 months
19 on the compliance of licensees with subsection (a)(1) and (2) of this section.

20 (4) If the [Governor's Office] **DEPARTMENT** of Small, Minority, and
21 Women Business [Affairs] **ENTERPRISES** reports that a licensee is not in compliance with
22 subsection (a)(1) and (2) of this section, the Commission may take immediate action to
23 ensure the compliance of the licensee.

24 9-1A-23.

25 (d) (2) Within 3 months after receiving the data required under paragraph (1)
26 of this subsection, the Commission shall submit a report containing the data to the
27 Governor, the [Governor's Office] **DEPARTMENT** of Small, Minority, and Women Business
28 [Affairs] **ENTERPRISES**, and, subject to § 2-1257 of this article, the President of the Senate
29 and the Speaker of the House of Delegates.

30 9-1A-36.

1 (1) (3) The [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
2 Business [Affairs] **ENTERPRISES**, in consultation with the Office of the Attorney General,
3 shall provide assistance to all potential applicants and potential minority investors to
4 satisfy the requirements under paragraphs (1)(i) and (2) of this subsection.

5 9-1E-07.

6 (b) (3) (i) On or before 6 months after the issuance of a sports wagering
7 license under this subtitle, the [Governor's Office] **DEPARTMENT** of Small, Minority, and
8 Women Business [Affairs] **ENTERPRISES**, in consultation with the Office of the Attorney
9 General and the sports wagering licensee, shall establish a clear plan for setting reasonable
10 and appropriate minority business enterprise participation goals and procedures for the
11 procurement of goods and services related to sports wagering, including procurement of
12 construction, equipment, and ongoing services.

13 9-1E-15.

14 (h) (3) The Sports Wagering Application Review Commission, in consultation
15 with the certification agency as defined in § 14-301 of the State Finance and Procurement
16 Article, the [Governor's Office] **DEPARTMENT** of Small, Minority, and Women Business
17 [Affairs] **ENTERPRISES**, and the Office of the Attorney General, shall:

18 (i) evaluate a study of the sports wagering industry and market to
19 determine whether there is a compelling interest to implement remedial measures, in
20 addition to the application of the State Minority Business Enterprise Program under Title
21 14, Subtitle 3 of the State Finance and Procurement Article or a similar program, to assist
22 minorities and women in the sports wagering industry;

23 (ii) evaluate race-neutral programs or other methods that may be
24 used to address the needs of minorities, women, and minority and women-owned
25 businesses seeking to participate in the sports wagering industry, including through the
26 ownership of entities licensed to conduct sports wagering under this subtitle;

27 (iii) consider whether an applicant for a Class B-1 or B-2 sports
28 wagering facility license intends to conduct sports wagering at a facility located in an
29 opportunity zone or an enterprise zone;

30 (iv) consider allowing early access to the mobile sports wagering
31 market to entities with a meaningful partnership with minorities, women, and
32 minority- and women-owned businesses; and

33 (v) adopt emergency regulations to implement remedial measures,
34 if necessary and to the extent permitted by State and federal law, based on the findings of
35 the study evaluated under item (i) of this paragraph.

1 (i) (3) The [Governor's Office] **DEPARTMENT** of Small, Minority, and Women
 2 Business [Affairs] **ENTERPRISES**, in consultation with the Office of the Attorney General,
 3 shall provide assistance to all potential applicants and potential minority and women
 4 investors to satisfy the requirements under paragraphs (1)(i) and (2) of this subsection.

5 Subtitle 3. [Office] **DEPARTMENT** of Small, Minority, and Women Business [Affairs]
 6 **ENTERPRISES.**

7 9–301.

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

9 **(B) “DEPARTMENT” MEANS THE DEPARTMENT OF SMALL, MINORITY, AND**
 10 **WOMEN BUSINESS ENTERPRISES.**

11 **[(b)] (C)** “Interdepartmental Committee” means the Interdepartmental
 12 Advisory Committee on Small, Minority, and Women Business Affairs.

13 **[(c)] (D)** (1) “Minority person” means:

14 (i) an individual who has been deprived of the opportunity to
 15 develop and keep a competitive position in the economy because of a social or economic
 16 disadvantage that arises from cultural, racial, or other similar causes; or

17 (ii) a sheltered workshop for individuals with disabilities.

18 (2) “Minority person” includes:

19 (i) an Aleut;

20 (ii) an American Indian;

21 (iii) a Black;

22 (iv) an Eskimo;

23 (v) a Hispanic;

24 (vi) an Oriental;

25 (vii) a Puerto Rican; or

26 (viii) a woman.

27 **[(d) “Office” means the Office of Small, Minority, and Women Business Affairs.]**

1 (e) ["Special Secretary"] **"SECRETARY"** means the [Special] Secretary [for the
2 Office] **OF THE DEPARTMENT** of Small, Minority, and Women Business [Affairs]
3 **ENTERPRISES.**

4 9-302.

5 There is [an Office] **A DEPARTMENT** of Small, Minority, and Women Business
6 [Affairs in the Executive Department] **ENTERPRISES ESTABLISHED AS A PRINCIPAL**
7 **DEPARTMENT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT.**

8 9-303.

9 (a) The head of the [Office] **DEPARTMENT** of Small, Minority, and Women
10 Business [Affairs is the Special] **ENTERPRISES IS THE** Secretary, who shall be appointed
11 by and serves at the pleasure of the Governor.

12 (b) The [Special] Secretary shall receive the salary provided in the State budget.

13 9-303.1.

14 (a) There is an Interdepartmental Advisory Committee on Small, Minority, and
15 Women Business Affairs.

16 (b) The Interdepartmental Committee is composed of:

17 (1) the secretary of each principal department of the Executive Branch of
18 government, or the secretary's designee;

19 (2) the State Superintendent of Schools, or the Superintendent's designee;
20 **AND**

21 (3) the Secretary of Higher Education, or the Secretary's designee[; and

22 (4) the Special Secretary].

23 (c) The Interdepartmental Committee shall:

24 (1) advise the [Special] Secretary on proposals to implement and enhance
25 the duties of the [Office] **DEPARTMENT**, including the promotion of employment of
26 minority persons in the State, and the promotion of the growth and participation of
27 minority business enterprises in the State;

28 (2) gather such information the Committee deems necessary to promote
29 the goals of the Office;

1 (3) provide such other assistance as may be required to further the
2 purposes of §§ 9–304 and 9–305 of this subtitle; and

3 (4) meet at the call of the [Special] Secretary.

4 9–303.2.

5 (a) In addition to any duties set forth elsewhere, the [Office] DEPARTMENT shall
6 conduct necessary and appropriate research to determine the nature and extent of the
7 problems concerning black males and offer recommendations exclusively pertinent to black
8 males in the areas of:

9 (1) unemployment;

10 (2) criminal justice;

11 (3) education; and

12 (4) health.

13 (b) As authorized by the Governor, the [Special] Secretary may create an
14 Advisory Committee on Black Males to assist and advise the [Office] DEPARTMENT in
15 developing recommendations in accordance with subsection (a) of this section.

16 (c) The [Office] DEPARTMENT shall submit its findings and recommendations
17 in accordance with this section to the Governor and, subject to § 2–1257 of this article, the
18 General Assembly on or before January 1, 1995 and annually thereafter.

19 9–303.3.

20 (a) In this section, “Ombudsman” means the Minority Business Enterprise
21 Ombudsman in the [Office] DEPARTMENT.

22 (b) There is a Minority Business Enterprise Ombudsman appointed by the
23 [Special] Secretary.

24 (c) In accordance with the State budget, the [Special] Secretary shall allocate the
25 staff and [Office] DEPARTMENT resources to the Ombudsman necessary for the
26 Ombudsman to fulfill the duties of the Ombudsman.

27 (d) The Ombudsman shall:

28 (1) assist the procurement officer managing the contract in attempts to
29 resolve disputes between minority business enterprises and prime contractors, including
30 disputes over contract scope and payments;

1 (2) serve as a resource to minority business enterprise liaisons,
2 procurement officers [in] **ASSIGNED BY THE DEPARTMENT TO** units of State government,
3 prime contractors, and minority business enterprises in resolving disputes related to
4 contracts that include a minority business enterprise participation goal; and

5 (3) conduct trainings for procurement officers in units of State government
6 on enforcement of the requirements of Title 14, Subtitle 3 of the State Finance and
7 Procurement Article, including the assessment of liquidated damages under § 14-303(b)(6)
8 of the State Finance and Procurement Article.

9 (e) In resolving a dispute under subsection (d) of this section, the Ombudsman
10 may:

11 (1) compel prime contractors and minority business enterprises to provide
12 documentation related to contract performance and payments; and

13 (2) assist the procurement officer managing the contract in ordering any
14 relevant payments to be made in conjunction with a dispute resolution.

15 (f) (1) Except as provided in paragraph (2) of this subsection, when resolving
16 a dispute under subsection (d) of this section, the Ombudsman may not disclose information
17 received from a unit of State government, prime contractor, or minority business enterprise
18 without the written consent of the party from whom the information was obtained.

19 (2) The Ombudsman may disclose information received under this section
20 to the assistant Attorney General assigned to the [Office] **DEPARTMENT**.

21 **9-303.4.**

22 **(A) IN THIS SECTION, "PREFERENCE APPEALS BOARD" MEANS THE STATE**
23 **BOARD OF CONTRACT PREFERENCE APPEALS.**

24 **(B) THERE IS A STATE BOARD OF CONTRACT PREFERENCE APPEALS**
25 **WITHIN THE DEPARTMENT.**

26 **(C) (1) (I) THE PREFERENCE APPEALS BOARD CONSISTS OF 6**
27 **MEMBERS APPOINTED BY THE SECRETARY.**

28 **(II) AN APPEAL BEFORE THE PREFERENCE APPEALS BOARD**
29 **SHALL BE HEARD BY A PANEL OF NOT MORE THAN 3 MEMBERS DESIGNATED BY THE**
30 **CHAIR.**

31 **(2) EACH MEMBER OF THE PREFERENCE APPEALS BOARD SHALL:**

1 **(I) BE QUALIFIED TO SERVE IN A QUASI-JUDICIAL CAPACITY;**
2 **AND**

3 **(II) HAVE A THOROUGH KNOWLEDGE OF THE PROCUREMENT**
4 **PREFERENCE ESTABLISHED UNDER SUBTITLES 2, 3, 5, AND 6 OF TITLE 14 OF THE**
5 **STATE FINANCE AND PROCUREMENT ARTICLE.**

6 **(3) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE PREFERENCE**
7 **APPEALS BOARD SHALL TAKE THE OATH REQUIRED BY ARTICLE I, § 9 OF THE**
8 **MARYLAND CONSTITUTION.**

9 **(4) (I) THE TERM OF A MEMBER IS 5 YEARS.**

10 **(II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**
11 **THE TERMS PROVIDED FOR MEMBERS OF THE PREFERENCE APPEALS BOARD ON**
12 **OCTOBER 1, 2023.**

13 **(III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE**
14 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

15 **(IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
16 **SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED**
17 **AND QUALIFIES.**

18 **(5) THE SECRETARY MAY REMOVE A MEMBER OF THE PREFERENCE**
19 **APPEALS BOARD FOR CAUSE.**

20 **(6) THE SECRETARY SHALL DESIGNATE THE CHAIR OF THE**
21 **PREFERENCE APPEALS BOARD FROM AMONG ITS MEMBERS.**

22 **(D) (1) EACH MEMBER OF THE PREFERENCE APPEALS BOARD SHALL**
23 **DEVOTE FULL TIME TO THE DUTIES OF OFFICE.**

24 **(2) EACH MEMBER OF THE PREFERENCE APPEALS BOARD IS**
25 **ENTITLED TO:**

26 **(I) COMPENSATION IN ACCORDANCE WITH THE STATE**
27 **BUDGET; AND**

28 **(II) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD**
29 **STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

1 **(3) THE PREFERENCE APPEALS BOARD MAY EMPLOY A STAFF IN**
2 **ACCORDANCE WITH THE STATE BUDGET.**

3 **(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,**
4 **THE PREFERENCE APPEALS BOARD SHALL HAVE JURISDICTION TO HEAR AND**
5 **DECIDE ALL APPEALS ARISING FROM THE FINAL ACTION OF A UNIT ARISING FROM**
6 **THE REQUIREMENTS OF SUBTITLES 2, 3, 5, AND 6 OF TITLE 14 OF THE STATE**
7 **FINANCE AND PROCUREMENT ARTICLE.**

8 **(2) IN CONSULTATION WITH THE SECRETARY AND THE STATE BOARD**
9 **OF CONTRACT APPEALS, THE PREFERENCE APPEALS BOARD MAY DETERMINE**
10 **THAT CERTAIN APPEALS DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION**
11 **MAY BE ADJUDICATED BY THE STATE BOARD OF CONTRACT APPEALS WHEN ISSUES**
12 **OUTSIDE THE JURISDICTION OF THE PREFERENCE APPEALS BOARD ARE INCLUDED**
13 **AS PART OF THE APPEAL.**

14 **(F) A DECISION OF THE PREFERENCE APPEALS BOARD IS FINAL, SUBJECT**
15 **TO ANY JUDICIAL REVIEW.**

16 **(G) (1) IN CONNECTION WITH A PROCEEDING AUTHORIZED UNDER THIS**
17 **SECTION, THE PREFERENCE APPEALS BOARD MAY:**

18 **(I) ADMINISTER OATHS;**

19 **(II) CERTIFY TO ALL OFFICIAL ACTS; AND**

20 **(III) AT THE REQUEST OF A PARTY TO THE PROCEEDING:**

21 **1. ISSUE SUBPOENAS FOR THE ATTENDANCE AND**
22 **TESTIMONY OF WITNESSES OR THE PRODUCTION OF DOCUMENTS; AND**

23 **2. COMPEL THE TESTIMONY OF WITNESSES.**

24 **(2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR ORDER**
25 **COMPELLING TESTIMONY UNDER THIS SECTION, ON PETITION OF THE PREFERENCE**
26 **APPEALS BOARD, A COURT OF COMPETENT JURISDICTION MAY PASS AN ORDER**
27 **DIRECTING COMPLIANCE WITH THE SUBPOENA OR COMPELLING TESTIMONY.**

28 **(3) (I) A PERSON WHO, UNDER OATH, WILLFULLY MAKES A FALSE**
29 **STATEMENT ABOUT A MATTER BEFORE THE PREFERENCE APPEALS BOARD IS**
30 **GUILTY OF PERJURY.**

1 **(II) A PERSON WHO CAUSES ANOTHER PERSON UNDER OATH TO**
2 **MAKE A FALSE STATEMENT ABOUT A MATTER BEFORE THE PREFERENCE APPEALS**
3 **BOARD IS GUILTY OF SUBORNATION OF PERJURY.**

4 **(III) A PERSON WHO COMMITS PERJURY OR SUBORNATION OF**
5 **PERJURY UNDER THIS SECTION IS SUBJECT TO THE PENALTY PROVIDED IN §§**
6 **9-101 AND 9-102 OF THE CRIMINAL LAW ARTICLE.**

7 **(H) THE SECRETARY SHALL ADOPT REGULATIONS NECESSARY TO CARRY**
8 **OUT THE REQUIREMENTS OF THIS SECTION.**

9 **9-303.5.**

10 **(A) THERE IS A DEVELOPMENT OFFICE WITHIN THE DEPARTMENT.**

11 **(B) THE DEVELOPMENT OFFICE SHALL:**

12 **(1) CONDUCT OUTREACH TO AND TRAINING FOR SMALL BUSINESSES,**
13 **MINORITY BUSINESS ENTERPRISES, AND VETERAN-OWNED SMALL BUSINESSES;**

14 **(2) MANAGE THE MENTORSHIP PROGRAM ESTABLISHED UNDER §**
15 **9-305(B)(7) OF THIS SUBTITLE;**

16 **(3) IDENTIFY MINORITY-OWNED AND SMALL BUSINESSES WITH THE**
17 **SKILLS AND ABILITIES TO BECOME SUCCESSFUL CONTRACTORS AND**
18 **SUBCONTRACTORS WITH THE STATE;**

19 **(4) COLLECT AND ANALYZE CONTRACTOR PERFORMANCE DATA;**

20 **(5) ADVISE THE SECRETARY ON THE STRATEGY AND**
21 **IMPLEMENTATION OF PROGRAMS THAT ARE THE RESPONSIBILITY OF THE**
22 **DEPARTMENT; AND**

23 **(6) MAKE RECOMMENDATIONS TO THE SECRETARY ON METHODS TO**
24 **INCREASE PARTICIPATION IN THE PREFERENCE PROGRAMS UNDER SUBTITLES 2, 3,**
25 **5, AND 6 OF TITLE 14 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

26 **9-303.6.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
28 **INDICATED.**

1 **(2) "FUND" MEANS THE SMALL AND MINORITY BUSINESS**
2 **DEVELOPMENT FUND.**

3 **(3) "PROGRAM" MEANS THE SMALL AND MINORITY BUSINESS**
4 **DEVELOPMENT PROGRAM.**

5 **(B) (1) THERE IS A SMALL AND MINORITY BUSINESS DEVELOPMENT**
6 **PROGRAM IN THE DEPARTMENT.**

7 **(2) THE PURPOSES OF THE PROGRAM ARE TO:**

8 **(I) HELP DEVELOP, REDEVELOP, OR EXPAND SMALL AND**
9 **MINORITY BUSINESSES BY PROVIDING FINANCIAL ASSISTANCE TO SMALL AND**
10 **MINORITY BUSINESSES THAT HAVE BEEN PREVIOUSLY REJECTED BY ANOTHER**
11 **LENDER ON AT LEAST TWO OCCASIONS;**

12 **(II) STIMULATE INVESTMENT IN SMALL AND MINORITY**
13 **BUSINESSES BY THE PRIVATE SECTOR;**

14 **(III) INVEST IN REVITALIZATION PROJECTS FOR SMALL AND**
15 **MINORITY BUSINESSES; AND**

16 **(IV) STIMULATE POLITICAL SUBDIVISIONS TO PARTICIPATE IN**
17 **DEVELOPING AND EXPANDING SMALL AND MINORITY BUSINESSES.**

18 **(C) FINANCIAL ASSISTANCE UNDER THE PROGRAM MAY BE PROVIDED TO A**
19 **SMALL OR MINORITY BUSINESS AS:**

20 **(1) A GRANT;**

21 **(2) A LOAN;**

22 **(3) A REDUCTION IN THE PRINCIPAL OBLIGATION OF OR INTEREST**
23 **RATE ON A LOAN OR PORTION OF A LOAN;**

24 **(4) A PREPAYMENT OF INTEREST ON A SUBORDINATE OR SUPERIOR**
25 **LOAN OR PORTION OF A LOAN;**

26 **(5) AN ASSURANCE;**

27 **(6) A GUARANTEE;**

28 **(7) ANY OTHER FORM OF CREDIT ENHANCEMENT; OR**

1 **(I) OPERATE AND PAY EXPENSES OF THE PROGRAM; AND**

2 **(II) PROVIDE FINANCIAL ASSISTANCE TO SMALL AND MINORITY**
3 **BUSINESSES IN THE STATE.**

4 **(7) (I) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**
5 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

6 **(II) ANY INTEREST EARNINGS OF THE FUND SHALL BE**
7 **CREDITED TO THE FUND.**

8 9-304.

9 Subject to the limitations of any law that governs the activities of other units of the
10 Executive Branch of the State government, the [Special] Secretary shall:

11 **(1) EMPLOY AND ASSIGN MINORITY BUSINESS ENTERPRISE LIAISONS**
12 **TO EACH UNIT OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT TO:**

13 **(I) ENSURE COMPLIANCE WITH THE REQUIREMENTS OF**
14 **SUBTITLES 2, 3, 5, AND 6 OF TITLE 14 OF THE STATE FINANCE AND PROCUREMENT**
15 **ARTICLE;**

16 **(II) ENCOURAGE AND FACILITATE ADDITIONAL OPPORTUNITIES**
17 **FOR THE UNIT TO CONTRACT WITH MINORITY BUSINESS ENTERPRISES, SMALL**
18 **BUSINESSES, AND VETERAN-OWNED SMALL BUSINESSES;**

19 **(III) REVIEW REQUESTS FOR PROPOSALS AND INVITATIONS FOR**
20 **BIDS MADE BY THE UNIT TO MAXIMIZE THE OPPORTUNITY FOR MINORITY BUSINESS**
21 **ENTERPRISES, SMALL BUSINESSES, AND VETERAN-OWNED SMALL BUSINESSES TO**
22 **PARTICIPATE IN THE CONTRACT, INCLUDING BY:**

23 **1. DIVIDING CONTRACTS INTO SMALLER COMPONENTS**
24 **TO EXPAND BIDDING OPPORTUNITIES; AND**

25 **2. INCLUDING A MENTORSHIP REQUIREMENT FOR THE**
26 **PRIME CONTRACTOR AS PART OF THE CONTRACT AGREEMENT; AND**

27 **(IV) SERVE AS A RESOURCE TO MINORITY BUSINESS**
28 **ENTERPRISES, SMALL BUSINESSES, AND VETERAN-OWNED SMALL BUSINESSES**
29 **INTERACTING WITH THE UNIT;**

30 **(2) advise the Governor on:**

1 (i) the activities of the State government that are intended to
2 promote:

3 1. the employment of minority persons in the State; and

4 2. State contracting opportunities available to and the
5 accessibility of those contracting opportunities to companies owned by minority persons,
6 small businesses, and veteran-owned small businesses; and

7 (ii) each other matter that affects the rights and interests of minority
8 persons, small businesses, and veteran-owned small businesses and the communities in
9 which they live, work, and provide employment opportunities to others; and

10 ~~(2)~~ (3) as authorized by the Governor:

11 (i) provide help to minority persons, small businesses, and
12 veteran-owned small businesses and the communities in which they live, work, and employ
13 others;

14 (ii) represent the Governor in any matter that relates to minority
15 persons, small businesses, and veteran-owned small businesses or generally to the
16 promotion of equality among the people of the State; and

17 (iii) perform any other responsibility that the Governor assigns.

18 9–305.

19 (a) This section applies to the following minority business enterprises:

20 (1) a publicly owned business if 1 or more minority persons own at least
21 51% of the stock of the business; or

22 (2) any other business if 1 or more minority persons own at least 50% of
23 the business.

24 (b) Subject to the limitations of any law that governs the activities of other units
25 of the Executive Branch of the State government, the ~~[Special]~~ Secretary shall:

26 (1) carry out each State or federal program that is created to promote the
27 growth of or participation in minority business enterprises;

28 (2) promote and coordinate training regarding the requirements of the
29 Minority Business Enterprise Program;

1 (3) promote, coordinate, and participate in the plans, programs, and
2 operations of the State government that promote or otherwise affect the establishment,
3 preservation, and strengthening of minority business enterprises;

4 (4) promote activities and the use of the resources of the State government,
5 local governments, and private entities for the growth of minority business enterprises;

6 (5) coordinate the effort of private entities and public agencies to develop
7 minority business enterprises;

8 (6) establish a system to develop, collect, summarize, and give out
9 information that would help a person to:

10 (i) establish a minority business enterprise;

11 (ii) operate a minority business enterprise successfully; or

12 (iii) promote the establishment and successful operation of minority
13 business enterprises;

14 (7) establish a mentoring program[:

15 (i) in which [larger and more established minority businesses can
16 mentor start-up and] **PRIME CONTRACTORS ON STATE CONTRACTS MENTOR** small
17 **AND** minority [businesses] **BUSINESS SUBCONTRACTORS AS A REQUIREMENT OF**
18 **ENTERING INTO THE STATE CONTRACT;** [and

19 (ii) that incentivizes mentor participation by providing benefits to
20 mentors, including:

21 1. special recognition on the Office website, and in the Office
22 newsletter and participation updates;

23 2. a certificate of participation awarded by the Office;

24 3. the opportunity to present highlights of mentor and
25 protege relationships at an annual appreciation event sponsored by the Office; and

26 4. increased networking and educational opportunities;]

27 (8) conduct a feasibility study for creating a technical assistance program
28 in the [Office] **DEPARTMENT** that provides one-on-one assistance to minority businesses
29 in submitting competitive and successful bids and proposals for procurement contracts;

1 (9) provide training and educational opportunities for nonminority prime
2 contractors regarding the duties and responsibilities of a prime contractor with respect to
3 minority businesses; and

4 (10) subject to the limitations of law and the availability of funds:

5 (i) provide technical and managerial assistance to minority
6 business enterprises;

7 (ii) provide the managerial and organizational framework for
8 private entities and units of the State government to plan and carry out joint undertakings
9 that relate to minority business enterprises;

10 (iii) pay, wholly or partly, the costs of a pilot or demonstration project
11 that is intended to overcome the special problems of minority business enterprises; and

12 (iv) establish an annual awards program to recognize localities that
13 demonstrate the highest excellence in minority business enterprise support.

14 9–306.

15 (a) On or before the 15th day of each regular session of the General Assembly, the
16 [Special] Secretary shall send an annual report on the [Office] **DEPARTMENT** of Small,
17 Minority, and Women Business [Affairs] **ENTERPRISES**:

18 (1) to the Governor; and

19 (2) subject to § 2–1257 of this article, to the General Assembly.

20 (b) The annual report may be prepared in conjunction with the report required
21 under § 14–305(b) of the State Finance and Procurement Article.

22 9–20C–02.

23 (c) The Advisory Committee consists of the following members:

24 (5) the [Special] Secretary of the [Governor’s Office] **DEPARTMENT** of
25 Small, Minority, and Women Business [Affairs, or the Special] **ENTERPRISES, OR THE**
26 Secretary’s designee; and

27 **Article – State Personnel and Pensions**

28 21–116.

29 (d) (3) In consultation with the [Governor’s Office] **DEPARTMENT** of Small,
30 Minority, and Women Business [Affairs] **ENTERPRISES** and the Investment Committee,

1 the Board of Trustees shall develop guidelines to assist the Investment Committee in
2 identifying and evaluating qualified minority business enterprises in order to help the
3 State Retirement Agency achieve the objective for greater use of minority business
4 enterprises for brokerage and investment management services.

5 (4) On or before September 1 each year, the Investment Committee shall
6 submit a report to the Board of Trustees, the [Governor's Office] **DEPARTMENT** of Small,
7 Minority, and Women Business [Affairs] **ENTERPRISES** and, subject to § 2–1257 of the
8 State Government Article, the General Assembly on:

9 (i) the identity of the minority business enterprise brokerage and
10 investment management services firms used by the Investment Committee in the
11 immediately preceding fiscal year;

12 (ii) the percentage and dollar value of the assets that are under the
13 control of the Investment Committee that are under the investment control of minority
14 business enterprise brokerage and investment management services firms for each
15 allocated asset class; and

16 (iii) the measures the Investment Committee undertook in the
17 immediately preceding fiscal year in accordance with paragraph (2)(ii) of this subsection.

18 35–302.

19 (d) (3) In consultation with the [Governor's Office] **DEPARTMENT** of Small,
20 Minority, and Women Business [Affairs] **ENTERPRISES**, the Board shall identify entities
21 that have been certified by the State Department of Transportation as minority business
22 enterprises as qualified minority business enterprises in order to help the Maryland
23 Teachers and State Employees Supplemental Retirement Plans achieve the objective for
24 greater use of minority business enterprises for investment advisor and fund manager
25 services.

26 (4) On or before September 1 each year, the Board shall submit a report to
27 the [Governor's Office] **DEPARTMENT** of Small, Minority, and Women Business [Affairs]
28 **ENTERPRISES** and, subject to § 2–1257 of the State Government Article, the General
29 Assembly on:

30 (i) the identity of the minority business enterprise investment
31 advisor and fund manager services firms used by the Board in the immediately preceding
32 fiscal year;

33 (ii) the percentage and dollar value of the assets that are under the
34 control of the Board that are under the investment control of minority business enterprise
35 investment advisor and fund manager services firms for each allocated asset class; and

1 (iii) the measures the Board undertook in the immediately preceding
2 fiscal year in accordance with paragraph (2)(ii) of this subsection.

3 **Article – Tax – Property**

4 11–101.

5 (d) If the person submitting the report is an entity that is subject to § 19–106 of
6 the Business Regulation Article, the report shall include the diversity data required by the
7 regulations adopted by the Department of Commerce and the [Office] **DEPARTMENT** of
8 Small, Minority, and Women Business [Affairs] **ENTERPRISES** under § 19–106 of the
9 Business Regulation Article.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
11 members of the State Board of Contract Preference Appeals shall expire as follows:

12 (1) two members in 2026;

13 (2) two members in 2027; and

14 (3) two members in 2028.

15 SECTION 3. AND BE IT FURTHER ENACTED, That letterhead, business cards,
16 and other documents reflecting the renaming of the Office of Small, Minority, and Women
17 Business Affairs to be the Department of Small, Minority, and Women Business
18 Enterprises may not be used until all letterhead, business cards, and other documents
19 already in print and reflecting the name of the Office before the effective date of this Act
20 have been used.

21 SECTION 4. AND BE IT FURTHER ENACTED, That the publisher of the
22 Annotated Code of Maryland, in consultation with and subject to the approval of the
23 Department of Legislative Services, shall correct, with no further action required by the
24 General Assembly, cross–references and terminology rendered incorrect by this Act. The
25 publisher shall adequately describe any correction made in an editor’s note following the
26 section affected.

27 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2023.