

Chapter 583

(House Bill 962)

AN ACT concerning

**State Procurement – Small ~~and Minority~~ Business Reserve Program – Goals and Outreach Program**  
**~~(Parren J. Mitchell MBE Prime Contracting Act)~~**

FOR the purpose of ~~altering the Small Business Reserve Program to be the Small and Minority Business Reserve Program; requiring a unit of State government, to the extent practicable, to structure its procurement procedures to achieve a certain minimum percentage of the unit’s total dollar value of certain contracts to be made directly to certified minority business enterprises; requiring a certain study to include the Small and Minority Business Reserve Program~~ altering a certain participation goal for certain small businesses for certain procurement contracts; requiring the certification agency, in consultation with the Governor’s Office of Small, Minority, and Women Business Affairs to develop a certain outreach program; altering the content of certain unit reports; and generally relating to the Small ~~and Minority~~ Business Reserve Program.

BY repealing and reenacting, without amendments,  
Article – State Finance and Procurement  
Section 14-301(a), (b), ~~and (d)~~ (c), (d), and (e)  
Annotated Code of Maryland  
(2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Finance and Procurement  
Section 14-501, 14-502, and 14-505  
Annotated Code of Maryland  
(2021 Replacement Volume and 2023 Supplement)

BY adding to  
Article – State Finance and Procurement  
Section 14-504.1  
Annotated Code of Maryland  
(2021 Replacement Volume and 2023 Supplement)

~~BY repealing and reenacting, with amendments,~~  
~~Article – State Finance and Procurement~~  
~~Section 14-501, 14-502, 14-502.1, and 14-503 through 14-505 to be under the~~  
~~amended subtitle “Subtitle 5. Small and Minority Business Reserve Program”~~  
~~Annotated Code of Maryland~~  
~~(2021 Replacement Volume and 2023 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Chapter 154 of the Acts of the General Assembly of 2012, as amended by Chapters 200 and 201 of the Acts of the General Assembly of 2013, Chapter 340 of the Acts of the General Assembly of 2017, Chapter 117 of the Acts of the General Assembly of 2022, and Chapters 137 and 138 of the Acts of the General Assembly of 2023~~

~~Section 2~~

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

### Article – State Finance and Procurement

14–301.

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

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

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

(d) “Certified minority business enterprise” means a minority business enterprise that holds a certification.

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

~~Subtitle 5. Small AND MINORITY Business Reserve Program.~~

14–501.

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

~~(B) “CERTIFIED MINORITY BUSINESS ENTERPRISE” HAS THE MEANING STATED UNDER § 14–301 OF THIS TITLE.~~

**(B) “CERTIFICATION AGENCY” HAS THE MEANING STATED IN § 14–301 OF THIS TITLE.**

**(C) “ECONOMICALLY DISADVANTAGED INDIVIDUAL” HAS THE MEANING STATED IN § 14-301 OF THIS TITLE.**

**[(b)] ~~(C)~~ (D)** “Small business” means:

(1) a certified minority business enterprise~~],~~ as defined in § 14-301 of this title,~~]~~ that meets the criteria specified under item (3) of this subsection;

(2) a veteran-owned small business enterprise, as defined in § 14-601 of this title, that meets the criteria specified under item (3) of this subsection; or

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

(i) the business is independently owned and operated;

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

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

(iv) 1. A. the wholesale operations of the business did not employ more than 50 persons in its most recently completed 3 fiscal years;

B. the retail operations of the business did not employ more than 25 persons in its most recently completed 3 fiscal years;

C. the manufacturing operations of the business did not employ more than 100 persons in its most recently completed 3 fiscal years;

D. the service operations of the business did not employ more than 100 persons in its most recently completed 3 fiscal years;

E. the construction operations of the business did not employ more than 50 persons in its most recently completed 3 fiscal years; and

F. the architectural and engineering services of the business did not employ more than 100 persons in its most recently completed 3 fiscal years; or

2. A. the gross sales of the wholesale operations of the business did not exceed an average of \$4,000,000 in its most recently completed 3 fiscal years;

B. the gross sales of the retail operations of the business did not exceed an average of \$3,000,000 in its most recently completed 3 fiscal years;

C. the gross sales of the manufacturing operations of the business did not exceed an average of \$2,000,000 in its most recently completed 3 fiscal years;

D. the gross sales of the service operations of the business did not exceed an average of \$10,000,000 in its most recently completed 3 fiscal years;

E. the gross sales of the construction operations of the business did not exceed an average of \$7,000,000 in its most recently completed 3 fiscal years; and

F. the gross sales of the architectural and engineering services of the business did not exceed an average of \$4,500,000 in its most recently completed 3 fiscal years.

[(c)] ~~(D)~~ **(E)** “Small ~~AND MINORITY~~ business reserve” means those procurements that are limited to responses from small businesses ~~OR CERTIFIED MINORITY BUSINESS ENTERPRISES~~ under [§ 14–502(b)] **§ 14–502(C)** of this subtitle.

14–502.

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

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

(c) To the extent practicable, a unit shall structure its procurement procedures to achieve a minimum of:

~~(1)~~ **15%** **20%** of the unit’s total dollar value of goods, supplies, services, maintenance, construction, construction–related services, and architectural and engineering service contracts to be made directly to small businesses; ~~AND~~

~~(2)~~ **10% OF THE UNIT’S TOTAL DOLLAR VALUE OF GOODS, SUPPLIES, SERVICES, MAINTENANCE, CONSTRUCTION, CONSTRUCTION–RELATED SERVICES, AND ARCHITECTURAL AND ENGINEERING SERVICE CONTRACTS TO BE MADE DIRECTLY TO CERTIFIED MINORITY BUSINESS ENTERPRISES.**

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

(e) A unit may apply toward the unit’s overall annual Small ~~AND MINORITY~~ Business Reserve ~~payment achievement only those payments resulting from a procurement that is designated a Small AND MINORITY Business Reserve procurement~~ **ACHIEVEMENT AWARDS MADE TO A SMALL BUSINESS UNDER DESIGNATED SMALL BUSINESS**

**RESERVE CONTRACTS AS WELL AS AWARDS MADE TO A SMALL BUSINESS UNDER NONDESIGNATED SMALL BUSINESS RESERVE CONTRACTS.**

(f) (1) The Special Secretary for the Office of Small, Minority, and Women Business Affairs, in consultation with the Attorney General, shall establish standards and guidelines for participation in the Small ~~AND MINORITY~~ Business Reserve Program every 5 years.

(2) The standards and guidelines established under paragraph (1) of this subsection shall allow for the registration of businesses for participation in the Small ~~AND MINORITY~~ Business Reserve Program without the need to file any additional paperwork other than evidence that the business:

- (i) is a small business under this subtitle; and
- (ii) 1. is certified as a minority business enterprise under Subtitle 3 of this title;
- 2. is certified under the federal Disadvantaged Business Enterprise Program; or
- 3. is qualified as a small business under Subtitle 2 of this title.

~~14-502.1.~~

~~(a) (1) This section applies to a procurement by any unit or agency of the Executive Branch of State government for goods, supplies, services, maintenance, construction, construction-related services, architectural services, or engineering services.~~

~~(2) This section does not apply to:~~

- ~~(i) procurements made under Subtitle 1 of this title;~~
- ~~(ii) procurements involving expenditures of federal dollars, to the extent that inclusion in the small business reserve program conflicts with federal law or grant provisions;~~
- ~~(iii) procurements with a total dollar value under \$50,000;~~
- ~~(iv) the procurement of human, social, cultural, or educational services; or~~
- ~~(v) term and master contracts exempted under subsection (c) of this section.~~

~~(b) (1) A procurement with a total dollar value between \$50,000 and \$500,000 shall be designated for the small AND MINORITY business reserve.~~

~~(2) Each unit or agency shall implement this subsection in a manner consistent with all applicable statutes, including the requirements of Subtitle 3 of this title.~~

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

~~(2) The Office of State Procurement in the Department of General Services shall assist the Governor's Office of Small, Minority, and Women Business Affairs in establishing procedures and guidelines for the exemption of procurements under paragraph (1) of this subsection.~~

~~14-503.~~

~~(a) The Governor's Office of Small, Minority, and Women Business Affairs shall adopt regulations to establish procedures for compiling and maintaining a comprehensive bidder's list of qualified small businesses AND CERTIFIED MINORITY BUSINESS ENTERPRISES that shall be posted on the Internet.~~

~~(b) The Governor's Office of Small, Minority, and Women Business Affairs shall:~~

~~(1) establish guidelines for Small AND MINORITY Business Reserve Program administration;~~

~~(2) ensure agency compliance with the Small AND MINORITY Business Reserve Program;~~

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

~~(4) collect data regarding the State's utilization of small AND MINORITY business reserve vendors.~~

~~(e) Each unit shall ensure compliance with the regulations set forth in subsection (a) of this section.~~

~~14-504.~~

~~(a) Any procurement by a unit of goods, supplies, services, maintenance, construction, construction-related services, architectural services, and engineering services shall be eligible for designation for the small AND MINORITY business reserve.~~

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

~~(e) The procurement officer of a unit shall award a procurement contract designated for a small AND MINORITY business reserve to the small business OR CERTIFIED MINORITY BUSINESS ENTERPRISE that submits a responsive bid that:~~

~~(1) is the lowest bid price;~~

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

~~or~~

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

~~14-505.~~

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

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

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

~~(i) state the total number and the dollar value of payments the unit made [to small businesses] under designated small AND MINORITY business reserve contracts TO:~~

~~1. SMALL BUSINESSES; AND~~

~~2. CERTIFIED MINORITY BUSINESS ENTERPRISES;~~

~~(ii) state the total number and the dollar value of payments the unit made [to small businesses] under nondesignated small AND MINORITY business reserve contracts, including purchase card procurements, TO:~~

~~1. SMALL BUSINESSES; AND~~

~~2. CERTIFIED MINORITY BUSINESS ENTERPRISES;~~

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

~~(iv) contain other such information as required by the Governor's Office of Small, Minority, and Women Business Affairs.~~

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

#### 14-504.1.

**(A) THE CERTIFICATION AGENCY, IN CONSULTATION WITH THE GOVERNOR'S OFFICE OF SMALL, MINORITY, AND WOMEN BUSINESS AFFAIRS, SHALL DEVELOP AN OUTREACH PROGRAM TO INCREASE THE PARTICIPATION OF SMALL BUSINESSES THAT ARE OWNED BY ECONOMICALLY DISADVANTAGED INDIVIDUALS PARTICIPATING IN THE SMALL BUSINESS RESERVE PROGRAM.**

**(B) ON OR BEFORE DECEMBER 1 EACH YEAR, THE CERTIFICATION AGENCY SHALL SUBMIT TO THE BOARD OF PUBLIC WORKS AND, SUBJECT TO § 2-1257 OF THE STATE GOVERNMENT ARTICLE, TO THE LEGISLATIVE POLICY COMMITTEE A REPORT ON:**

**(1) THE STATUS OF THE OUTREACH PROGRAM REQUIRED UNDER SUBSECTION (A) OF THIS SECTION; AND**

**(2) THE TOTAL NUMBER AND DOLLAR VALUE OF AWARDS MADE TO SMALL BUSINESSES OWNED BY ECONOMICALLY DISADVANTAGED INDIVIDUALS UNDER DESIGNATED SMALL BUSINESS RESERVE CONTRACTS.**

#### 14-505.

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

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

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



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

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

(iii) state the total dollar value of [payments] AWARDS the unit made under procurement contracts; and

(iv) contain other such information as required by the Governor's Office of Small, Minority, and Women Business Affairs.

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

**~~Chapter 154 of the Acts of 2012, as amended by Chapters 200 and 201 of the Acts of 2013, Chapter 340 of the Acts of 2017, Chapter 117 of the Acts of 2022, and Chapters 137 and 138 of the Acts of 2023~~**

~~SECTION 2. AND BE IT FURTHER ENACTED, That the Certification Agency, in consultation with the General Assembly and the Office of the Attorney General, shall initiate a study of the Minority Business Enterprise Program AND THE SMALL AND MINORITY BUSINESS RESERVE PROGRAM to evaluate the [Program's] PROGRAMS' continued compliance with the requirements of the Croson decision and any subsequent federal or constitutional requirements. In preparation for the study, the Board of Public Works may adopt regulations authorizing a unit of State government to require bidders and offerors to submit information necessary for the conduct of the study. The Board of Public Works may designate that certain information received in accordance with regulations adopted under this section shall be confidential. Notwithstanding that certain information may be designated by the Board of Public Works as confidential, the Certification Agency may provide the information to any person that is under contract with the Certification Agency to assist in conducting the study. The study shall also evaluate race neutral programs and other methods that can be used to address the needs of minority businesses. The final report on the study shall be submitted to the Legislative Policy Committee of the General Assembly, in accordance with § 2-1257 of the State Government Article, on or before September 30, 2024, so that the General Assembly may review the report before the 2025 Session.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024. It shall remain effective for a period of 1 year and, at the end of June 30, 2025, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect October 1, 2024.~~

**Approved by the Governor, May 9, 2024.**