

# SENATE BILL 587

P2

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By: **Senator McCray**

Introduced and read first time: January 25, 2024

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Procurement – Minority Business Participation – Real Property Title Services**  
3 **Reporting**

4 FOR the purpose of requiring certain reporting relating to minority business participation  
5 in State procurement by industry type to include real property title services;  
6 prohibiting the Special Secretary for the Governor’s Office of Small, Minority, and  
7 Women Business Affairs from waiving a certain reporting requirement related to  
8 real property title services; and generally relating to reporting minority business  
9 participation in State procurement.

10 BY repealing and reenacting, without amendments,  
11 Article – State Finance and Procurement  
12 Section 14–301(a)  
13 Annotated Code of Maryland  
14 (2021 Replacement Volume and 2023 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – State Finance and Procurement  
17 Section 14–301(e–1) and 14–305  
18 Annotated Code of Maryland  
19 (2021 Replacement Volume and 2023 Supplement)

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

22 **Article – State Finance and Procurement**

23 14–301.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (e-1) "Industry type" means the following procurement categories:

2 (1) construction;

3 (2) architectural and engineering services and other construction-related  
4 professional services;

5 (3) maintenance;

6 (4) information technology;

7 (5) services; [and]

8 (6) goods, supplies, and equipment; AND

9 **(7) REAL PROPERTY TITLE SERVICES.**

10 14-305.

11 (a) (1) Within 90 days after the end of the fiscal year, each unit shall report to  
12 the Governor's Office of Small, Minority, and Women Business Affairs and the certification  
13 agency.

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

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

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

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

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

28 (v) provide the results of each compliance assessment conducted by  
29 the unit under § 14-303(b)(15) of this subtitle, including for each contract completed during  
30 the fiscal year:

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

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

4                   3.     the minority business enterprise participation goal for the  
5 contract;

6                   4.     whether a waiver was granted for the minority business  
7 enterprise participation goal;

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

10                  6.     whether each subcontractor is a certified minority  
11 business enterprise; and

12                  7.     if applicable, a description of factors that may have  
13 contributed to failure to achieve the minority business enterprise participation goal for the  
14 contract, including documented nonperformance or unavailability of a minority business  
15 enterprise; and

16                  (vi)    contain other such information as required by the Governor's  
17 Office of Small, Minority, and Women Business Affairs and the certification agency and  
18 approved by the Board.

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

22                  (i)     architectural services; and

23                  (ii)    engineering services.

24                  (4)     A report under this subsection shall be in a form prescribed by the  
25 Governor's Office of Small, Minority, and Women Business Affairs and the certification  
26 agency and approved by the Board.

27                  (5)     [The] **EXCEPT FOR REAL PROPERTY TITLE SERVICES, THE** Special  
28 Secretary for the Office of Small, Minority, and Women Business Affairs may waive the  
29 requirement for a unit to report minority business participation by industry type under  
30 paragraph (2) of this subsection if the spending threshold for the industry type is too low  
31 for the unit to provide sufficient data.

32                  (b)     (1)     On or before December 31 of each year, the Governor's Office of Small,  
33 Minority, and Women Business Affairs shall submit to the Board of Public Works and,  
34 subject to § 2-1257 of the State Government Article, to the Legislative Policy Committee

1 and the Joint Committee on Fair Practices and State Personnel Oversight a report  
2 summarizing the information the Office receives under subsection (a) of this section.

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

6 (3) This report may be prepared in conjunction with the annual report  
7 required under § 9–306 of the State Government Article.

8 (4) (i) Beginning with the report submitted under paragraph (1) of this  
9 subsection on December 31, 2023, and each year thereafter, the Governor’s Office of Small,  
10 Minority, and Women Business Affairs shall include in the report an attestation that all  
11 units required to report under subsection (a) of this section are represented in the report.

12 (ii) To ensure accuracy of the attestation made under subparagraph  
13 (i) of this paragraph, on or before December 31, 2023, and every 3 years thereafter, the  
14 Governor’s Office of Small, Minority, and Women Business Affairs shall conduct an audit  
15 of the Executive Branch of State government to determine what entities are included in the  
16 definition of “unit” under § 11–101 of this article.

17 (c) (1) In this subsection, “mitigating factors” includes documented  
18 nonperformance or unavailability of a minority business enterprise designated for a  
19 contract.

20 (2) The Governor’s Office of Small, Minority, and Women Business Affairs  
21 and the Office of State Procurement in the Department of General Services, in consultation  
22 with the Office of the Attorney General and the Board of Public Works, shall adopt by  
23 regulation criteria used to determine that a prime contractor has persistently failed to meet  
24 contract goals in the absence of mitigating factors.

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

28 (4) The Governor’s Office of Small, Minority, and Women Business Affairs  
29 shall refer prime contractors identified under the criteria adopted under paragraph (2) of  
30 this subsection to the Office of the Attorney General for debarment under § 16–203(d)(4) of  
31 this article.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2024.