



Maryland
Hospital Association

April 1, 2021

To: The Honorable Maggie McIntosh, Chair, House Appropriations Committee

Re: Letter of Support with Amendments- Senate Bill 909 - Capital Projects - Minority Business Enterprise Goals

Dear Chair McIntosh:

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment on Senate Bill 909. Maryland hospitals constantly keep pace with advancements in medicine and technology. We witnessed just how dynamic and adaptable hospitals must be during the COVID-19 pandemic. In a matter of days, weeks, and months, hospitals transformed their physical infrastructure to meet the needs of their communities, adding capacity for roughly 6,000, transforming entire floors to COVID units, and much more. Although these examples were unique and fast-tracked to respond to the pandemic, hospitals must update their facilities on an ongoing basis. Hospitals carefully consider the infrastructure changes they need to promote the health and safety of their communities.

Senate Bill 909 as amended in the Senate, would add a new requirement for projects receiving at least \$3,000,000 in state funding in a single fiscal year. The bill requires the Governor's Office of Small, Minority, & Women Business Affairs (GOSBA), prior to the release of state funds, to review the project for subcontracting opportunities under the state's Minority Business Enterprise (MBE) Program. If practicable, GOSBA would establish MBE subgoals for the project. If goals are identified, then the grant recipient would certify that they expect to achieve the goal or request a waiver.

Maryland hospitals fully [support](#) incorporating racially equitable and inclusive approaches to purchasing and investment decisions, however, we do not believe SB 909 accomplishes this in its current form. We have serious concerns regarding how the state would operationalize the process of setting subgoals and the potential negative impact on minority and local business contracting opportunities. To address these concerns, we recommend the following amendments:

- **Focus on overall MBE goals rather than subgoals.**
 - Given the specificity required for setting subgoals, we have concerns that the Department of General Services and Governor's Office of Small Minority & Women Business Affairs does not have the staffing capacity or evidentiary basis for creating a framework for setting subgoals- as indicated in their [testimony](#). The state excels at setting goals for state procurement projects through the Minority Business Enterprise Program. However, there has not been an equivalent, data-

driven framework developed for monitoring expenditures for grant awards to non-state entities.¹

- Additionally, we believe the state should focus on building capacity of *all* MBEs before drilling down to specific subgoals. This emphasis will help move the state forward in achieving the overarching goal of supporting MBEs.
- **Focus on reporting and studying the issue now instead of establishing a new state-initiated process that could lead to delays and other negative outcomes.**
 - Through their own contracting, many hospitals have robust programs to increase the diversity of their contractors through MBE goals, recruitment in the community, and by including goals in their request for proposals with their general contractors. These goals are monitored and evaluated on an ongoing basis. As a requirement of legislation passed in 2010, hospitals receiving capital funding of at least \$500,000 were reporting to the Governor’s Office of Small, Minority & Women Business Affairs on the use of MBEs and any outreach efforts. This law sunset in 2013. Instead of creating a new process, the state should consider evaluating the current landscape of MBE and locally owned business opportunities.
 - The language included in SB 909 specifying that subgoals are established “prior to the release of state funds” is vague and could have a negative impact on contracts. When receiving grant funding from the state, hospitals must work with three state agencies- Maryland Historical Trust, Department of General Services and the Office of the Comptroller. It is unclear when during the process a grantee would be expected to have the Governor’s Office of Small Minority & Women Business Affairs review the subgoals. Generally, goals and subgoals are included in the Request for Proposal and negotiated in the contracts. If the Governor’s Office of Small Minority & Women Business Affairs were to recommend changes to an existing contract, this could result in project delays and potentially, loss of contracts. Many hospitals have good working relationships with contractors with local certifications. Jeopardizing these contracts could be detrimental to the businesses SB 909 seeks to assist.

We appreciate the intent of this legislation and support utilizing women and minority-owned businesses, however, we are concerned with the lack of detail in the bill regarding the process to establish subgoals and remain unconvinced that this legislation will help move the state forward in promoting the utilization of MBEs across the state. Maryland hospitals acknowledge the recommendations from the [Senate President Advisory Workgroup on Equity & Inclusion](#) which seek to address this topic, however, SB 909 as currently drafted, falls short. It is critical that any state-developed process is informed by and complements the significant work hospitals are already undertaking to ensure diversity in their contracting opportunities.

For more information, please contact:
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¹ Maryland Department of General Services. [“Innovations in Procurement: How to Achieve Real Diversity in State Contracting”](#).