



GOVERNOR'S OFFICE OF SMALL, MINORITY & WOMEN BUSINESS AFFAIRS
MARYLAND DEPARTMENT OF GENERAL SERVICES

BILL TITLE: Senate Bill 909-Capital Projects-Minority Business Enterprise Goals
DATE: March 9, 2021
COMMITTEE: Budget & Taxation
POSITION: Letter of Information

The Governor's Office of Small Minority & Women Business Affairs (GOSBA) and the Department of General Services (DGS) provide these comments for your consideration.

Bill Summary

This bill would require the Governor's Office of Small, Minority, and Women Business Affairs, prior to the release of State funds for a capital project that receives at least \$500,000 in a single fiscal year, to review the project for subcontracting opportunities under the State's Minority Business Enterprise Program and, if practicable, establish minority business enterprise goals and subgoals for the project. The bill also would require the recipient of the State funds to certify to the Department of General Services their intention to achieve the goals or to request a waiver from the requirements.

Considerations

The Governor's Office of Small, Minority & Women Business Affairs (GOSBA) is charged with connecting Maryland's small business community to greater economic opportunities in both the public and private sectors, while implementing and monitoring small, minority, women, and veteran procurement programs across 70 state agencies. As such we welcome additional opportunities for inclusion.

In its capacity as an oversight agency, however, GOSBA does not function as a procurement unit. Thereby, respective State agencies are tasked with implementing Minority Business Enterprise (MBE) procurement law in day-to-day operations such as MBE goal setting determinations for their respective projects/solicitations. Under the proposed legislation, GOSBA's function would significantly expand to encompass an independent pre-disbursement review of capital grants over \$500,000 for the purposes of establishing MBE goals.

Performing this role would necessitate a team of Procurement Specialists or MBE Compliance officers to review scopes of work, make goal determinations; and review and recommend agency action on waiver requests. Given the volume of capital grant projects and the fact that this is not a function GOSBA is currently directly engaged in, these tasks cannot be absorbed by current staff. Additionally, since grantees are often entities not under the jurisdiction of State Procurement law, a process for gathering and vetting project information would need to be established.

It should also be noted that an analysis of disparity within capital grant spend would likely be required either separately or under the forthcoming disparity study managed by the Maryland Department of Transportation. The outcome of such an analysis would be required to serve as the evidentiary basis for the application of MBE goals to capital grant projects.

During the 2010 Legislative Session, a similar iteration of the currently proposed legislation, ***House Bill 209 General Obligation Bonds for Capital Projects – Required Reports***, was passed and subsequently signed into law as Chapter 398 (abrogated without further action in 2013). More limited in scope, the law required hospitals and independent colleges, receiving Maryland General Obligation Funds of \$500,000 or more, for capital projects, to report to the Governor’s Office of Small, Minority & Women Business Affairs on the extent to which the organization had, or would, use any part of the funds for contracts with MBEs as well as any MBE outreach efforts. To accomplish this, GOSBA provided grantee training on processes and best practices for MBE goal setting and developed a reporting framework for gathering and tracking achievement from grantees. GOSBA did not, however, independently establish the goals for grantees.

DGS’s Office of Capital Grants and Loans (CGL) manages over 1,400 active capital grant projects valued at over \$1 billion. In addition, the Maryland General Assembly historically approves approximately 250 to 300 additional bond bills each year. If it is determined that MBE goals can be applied to capital grants over \$500,000, the expanded compliance monitoring, tracking, and reporting duties under Senate Bill 909 would realize a significant fiscal and operational impact on CGL. CGL would require one (1) Full-time Compliance Officer to ensure and track MBE compliance and provide annual reporting. An additional contractual MBE Compliance Officer would also be required to assist with reporting, waiver determinations and tracking of MBE compliance. ***The total cost of the above full-time positions would be \$119,731 in FY 2022 and rise to \$150,880 in FY 2026.***

Chantal Kai-Lewis, GOSBA, 410-697-9609, Chantal.Kai-Lewis@maryland.gov
Ellen Robertson, DGS, 410-260-2908, Ellen.Robertson@maryland.gov