



**GOVERNOR'S OFFICE OF  
SMALL, MINORITY & WOMEN  
BUSINESS AFFAIRS**

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*Governor Wes Moore*

*Lt. Governor Aruna Miller*

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February 22, 2023

The Honorable Senator Guy Guzzone  
Chair, Senate Budget and Taxation Committee  
3 West  
Miller Senate Office Building  
Annapolis, Maryland 21401

Re: Letter of Information – Senate Bill 438 – Minority Business Enterprises - Calculation of Participation Rates - Procurements from Maryland Correctional Enterprises

The Governor's Office of Small, Minority and Women Business Affairs (GOSBA) thanks the Committee for the opportunity to provide written testimony for Senate Bill 438 (SB 438). SB 438 require a state procurement unit to include the dollar value of its contracts with Maryland Correctional Enterprises in the total dollar value of its procurements for the purpose of calculating the unit's Minority Business Enterprise (MBE) Program participation rate.

As drafted, SB 438 includes the dollar value of MCE contracts in the total dollar value of all awards, thus increasing the denominator used to calculate each agency's (and the State's) performance relative to the MBE goal. Units are required to use MCE as a preferred provider within the state's procurement process. This gives them a position of first right of refusal. As such, there is no open competition for services offered by MCE. Furthermore, these contracts are not evaluated for MBE inclusion during the procurement process.

In the 2013 legislative session, House Bill 48 (HB48) removed nonprofit organizations from the MBE Program expressly for the purpose of insuring that only small, for-profit businesses can perform in the MBE arena. As a result, awards to MCE, among others, are exempt from the calculation of total dollar value of all awards for the purpose of calculating MBE participation rates.

The bill has no effect on MCE sales as the procurement units will continue purchasing applicable goods and services as mandated.

The bill has no effect on the numerator (value of MBE awards). As a result, it lowers each agency's (and the State's) performance relative to the MBE goal.

GOSBA respectfully submits this letter of information for SB 438.

Respectfully,

A handwritten signature in blue ink that reads "Davon Gardner".

Davon K. Gardner  
Director, Policy & Legislative Affairs  
Governors' Office of Small, Minority and Women Business Affairs