



State of Maryland
Board of Public Works

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February 13, 2012

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
Legislative Policy Committee
Legislative Services Building, Room 200B
90 State Circle
Annapolis, Maryland 21401-1991

Dear Mr. President and Mr. Speaker:

As required by State Law, the Board of Public Works submits the following Small Business Preference Report for Fiscal Year 2011. The Secretaries of General Services and Transportation as well as the University System of Maryland are each required to submit an annual report to the Board on the operation and effectiveness of the Small Business Preference Program within 90 days after the end of each fiscal year (State Finance and Procurement Article, §14-208). Although not required by law, Morgan State University and the Department of Public Safety and Correctional Services also report to the Board. The Board of Public Works compiles the information and reports to the Legislative Policy Committee.

Sincerely,

Mary Jo Childs, Esq., CPCM, CPPO
Procurement Advisor

cc: The Honorable Martin O'Malley
The Honorable Nancy K. Kopp
The Honorable Peter Franchot
Sheila McDonald, Executive Secretary
Sarah Albert, Legislative Services
Enoch Pratt Free Library

***REPORT TO THE LEGISLATIVE POLICY COMMITTEE
ON THE
OPERATION AND EFFECTIVENESS OF THE***



SMALL BUSINESS PREFERENCE PROGRAM

FISCAL YEAR 2011

State of Maryland
Board of Public Works
Louis L. Goldstein Treasury Building
80 Calvert Street, Room 117
Annapolis, Maryland 21401
410.260.7335
February 14, 2012

SUMMARY OF PREFERENCE PROGRAM

Under Maryland's Small Business Price Preference Law, agencies may designate individual procurements as Small Business Preference. When a procurement is so designated, any business may still compete for the State contract. However, when the procurement has been designated as Small Business Preference, a certified small business may be awarded the contract even if another bidder – who is not a certified small business – bids a lower price. If a non-certified business is low bidder, a certified small business would still be awarded the contract if their bid did not exceed the low bid by more than:

- ♦ Up to 5% where the certified small business is not veteran-owned;
- ♦ Up to 7% where the business is a certified veteran-owned small business; or
- ♦ Up to 8% where the business is a certified service-disabled veteran-owned small business.¹

FY 2011 REPORTS

Department of General Services: The Department of General Services includes the Small Business Preference in all commodity and facility maintenance procurements. Three awards totaling \$233,224 were made based on application of the 5% price preference. Total additional cost to the State from application of the preference was \$3,670 (this is the premium between the actual low bid and the certified small business bid).

Department of Transportation: Each of the modals took a different approach to the Small Business Preference.

Motor Vehicle Administration – Although no awards were made based on application of the Small Business Preference, MVA designated several snow removal contracts as preference procurements and established specific criteria for when the preference is most effectively used. MVA continued its outreach to small businesses throughout FY 2011 and expects its continuing efforts to result in increased awards to small businesses under the Preference program next year.

Maryland Port Administration – MPA did not designate any procurements as Small Business Preference in FY 2011 and chose instead to focus on the Small Business Reserve Program to maximize opportunities for small businesses.

Maryland Transit Administration – MTA designated all commodities procurements as Small Business Preference although no contract awards were made based on application of the Preference over the past two reporting periods. MTA will continue to emphasize the role of small business programs in its procurement operations.

¹ Low bid is not the sole determining factor for award.

State Highway Administration – SHA designated 47 competitive sealed bid procurements as Small Business Preference in FY 2011. SHA continues its success in the Small Business Reserve Program (18.6% on the State's 10% goal) but will again seek to maximize use of the Preference in FY 2012.

Maryland Aviation Administration, Maryland Transportation Authority and the Transportation Secretary's Office – MAA, MdTA, and TSO jointly reported on the FY 2011 Small Business Preference. Each agency will continue its overall outreach to small businesses. MAA is updating Preference language for inclusion in maintenance and services contracts.

Department of Public Safety and Correctional Services: The Department of Public Safety and Correctional Services did not designate any procurements as Small Business Preference. The Department will continue to assess the suitability of all procurements for application of the Preference.

Morgan State University: Morgan State University established new internal procedures to emphasize use of the Preference, but its efforts met with little success in FY 2011 due to the specialized nature of their purchases. In FY 2012 Morgan State University will provide quarterly reports on the Preference to the Director of Procurement to ensure the Preference Program is receiving the appropriate attention.

University System of Maryland: USM's institutions did not have success awarding contracts in FY 2011 based on application of the Small Business Preference. USM will continue to seek opportunities to include the Preference in competitive sealed bid solicitations over \$100,000 unless previously designated as a Small Business Reserve.

CONCLUSION

With the exception of the Department of General Services, none of the participating agencies reported contract awards in FY 2011 based on application of the Preference. That pattern has been consistent over the past few reporting periods. What differentiates DGS efforts from most other agencies is the application of Preference to a large number of contracts. The likelihood of a percentage price preference affecting the outcome of a contract award is small if agencies only designate a small number of procurements as a Preference.