

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



**SMALL BUSINESS
PREFERENCE PROGRAM**

FISCAL YEAR 2012

State of Maryland
Board of Public Works
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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 2012 Reports

Department of General Services: The Department of General Services designates the Small Business Preference for all its commodity and facility maintenance procurements. Two contract awards totaling \$946,864 were made based on application of the 5% price Preference. The additional cost to the State from application of the Preference was \$29,697 (this is the difference between the actual low bid and the certified small business bid).

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

Maryland Port Administration – MPA did not designate any procurements as Small Business Preference in FY 2012. MPA's position is that they are limited by what they procure (proprietary equipment) and how they procure (through master contracts awarded by DGS, DBM, and DoIT). MPA posits that the Small Business Reserve is a more effective program to maximize small business opportunities, so they choose to focus their limited procurement opportunities on the Reserve. Nonetheless, they will continue to look for opportunities to include Small Business Preferences in their solicitations.

Motor Vehicle Administration – MVA designated twenty procurements with the Small Business Preference. Of the twenty awards, none were based on application of the Preference but four awards were made to certified small businesses and two awards were made to MBE firms. Four awards are outstanding. MVA will continue aggressive outreach to maximize opportunities for small businesses.

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

Maryland Transit Administration – MTA incorporates Small Business Preference language in solicitations for commodities, equipment, and other goods and services, but there were no awards in FY 2012 based on application of the Preference. MTA continues to emphasize small business participation through the Reserve Program.

State Highway Administration – SHA did not make any awards in FY 2012 based on application of the Small Business Preference. SHA has been more successful in awarding contracts to small businesses through the Reserve Program. In FY 2012, they awarded 17.4% of their procurement expenditures to certified small businesses through the Reserve, exceeding the 10% Statewide goal.

Maryland Aviation Administration – MAA includes Preference language in maintenance and construction procurements. Three awards were made to small businesses in FY 2012 although none were based on application of the Preference. MAA will continue to participate in outreach events and procure Preference contracts in FY 2013.

Maryland Transportation Authority and the Transportation Secretary's Office –MdTA and TSO jointly reported on the FY 2012 Small Business Preference. There were no Small Business Preference designations in FY 2012, but they will continue to evaluate all procurements for designation in FY 2013. Both agencies will continue outreach to small businesses.

Department of Public Safety and Correctional Services: The Department of Public Safety and Correctional Services, Division of Capital Construction and Facilities Maintenance, designated two of their five procurements as Small Business Preference in Fiscal Year 2012. No awards were made based on application of the Preference. The Department will continue to assess the suitability of all procurements for the Preference.

Morgan State University: Morgan State University applied the Small Business Preference to a number of procurements, but no awards were made based on application of the Preference. MSU will provide quarterly reports to the Director of Procurement to ensure the Preference Program is being utilized to its fullest potential.

University System of Maryland: USM's institutions did not award any contracts in FY 2012 based on application of the Small Business Preference. Procurements under \$100,000 are typically targeted for the Reserve Program rather than the Preference. Like MPA, USM believes the greatest opportunities for small businesses are within the Reserve Program. USM will continue to seek opportunities to include the Preference in competitive sealed bid solicitations.

Conclusion

Except for the Department of General Services, none of the participating agencies reported contract awards in FY 2012 based on application of the Preference. Some agencies instead choose to emphasize the Small Business Reserve Program as the primary procurement vehicle to reach small businesses.

That is a consistent pattern over the last few fiscal years. The volume and type of DGS purchases (commodities and maintenance for Statewide use) are a factor in their success. DGS has been very aggressive in its application of the Preference by including the provision in all commodities and maintenance solicitations. The likelihood of a percentage price preference affecting the outcome of a contract award is much greater when agencies like DGS designate a large number of procurements as a Preference.