

MARYLAND
BOARD OF PUBLIC WORKS

Governor Treasurer Comptroller

Sheila McDonald, Esq.
Executive Secretary

Gabriel Gnall, Esq.
Procurement Advisor

William Morgante, PWS
Wetlands Administrator

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

Re: State Procurement: Small Business Preference Program

Dear Mr. President and Mr. Speaker:

State Law requires the Secretaries of General Services and Transportation and the University System of Maryland to each submit an annual report to the Board of Public Works on the operation and effectiveness of the Small Business Preference Program (State Finance and Procurement Article, §14-208). The Board of Public Works compiles the information and reports to the Legislative Policy Committee.

Summary of Preference Program

Under Maryland's Small Business Preference (SBP) Program, select agencies may designate individual procurements for a Small Business Preference.¹ When a procurement is so designated, certified small businesses compete for State contracts along with businesses that are not certified. If a non-certified business is low bidder, a certified small business would still be awarded the contract if its 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.²

¹ Limited to the Departments of General Services and Transportation, the University System of Maryland, and Morgan State University for the procurement of supplies, services, and construction-related services, and the Department of Public Safety and Correctional Services in connection with State correctional facility construction (State Finance and Procurement Article, §14-202).

² Low bid is not the sole determining factor for award.

Summary of Fiscal Year 2016 Reports

The **Department of General Services (DGS)** incorporated solicitation language pertaining to the 5% preference in all of its commodity and facility maintenance procurements. The agency reported a total of 356 new awards to regular and small businesses combined. The total value of the awards amounted to \$153,944,549. Of that amount, \$42,711,141 (28%) was awarded to small businesses and \$111,233,135 (72%) went to regular businesses.

Regarding the **Department of Transportation (MDOT)**:

- *The Secretary's Office* did not designate any Small Business Preference procurements in FY 2015. The Secretary's Office conducts most of its procurements through DoIT master contracts and DGS Statewide contracts with limited opportunities for the Small Business Preference. The Secretary's Office will continue to evaluate all procurements for the Preference designation in FY 2016.
- *The Maryland Aviation Administration (MAA)* designated five contracts as Small Business Preference in FY 2015. One contract award was made based on application of the Preference. Federal security requirements limit the number of procurements that may be designated as a Small Business Preference, but MAA will continue its outreach to small, minority, and veteran-owned businesses.
- *The Maryland Transit Administration (MTA)* designated one contract as Small Business Preference in FY 2015. In FY 2016, MTA will continue to attend and participate in outreach events to notify small, minority, and veteran-owned businesses of MTA procurement opportunities.
- *The Maryland Transportation Authority (MdTA)* designated thirteen procurements as Small Business Preference in FY 2015, one of which resulted in an award to a small business. Like the other MDOT modal agencies, MdTA will continue to attend outreach events to notify small, minority, and veteran-owned businesses of MdTA procurement opportunities.
- *The Maryland Port Administration (MPA)* did not designate any contracts as Small Business Preference in FY 2015. The Port suggests that opportunities for State small businesses are much greater under the Small Business Reserve (SBR) Program. The Port adds that the Port's unique requirements often result in limited-competition scenarios where the Small Business Preference is not appropriate.
- *The Motor Vehicle Administration (MVA)* designated three procurements as Small Business Preference in FY 2015, and all three resulted in awards to Certified Small Business Enterprises.
- *The State Highway Administration (SHA)* designated thirty-eight procurements as Small Business Preference. Each of the thirty-eight procurements resulted in awards to small

businesses. The SHA Office of Maintenance, District Offices and Maintenance Facilities will continue to designate many of their State funded operational and maintenance procurements for activities such as mowing, HVAC repair, towing, landscape maintenance, etc. for SBP and SBR.

The **University System of Maryland (USM)** reports that the Small Business Reserve Program reaches more small businesses than the Preference Program. USM institutions occasionally test application of the Small Business Preference for procurements over \$100,000. These institutions report that the Preference Program has no impact on the overall responses and contract awards, and that the Small Business Reserve Program provides greater opportunities for small businesses. USM will continue to emphasize small business procurement opportunities.

Morgan State University (MSU) reports the University had little success this fiscal year in its SBP program. Operationally, MSU's Procurement Department has applied SBP to a number of procurements with the hope of small businesses being able to take advantage of the incentive. However, MSU has not executed a procurement award to a small business firm on the basis of the Preference Program. MSU research indicated that the University has yet to encounter a small business that has provided a bid within the percentage point tolerance of the bid from a non-small business firm in order to qualify for the incentive. MSU will continue to apply the SBP in the hope that FY 2017 will yield better results.

The **Department of Public Safety and Correctional Services (DPSCS)**, Division of Capital Construction and Facilities Maintenance (DCCFM) reports the awards of nine total contracts in FY 15. Six of the nine were for construction, one was for Construction Inspection and Testing Services (CITS), and two were emergency contracts. None of these procurements were awarded as Small Business Preference. All contracts are evaluated as to the availability of certified small businesses for the work. Solicitations are designated for SBP procurement contingent on the analysis for each contract. Each SBP solicitation includes preferences for veteran-owned and disabled veteran-owned small businesses, in addition to the preferences for small businesses.

Conclusion: With the exception of the Department of General Services, few participating agencies reported contract awards in FY 2016 based on application of the Preference, and this pattern has been consistent over the last six reporting periods. What differentiates DGS efforts from most other agencies is the application of the Preference to a larger number of procurements. The likelihood of a percentage price preference affecting the outcome of a contract award is slight if agencies only designate a small number of procurements for a Preference. In addition, the Small Business Reserve Program is viewed as a more effective means of soliciting and awarding contracts to small businesses.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gabriel Gnall".

Gabriel Gnall
Procurement Advisor

cc: The Honorable Lawrence J. Hogan
The Honorable Nancy K. Kopp
The Honorable Peter Franchot
Sheila McDonald, Executive Secretary
Sarah Albert, Legislative Services
Enoch Pratt Free Library