

HOUSE BILL 245

P2

3lr1210

By: **Delegates Woods, Acevero, Alston, Bagnall, D. Barnes, Bhandari, Bofo, Charles, Cullison, Guzzone, Harris, Holmes, A. Johnson, S. Johnson, Kaiser, Kelly, R. Lewis, J. Long, McCaskill, Pasteur, Phillips, Ruth, Schmidt, Simpson, Taveras, Taylor, Toles, Turner, Valderrama, White, and Williams**
Introduced and read first time: January 23, 2023
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Minority Business Enterprise Program – Reporting – List of Units**

3 FOR the purpose of requiring the Office of State Procurement in the Department of General
4 Services to maintain a list of certain units of the Executive Branch of State
5 government required to report certain information annually to the Governor’s Office
6 of Small, Minority, and Women Business Affairs; and generally relating to
7 procurement and minority business enterprises.

8 BY repealing and reenacting, with amendments,
9 Article – State Finance and Procurement
10 Section 14–305
11 Annotated Code of Maryland
12 (2021 Replacement Volume and 2022 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – State Finance and Procurement**

16 14–305.

17 (a) (1) Within 90 days after the end of the fiscal year, each unit shall report to
18 the Governor’s Office of Small, Minority, and Women Business Affairs, the certification
19 agency, and, subject to § 2–1257 of the State Government Article, the Joint Committee on
20 Fair Practices and Personnel Oversight.

21 (2) A report under this subsection shall for the preceding fiscal year:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) state the total number and value of procurement contracts
2 between the unit and certified minority business enterprises, by specific category of
3 minority business enterprise and by industry type, including whether the minority
4 business enterprise participated as a prime contractor or as a subcontractor;

5 (ii) indicate the percentage that those procurement contracts
6 represent, by specific category of minority business enterprise and by industry type, of the
7 total number and value of procurement contracts;

8 (iii) state the total number and the names of certified minority
9 business enterprises that participated as prime contractors or as subcontractors on
10 procurement contracts awarded by a unit;

11 (iv) for each minority business included in the report under item (iii)
12 of this paragraph, list all procurement contracts awarded by a unit to the minority business
13 enterprise, including a description of the contract and industry type;

14 (v) provide the results of each compliance assessment conducted by
15 the unit under § 14-303(b)(15) of this subtitle, including for each contract completed during
16 the fiscal year:

17 1. the names of each prime contractor and each
18 subcontractor that participated in the contract;

19 2. the type of good or service provided by the contract;

20 3. the minority business enterprise participation goal for the
21 contract;

22 4. whether a waiver was granted for the minority business
23 enterprise participation goal;

24 5. the total dollar value of payments made to each prime
25 contractor and by each prime contractor to each subcontractor during the contract term;

26 6. whether each subcontractor is a certified minority
27 business enterprise; and

28 7. if applicable, a description of factors that may have
29 contributed to failure to achieve the minority business enterprise participation goal for the
30 contract, including documented nonperformance or unavailability of a minority business
31 enterprise; and

32 (vi) contain other such information as required by the Governor's
33 Office of Small, Minority, and Women Business Affairs and the certification agency and
34 approved by the Board.

1 (3) As to procurement contracts for architectural services and engineering
2 services reported under paragraph (2) of this subsection, the report shall identify by
3 separate category of minority business enterprise procurements for:

4 (i) architectural services; and

5 (ii) engineering services.

6 (4) A report under this subsection shall be in a form prescribed by the
7 Governor's Office of Small, Minority, and Women Business Affairs and the certification
8 agency and approved by the Board.

9 (5) The Special Secretary for the Office of Small, Minority, and Women
10 Business Affairs may waive the requirement for a unit to report minority business
11 participation by industry type under paragraph (2) of this subsection if the spending
12 threshold for the industry type is too low for the unit to provide sufficient data.

13 (b) (1) On or before December 31 of each year, the Governor's Office of Small,
14 Minority, and Women Business Affairs shall submit to the Board of Public Works and,
15 subject to § 2–1257 of the State Government Article, to the Legislative Policy Committee a
16 report summarizing the information the Office receives under subsection (a) of this section.

17 (2) If applicable, the report submitted under paragraph (1) of this
18 subsection shall include minority business enterprise participation data for each unit by
19 industry type.

20 (3) This report may be prepared in conjunction with the annual report
21 required under § 9–306 of the State Government Article.

22 (c) (1) In this subsection, “mitigating factors” includes documented
23 nonperformance or unavailability of a minority business enterprise designated for a
24 contract.

25 (2) The Governor's Office of Small, Minority, and Women Business Affairs
26 and the Office of State Procurement in the Department of General Services, in consultation
27 with the Office of the Attorney General and the Board of Public Works, shall adopt by
28 regulation criteria used to determine that a prime contractor has persistently failed to meet
29 contract goals in the absence of mitigating factors.

30 (3) The criteria adopted under paragraph (2) of this subsection shall
31 include the results of the compliance assessments made under subsection (a)(2)(v) of this
32 section.

33 (4) The Governor's Office of Small, Minority, and Women Business Affairs
34 shall refer prime contractors identified under the criteria adopted under paragraph (2) of
35 this subsection to the Office of the Attorney General for debarment under § 16–203(d)(4) of
36 this article.

1 **(D) THE OFFICE OF STATE PROCUREMENT IN THE DEPARTMENT OF**
2 **GENERAL SERVICES SHALL MAINTAIN A LIST OF THE UNITS REQUIRED TO REPORT**
3 **UNDER SUBSECTION (A) OF THIS SECTION.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2023.