



**FY 2022 OPERATING BUDGET TESTIMONY
EXECUTIVE DEPARTMENT
BOARDS, COMMISSIONS AND OFFICES
February 19, 2021**

Senate Health and Human Services Subcommittee
Senator Melony Griffith, Chair

House Public Safety and Administration Subcommittee
Delegate Keith E. Haynes, Chair
Delegate Susie Proctor, Vice Chair

Good afternoon members of the Subcommittees. The following written testimony is provided on behalf of the Boards, Commissions and Offices. We thank you for the opportunity to appear before the Subcommittees each year as you review the proposed budget. The Boards, Commissions and Offices are comprised of various budgetary units, and they are:

Governor's Office of Community Initiatives, Steven McAdams, Executive Director

Governor's Office of Small, Minority & Women Business Affairs, James Rhee, Special Secretary

Maryland State Ethics Commission, Jennifer Allgair, Executive Director

Health Care Alternative Dispute Resolution Office, Harry L. Chase, Executive Director

Maryland State Commission on Criminal Sentencing Policy, David Soulé, Executive Director

Governor's Grants Office, Jennifer Colton, Director

MD State Labor Relations Boards, Erica Snipes, Executive Director

Maryland State Board of Contract Appeals, Bethamy Beam, Chairwoman

Governor's Coordinating Offices – Shared Services, Patrick Lally, Senior Executive Director



We would like to thank our assigned analyst, Ms. Grace Pedersen for her hard work, and acknowledgements of our efforts throughout the analysis. She is a pleasure for our offices to work with.

Boards, Commissions and Offices have put forth another responsible spending plan for fiscal year 2022 by instituting various cost savings measures. The Governor believes that it is important that the Boards, Commissions and Offices spending plan reflect the same fiscal restraint that he is asking all other agencies to implement.

Please accept our official comments below to the analyst observations and recommendations as noted in the analysis document.

Page 5. Personnel Data

The agency should comment how it will perform internal fiscal support and oversight without this position.

Last year GOCI acknowledged that the agency was in the process of reclassifying the long term vacant PIN for fiscal support and oversight of the agency due to increase in funding and fund sources. In lieu of the position, our office has sought support of the fiscal services within the Coordinating Offices.

Page 7. Key Observations

Facilitating Small and Minority Business Enterprise (MBE) Participation in State Procurement

Maryland's Minority Business Enterprise (MBE) Program was enacted in 1978 and is one of the oldest race- and gender-based preference programs in the nation. The program has been enhanced many times over the past 42 years, and always within the narrowly tailored legal and Constitutional framework that makes it possible to conduct such a program in the state procurement arena.

The state's aspirational participation goal (currently set at 29%) is achieved across all participating agencies/departments, and MBE inclusion is determined on a contract-by-contract basis. These efforts are explicitly outlined in our procurement statutes and policies for preventing unconstitutional activities such as setting quotas.

Effects of COVID-19 Emergency Procurements on MBE Participation Rates

The Department of Legislative Services (DLS) performed an evaluation of the State's emergency procurements from Fiscal Year 2013 through 2019, and determined that MBE inclusion is significantly lower on procurements designated as "emergency." Existing policies allow Procurement Officers to determine the necessary actions and steps to meet the required timeline. In some cases, they may determine that evaluation for MBE inclusion does not serve in the State's best interest. Staff within the Governor's Office of Small, Minority & Women Business (GOSBA) Affairs are outside of this process/evaluation, and trust our colleagues to make the best decisions when called upon to determine if a procurement should be designated as "emergency."

As a result of the COVID-19 pandemic, the use of emergency procurements have grown substantially, reaching \$1 billion with MBE inclusion at just 7 percent (\$70 million). GOSBA, along with many other stakeholders, is

taking a new look at the emergency procurement designation and its impact on providing access to the state-funded contracting arena for small, minority, women, and veteran-owned businesses. Since regulations around emergency procurements do not automatically eliminate evaluation for MBE inclusion, GOSBA has been encouraging all participating agencies/departments to actively evaluate every solicitation, including emergency procurements, for designation to the Small Business Reserve (SBR) Program or for MBE inclusion.

Pages 8-9. Activities to Improve Participation

The DLS review included recommendations that align with best practices routinely and repeatedly advocated by GOSBA to the procurement community, such as unbundling large contracts and directly soliciting small, minority, women, and veteran-owned firms. In addition, it was recognized that establishing goals, engaging MBE and SBR liaisons, and training vendors on how to navigate state procurement processes help to facilitate utilization of MBEs on emergency procurements.

In order to gauge how well prime contractors meet their MBE goals over the life of a contract, **DLS has asked for GOSBA's comment on the feasibility of creating a database, in consultation with the Department of General Services, which would track vendors' past performance in meeting MBE requirements.** The Department of General Services (DGS) is home to the Office of State Procurement (OSP). Contract compliance, including tracking vendors' past performance in meeting MBE requirements, responsibility is within the scope of OSP. DGS manages the State's public bid board system, eMaryland Marketplace Advantage (eMMA). eMMA is being developed to function as a full procure-to-pay vendor platform with the capability to report activities and outcomes. GOSBA would fully support that effort to work in collaboration with DGS to develop a report that tracks MBE achievement by prime contractors. Ensuring that this functionality within the eMMA system can be an option, including, and/or requiring, the ability to capture such data.

Given the importance of the liaison program to the ability of small and minority businesses to participate in State procurement, DLS recommends requesting GOSBA track liaison vacancies existing each month throughout fiscal 2022 and report the data to the committees.

Every agency participating in the MBE and SBR programs is required to have a liaison. The liaison plays an important role in evaluating procurements for SBR designation and MBE inclusion, and assists the MBE/SBR vendor with any advocacy issues that may arise during the life of the contract. It is a vital role, so when this position is vacant, it has a direct impact on participation. GOSBA supports this initiative and recognizes the extensive coordination involved in order to proceed immediately.

Pages 10. Operating Budget Recommended Actions

1. Adopt the following narrative: Liaison Vacancy Rate

GOSBA concurs with the committee narrative to report Liaison vacancy data for the period January 1, 2022 through June 30, 2022.