The State of Maryland

Executive Department

EXECUTIVE ORDER
01.01.2021.01

Increasing Small-Business Participation in State Procurements

WHEREAS, small business is the backbone and leading creator of jobs in Maryland's economy;

WHEREAS, according to the U.S. Small Business Administration, 99.5 percent of all Maryland businesses are small;

WHEREAS, Maryland small businesses employ 1.2 million people;

WHEREAS, nearly half of all workers in Maryland are employed by small businesses;

WHEREAS, small-business participation in the State's procurements should be increased; and

WHEREAS, purposes of the State's procurement law are to ensure fair and equitable treatment of all persons who deal with the State's procurement system, and to foster broad competition through support of free enterprise;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, HEREBY PROCLAIM THE FOLLOWING EXECUTIVE ORDER, EFFECTIVE IMMEDIATELY:

A. Definitions.

a. "Executive agency" means a State unit or instrumentality subject to the control, supervision, or direction of the Governor.

b. "Governor's Office" means the Governor's Office of Small, Minority, and Women Business Affairs.

B. Any procurement of an Executive agency, for goods, supplies, services, maintenance, construction, construction-related services, architectural services, and engineering services, and with a total dollar value between $50,000 and $500,000, shall be designated for the small business reserve, except for:

a. Preference procurements made from a preference provider;

b. Procurements involving expenditures of federal dollars, to the extent that inclusion in the small business reserve program conflicts with federal law or grant provisions;

c. Small procurements as classified in COMAR 21.05.07.04;

d. Procurements of human, social, cultural, and educational services; and

e. Certain term and master contracts, as determined by the Governor's Office and the Office of State Procurement in the Department of General Services.

C. A procurement is exempt from designation for the small business reserve if the Governor's Office certifies — concurrently with review of any waiver determinations for certified minority business enterprise contract goals — that it is not practicable to do so.

D. The Office of State Procurement in the Department of General Services shall assist the Governor's Office in establishing procedures and guidelines for the efficient exemption of procurements from the small business reserve and as may otherwise be appropriate for the implementation and administration of this Executive Order.

E. When delegating procurement authority to the procurement agencies, the Department of General Services shall condition the delegation on compliance with this Executive Order.

F. All Executive agencies shall implement this Executive Order in a manner that is consistent with all applicable statutes, including the public policy favoring advancements of women- and minorityowned businesses as set forth in Title 14,

Subtitle 3, of the State Finance & Procurement Article of the Code of Maryland and related regulations.

G. Nothing in this Executive Order shall operate to contravene federal law or to affect the State's receipt of federal funding.

H. If any provision of this Executive Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, the provisions or applications of the Executive Order are severable, and all others shall remain in effect to the extent possible without the invalid provision or application.

Given Under my Hand and the Great Seal of the State of Maryland, in the City of Annapolis, this 6th Day of January, 2021.

Lawrence J. Hogan, Jr.
Governor

John C. Wobensmith
Secretary of State