



## 2013 MBE Legislative Highlights

### TRANSITIONING NONPROFITS OUT OF THE MBE PROGRAM

#### House Bill 48/ Senate Bill 1066 Minority Business Enterprises - Not-for-Profit Entities

This bill enhances existing procurement preference programs for specified nonprofit entities and requires annual reports and forecasting to, and from, the Department of General Services (DGS) on nonprofit contracting activity with the State. The bill also removes nonprofits that promote the interests of physically and mentally disabled individuals from the definition of Minority Business Enterprise (MBE) and exempts certain procurements with nonprofits from MBE requirements. The Maryland Department of Disabilities (MDOD) must evaluate the bill's effect on the participation of nonprofits in State procurement and issue a final report by **December 1, 2016**.

***Effective Date*** - The bill takes effect **July 1, 2013**, and applies only prospectively to contracts awarded after that date. Provisions related to the participation of not-for-profit entities in the MBE program and to the MDOD study take effect **July 1, 2015**.

BILL NUMBER	TITLE & SUMMARY
<b>House Bill 585</b> <b>Senate Bill 599</b>	<p><b>Procurement - Subcontractor Equal Access to Bonding Act of 2013</b></p> <p>This bill prevents prime contractors on State procurements for services, supplies, or construction-related services, from imposing more stringent bonding requirements for their subcontractors than the State imposes on prime contractors. Bonds provided by subcontractors must be accepted by the prime contractor if the bond would be accepted by the State and provided by either (1) a surety company authorized to do business in the State or (2) the Maryland Small Business Development Financing Authority (MSBDF). In solicitations or pre-bid conferences for State procurements for services, supplies, or construction-related services, procurement agencies must notify bidders that bid security must be (1) a bond provided by a surety company authorized to do business in the State; (2) a bond provided by an individual surety that conforms to State law; (3) cash; or (4) another form of security that is authorized by federal or State regulations or that is satisfactory to the unit.</p> <p>Effective Date - July 1, 2013</p>

To review Bills in their entirety, visit the Maryland General Assembly website and enter the bill number under Bill Information and Status at: <http://mlis.state.md.us/#bill>.

BILL NUMBER	TITLE & SUMMARY
House Bill 757	<p><b>Procurement - Minority Business Enterprises - Reporting of Architectural Services and Engineering Services Contracts</b></p> <p>This bill requires State procurement units to disaggregate data on MBE procurements for architectural services and for engineering services that they report annually to the Governor's Office of Minority Affairs (GOMA), the Maryland Department of Transportation (MDOT), and the Joint Committee on Fair Practices and Personnel Oversight. It also changes the statutory definitions of "architectural services" and "engineering services."</p> <p>Effective date - June 1, 2013</p>
House Bill 1055	<p><b>Evaluation of the Application of Minority Business Enterprise Program by the Public Service Commission</b></p> <p>This bill requires the Maryland Public Service Commission (PSC), MDOT, and GOMA, in consultation with the Office of the Attorney General (OAG), to evaluate the feasibility and constitutionality of requiring the PSC to apply the provisions of the State's MBE Program when exercising certain authority. The agencies must report the evaluation's findings and recommendations to the General Assembly by December 1, 2013.</p> <p>Effective Date - July 1, 2013 Termination Date - June 30, 2014</p>
House Bill 1059	<p><b>Baltimore City - Video Lottery Operation Licensee - Employee Data Collection</b></p> <p>This bill requires the Baltimore City video lottery operation licensee to submit specific data on the age, sex, race, and county of residence of its employees in the previous year, by March 31<sup>st</sup> of every year to the State Lottery and Gaming Control Commission (SLGCC). Within three months of receiving the data, SLGCC must submit a report containing the data to the Governor, the Governor's Office of Minority Affairs, the President of the Senate, and the Speaker of the House of Delegates. SLGCC must adopt regulations to implement the bill.</p> <p>Effective Date - October 1, 2013</p>
House Bill 226	<p><b>Maryland Offshore Wind Energy Act of 2013</b></p> <p>This bill establishes an application and review process for proposed offshore wind projects by the Public Service Commission (Commission) and establishes a window of maximum rate impacts for both residential and nonresidential electric customers due to the bill. It establishes a Maryland Offshore Wind Business Development Fund and Advisory Committee in the Maryland Energy Administration (MEA) to promote emerging businesses related to offshore wind, of which the Special Secretary of GOMA is a member. It also establishes a Clean Energy Program Task Force. The bill establishes specified funding sources including transfers from the Strategic Energy Investment Fund (SEIF) and developer payments. The PSC receives funding from SEIF and may implement specified special assessments on electric companies to implement the bill. The bill also makes changes to the requirement to obtain a certificate of public convenience and necessity (CPCN) for specified persons.</p>

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	<p>The bill prohibits the Commission from approving an application for offshore wind projects until GOMA, in consultation with the OAG, and the applicant, has established a clear plan for setting minority business goals and related procedures.</p> <p>If an applicant is seeking investors in a proposed offshore wind project, it must take the following steps before the Commission may approve the proposed project: 1. make serious, good faith efforts to solicit and interview a reasonable number of minority investors; 2. as part of the application, submit a statement to the commission that lists the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the entity submitting an application; and 3. as a condition to the commission's approval of the offshore wind project, sign a memorandum of understanding with the commission that requires the applicant to again make serious, good-faith efforts to interview minority investors in any future attempts to raise venture capital or attract new investors to the offshore wind project. GOMA, in consultation with the OAG, must provide assistance to all potential applicants and potential minority investors.</p> <p>The bill takes effect June 1, 2013, and provisions regarding the task force terminate July 31, 2014.</p>
<b>Senate Bill 188</b>	<p><b>Minority Business Enterprises - Participation and Goals and Subgoals</b></p> <p>This bill requires the Special Secretary of GOMA, in consultation with the Secretary of MDOT and the Office of the Attorney General, to establish guidelines for each procurement unit to use when determining the appropriate MBE participation goals for State procurement contracts. It extends the termination/sunset date of the MBE Program by one year, until July 1, 2017, while also deferring the completion date of a new disparity study by one year, to September 30, 2016.</p> <p>Effective Date - October 1, 2013</p>