

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

House Bill 903 (Delegate Robinson, *et al.*)
 Health and Government Operations

Procurement - Minority Business Enterprise Certification - Mandatory Training

This bill requires that minority business enterprises complete training in business practices that are essential to business success prior to being certified as MBEs by the Maryland Department of Transportation. It requires MDOT to provide the training at least twice a year.

Fiscal Summary

State Effect: Transportation Trust Fund expenditures could increase by \$93,000 in FY 2009 for one employee to coordinate MBE training activities and for related contractual costs. Out-year expenditures reflect annualization and inflation.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	92,600	120,200	124,700	129,300	134,200
Net Effect	(\$92,600)	(\$120,200)	(\$124,700)	(\$129,300)	(\$134,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The training provided by MDOT must cover the following topics to the extent that they are relevant to MBEs: • regulations adopted by a State agency that affect an MBE’s particular industry or industries; • submitting reports to funding agencies;

- completing financial statements;
- employee assistance programs;
- State and federal tax regulations;
- drug abuse awareness;
- U.S. Department of Labor personnel regulations;
- Maryland Department of Labor, Licensing, and Regulation personnel regulations;
- licensing requirements;
- record keeping;
- business structure;
- business plan development; and
- drug-free workplace policies.

Current Law: The State’s MBE program establishes a goal that at least 25% of the total dollar value of each agency’s procurement contracts be awarded to MBEs, including 7% to African American-owned businesses and 10% to women-owned businesses. There are no penalties for agencies that fail to reach these targets. Instead, agencies are required to use race-neutral strategies to encourage greater MBE participation in State procurement.

A minority business enterprise (MBE) is a legal entity, other than a joint venture, that is:

- organized to engage in commercial transactions;
- at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged; and
- managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

MBEs include not-for-profit entities organized to promote the interests of physically or mentally disabled individuals.

A socially and economically disadvantaged individual is defined as a citizen or legal U.S. resident who is African American, Native American, Asian, Hispanic, physically or mentally disabled, a woman, or otherwise found by the State’s MBE certification agency to be socially and economically disadvantaged.

A socially disadvantaged individual is someone who has been subject to racial or ethnic prejudice or cultural bias within American society because of their membership in a group and without regard to individual qualities. An economically disadvantaged individual is someone who is socially disadvantaged whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities compared with those who are not socially disadvantaged. An individual with a personal net worth in excess of \$1.5 million is not considered economically disadvantaged.

The Board of Public Works is authorized to develop regulations designating an agency to certify and decertify MBEs for all State procurement units through a single process that meets applicable federal requirements. BPW has designated MDOT as the State’s MBE certification agency, and certification is carried out by the Office of Minority Business

Enterprises. MDOT is required to maintain a directory of certified MBEs that is available to the public through the Internet.

Background: There are currently a total of 4,044 certified MBEs in Maryland. MDOT certified 571 MBEs in 2005, 498 in 2006, and 471 in 2007.

The Governor’s Office of Minority Affairs (GOMA) is a subcabinet agency in the Governor’s Executive Department whose mission is to strengthen and advocate on behalf of MBEs. In its fiscal 2006 annual report, GOMA describes itself as a “one-stop shop” for information and support to help women and minority businesses navigate the State’s procurement and certification processes. It refers businesses to organizations that help women and minority business owners start, develop, and grow businesses. The office also sponsors conferences and seminars that provide information to MBEs regarding business opportunities with State government.

State Expenditures: The responsibility for providing training to MBEs seeking State certification is beyond the mission and capabilities of MDOT’s Office of Minority Business Affairs. The office is currently charged with reviewing and investigating applications for State certification to ensure that the applicants conform to the requirements and criteria for certification. It does not have expertise in many of the areas for which the bill would require it to provide training.

Transportation Trust Fund expenditures would therefore increase by an estimated \$92,636 in fiscal 2009, which accounts for the bill’s October 1, 2008 effective date. This estimate reflects the cost of hiring one full-time employee to coordinate MBE training activities. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also reflects funds to contract with private firms to provide training in some of the designated areas and to lease conference space to provide the training biannually.

Salaries and Fringe Benefits	\$50,628
Ongoing Contractual and Lease Costs	37,883
One-time Operating Expenses	<u>4,125</u>
Total FY 2009 State Expenditures	\$92,636

Future year expenditures reflect (1) full salaries with 4.4% annual increases and 3% employee turnover; (2) 2% annual increases in ongoing operating expenses; and (3) \$50,000 annual contractual and lease costs to provide MBE training..

Small Business Effect: Small businesses seeking MBE certification from the State would be obligated to attend the training sessions offered by MDOT before securing the desired certification. The training could help new businesses overcome or avoid obstacles to successful start-up and growth.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

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