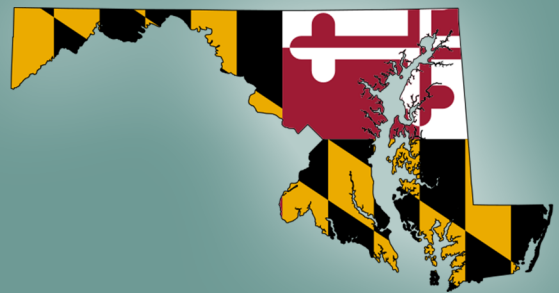


STATE OF MARYLAND

# Board of Public Works

GOVERNOR • TREASURER • COMPTROLLER

# PROCUREMENT ADVISOR'S REPORT



March 1, 2017  
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Sheila McDonald, Executive Secretary  
Board of Public Works  
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## Fiscal Year 2015-2016

MARYLAND  
BOARD OF PUBLIC WORKS

Governor    Treasurer    Comptroller

**Sheila McDonald, Esq.**  
*Executive Secretary*

**Gabriel Gnall, Esq.**  
*Procurement Advisor*

**Dori Jaffe, Esq.**  
*General Counsel*

**William Morgante, PWS**  
*Wetlands Administrator*

March 1, 2017

The Honorable Lawrence J. Hogan, Jr.  
State House  
Annapolis, MD 21401

The Honorable Thomas V. Mike Miller, Jr.  
H-107 State House  
Annapolis, MD 21401

The Honorable Nancy K. Kopp  
80 Calvert St.  
Annapolis, MD 21401

The Honorable Michael E. Busch  
H-101 State House  
Annapolis, Maryland 21401-1991

The Honorable Peter Franchot  
80 Calvert St.  
Annapolis, MD 21401

Dear Board Members, Mr. President, and Mr. Speaker:

It is our pleasure to present to the Board of Public Works and the General Assembly the State Procurement Report for Fiscal Years 2015 and 2016, primarily authored by the Procurement Advisor, Gabriel Gnall. The report, as required by State law, includes:

- (1) Information on actions necessary to improve effective broad-based competition in procurement<sup>1</sup>; and
- (2) The Procurement Advisor's findings and recommendations for improvements to the procurement system to effect broad-based competition<sup>2</sup>.

Sincerely,



Sheila McDonald

cc: Sarah Albert, Legislative Services  
Enoch Pratt Free Library

<sup>1</sup> Finance and Procurement Article, § 12-101(b)(7), Annotated Code of Maryland.

<sup>2</sup> § 12-102(a)(2)(x).

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## I. SCOPE OF THE REPORT

This is the Fiscal Years 2015 and 2016 State Procurement Report to the Board of Public Works and the General Assembly, which, as required by State law, includes:

- (1) “Information on actions necessary to improve effective broad-based competition in procurement”;<sup>1</sup> and
- (2) The Procurement Advisor’s “findings and recommendations for improvements to the procurement system” to effect broad-based competition.<sup>2</sup>

## II. MAGNITUDE OF STATE PROCUREMENT IN FISCAL YEARS 2015 & 2016

In **fiscal year 2015**, the State procured over \$15.8 billion in goods and services which is a 140.8% increase from FY 2014.<sup>3</sup> The State total does *not* include procurements by the University System of Maryland, Morgan State University, or St. Mary’s College of Maryland.

During that same period, the Board of Public Works approved \$12.1 billion in contract awards and contract modifications<sup>4</sup>. The Board-approved total *does* include University contracts, so the two numbers are not directly comparable.

Note that the significant increase in the contract awards amount for fiscal year 2015 is primarily due to the award of a set of contracts in August 2014, valued over \$8.7 billion, to provide health plan administration and services for State employees and retirees for a period of six years.<sup>5</sup>

	<b>FY15 Submitted</b>	<b>FY15 Approved</b>	<b>Disapproved/ Deferred</b>	<b>Total Dollars (billions)</b>
Contracts	600	594	6	\$11.12
Modifications	252	238	14	\$0.98

<sup>1</sup> State Finance and Procurement Article, § 12-101(b)(7), Annotated Code of Maryland. Unless otherwise noted, all statutory references in these notes will be to the State Finance and Procurement Article, Annotated Code of Maryland.

<sup>2</sup> § 12-102(a)(2)(x).

<sup>3</sup> The FY 2014 contract award total was \$6.57 billion. Source: Statewide and MDOT Advanced Purchase Inventory Control System (ADPICS).

<sup>4</sup> FY 2018 Managing For Results, Board of Public Works. See FY 2018 Proposed Operating Budget for complete MFR data. <http://www.dbm.maryland.gov/budget/Pages/operbudhome.aspx>

<sup>5</sup> <http://www.dbm.maryland.gov/proc-contracts/Pages/contract-library/health-plan-admin.aspx>

In **fiscal year 2016**, the State procured over \$7.7 billion in goods and services which is a 51.4% decrease from FY 2015.<sup>6</sup> The State total does *not* include procurements by the University System of Maryland, Morgan State University, or St. Mary's College of Maryland.

During that same period, the Board of Public Works approved \$4.31 billion in contract awards and contract modifications.<sup>7</sup> The Board-approved total *does* include University contracts, so the two numbers are not directly comparable.

As noted above, the significant decrease in the contracts award amount for fiscal year 2016 is primarily due to the award of a set of contracts in fiscal year 2015, valued over \$8.7 billion, to provide health plan administration and services for State employees and retirees for a period of six years.

	<b>FY16 Submitted</b>	<b>FY16 Approved</b>	<b>Disapproved/ Deferred</b>	<b>Total Dollars (billions)</b>
Contracts	655	623	4	\$3.29
Modifications	332	306	4	\$1.02

Totals represent contract award amounts, which is the maximum amount that may be spent during the contract term.

### **III. STATE PROCUREMENT GOALS**

The General Assembly has articulated the State Procurement Law's manifold purposes:<sup>8</sup>

1. Provide for increased confidence in State procurement.
2. Ensure fair and equitable treatment of all persons who deal with the procurement system.
3. Provide safeguards for maintaining a procurement system of quality and integrity.
4. Foster effective broad-based competition through support of the free enterprise system.
5. Promote increased long-term economic efficiency and responsibility by encouraging the use of recycled materials.
6. Provide increased economy in the State Procurement system.
7. Simplify, clarify and modernize the State Procurement Law.
8. Continue to develop procurement regulations, policies, and practices.
9. Promote the development of uniform procurement procedures to the extent possible.

<sup>6</sup> The FY 2015 contract award total was \$15.8 billion. Source: Statewide and MDOT Advanced Purchase Inventory Control System (ADPICS). See Appendix.

<sup>7</sup> FY 2018 Managing For Results, Board of Public Works. See FY 2018 Proposed Operating Budget for complete MFR data. <http://www.dbm.maryland.gov/budget/Pages/operbudhome.aspx>

<sup>8</sup> § 11-201(a).

## IV. OVERVIEW OF STATE PROCUREMENT ORGANIZATION

**Board of Public Works:** The Board of Public Works comprises the Governor, Treasurer, and Comptroller. The Board controls procurement by various State agencies (including direct review and approval of most State contracts exceeding \$200,000); adopts regulations (COMAR Title 21); sets procurement policy; and establishes internal operating procedures. Board operations are directed by the Executive Secretary<sup>9</sup> with the Board's Procurement Advisor and General Counsel serving statutorily delineated duties.<sup>10</sup>

**NOTE CONCERNING PROCUREMENT LAW EXEMPTIONS:** The State Procurement Law exempts from its reach more than 30 agencies, programs, or transaction types. Additionally, agency- and program-enabling statutes often exempt the agency or program "from Division II of the State Finance and Procurement Law."<sup>11</sup> While an exemption generally excludes the procurement from Board of Public Works review, an exemption also means exclusion from standardized State procedures such as: competitive procurement methods, green purchasing requirements, public notice of solicitations and awards, and purchasing from Maryland Correctional Enterprises, Blind Industries, and Employment Works providers.<sup>12</sup> Exemption also means further decentralization of the State's procurement process.<sup>13</sup> A complete exemption from State procurement law is distinguished from exceptions simply from Board of Public Works review, e.g., the exception for procurements to construct roads, bridges, or highways. Those latter procurements are subject to Division II of the State Finance and Procurement Law but are excepted from Board of Public Works jurisdiction.<sup>14</sup>

**NOTE CONCERNING GENERAL-OBLIGATION BOND-FUNDED CONTRACTS:** Every contract funded with general-obligation bond proceeds – regardless of type of procurement, procurement exemption, or whether it is a procurement contract – must be approved by the Board before the contract is signed.<sup>15</sup>

**Procurement Advisory Council:** The Procurement Advisory Council (PAC), chaired by the Board's Executive Secretary, comprises the Secretaries of General Services, Transportation, and Budget and Management; the State Treasurer; the Special Secretary of the Office of Minority Affairs; a representative of local government; and two members

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<sup>9</sup> § 10-201.

<sup>10</sup> § 12-102. The General Assembly created the Procurement Advisor and the General Counsel positions in 1994 as a result of a Joint Task Force on Maryland's Procurement Law. Chapter 750 (1994 Laws of Maryland).

<sup>11</sup> For example, the Maryland Health Benefit Exchange is exempt under the Insurance Article, §31-103.

<sup>12</sup> § 11-203. Most exempt agencies are required to follow MBE laws and a few other general requirements.

<sup>13</sup> The 1994 Joint Task Force on Maryland's Procurement Law recommended the Legislature discontinue granting additional exemptions until they reviewed existing exemptions. *Report of Joint Task Force on Maryland's Procurement Law* at p. 26.

<sup>14</sup> § 12-202.

<sup>15</sup> § 8-301. This is a provision of the State Finance Law (Division I of State Finance and Procurement Article) as distinct from a requirement of the State Procurement Law (Division II of that Article).



of the public with expertise in State procurement.<sup>16</sup> The PAC is charged with ensuring the State procurement system is using the most advanced procurement methods and management techniques; enhancing communication among State agencies on procurement methods; providing a forum for discussion of specific procurement issues; and making recommendations to the Board for improving the procurement process.<sup>17</sup>

***Primary Procurement Units:*** Seven primary procurement units, subject to the authority of the Board of Public Works, have jurisdiction over State procurement as follows:<sup>18</sup>

*State Treasurer* may engage in or control procurement of:

- Banking
- Financial services
- Insurance
- Insurance services

*Department of Budget and Management* may control procurement of:

- Services
- Leases of motor vehicles

*Department of General Services* may engage in or control procurement of:

- Real property leases
- Commodities and supplies
- Construction and construction-related services
- Architect and engineering services

*Department of Transportation and Maryland Transportation Authority* may engage in procurement of:

- Transportation-related construction and construction services
- Transportation-related architect and engineering services
- Rolling stock and other property peculiar to a transit system
- Supplies and services for aeronautics-related activities

*Maryland Port Commission* may engage in procurement of:

- Supplies and services for Port-related activities
- Construction and construction-related services for a Port facility
- Port-related architect and engineering services
- Leases of real property for Port-related activities unless lease payments are from the General Fund

*Department of Public Safety and Correctional Services* may engage in procurement of:

- Construction and construction-related services for State correctional facilities

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<sup>16</sup> § 12-105.

<sup>17</sup> § 12-105(g).

<sup>18</sup> § 12-107.

- Supplies, materials, and equipment to support construction and construction-related services for State correctional facilities

*Department of Information Technology* may control procurement of:

- Information processing equipment and associated services
- Telecommunications equipment, systems, or services

***Procurement Delegations:*** As stated, the seven primary procurement units may exercise procurement authority “subject to the authority of the Board.” The Board has determined to delegate some of its authority to approve contract awards to those primary procurement units; in turn, those units have re-delegated to procurement agencies some of their authority to approve contract awards. These delegations and re-delegations are summarized:

*Department of General Services*

- All commodities and supplies contracts
- Capital construction, equipment and equipment leases, architect and engineering, and maintenance contracts (including options) valued at \$200,000 or less
- Sole source, single bid contracts, and contract modifications valued at \$50,000 or less

In turn, DGS re-delegates authority to procurement agencies:

- Commodities contracts less than \$25,000
- Facility maintenance contracts less than \$50,000

*Department of Budget and Management*

- Service contracts, rental vehicle contracts for using agencies, and contract options valued at \$200,000 or less
- Sole source valued at \$100,000 or less
- Single bids and contracts modifications valued at \$50,000 or less

In turn, DBM re-delegates authority to procurement agencies:

- \$100,000 to the Departments of Information Technology, General Services, Transportation, Human Resources, and Health & Mental Hygiene for services
- \$200,000 to all agencies for service contracts with preferred providers<sup>19</sup>
- \$100,000 to the State Police for helicopter maintenance
- \$50,000 to the Department of Natural Resources and the Department of Education’s Division of Rehabilitation Services for conversion of vehicles and homes
- \$25,000 in any matter not listed except no delegation with respect to vehicle leases

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<sup>19</sup> See Section V. *infra* for discussion of preferred providers.



*Department of Information Technology*

- Information technology contracts and contract options valued at \$200,000 or less
- Sole source contracts valued at \$100,000 or less
- Single bid contracts and contract modifications valued at \$50,000 or less
- Software license renewals

In turn, DoIT re-delegates authority to procurement agencies:

- Information technology contracts (not telecommunications) valued at \$25,000 or less

*Department of Transportation*

- Maintenance, equipment and equipment leases, architect and engineering, transportation-related construction, and capital-construction contracts (including options) valued at \$200,000 or less
- Sole source, single bid contracts, and contract modifications valued at \$50,000 or less
- Supplies and services for aeronautics-related activities

*Treasurer*

- All banking, investment, and financial-related services contracts
- All insurance and insurance-related services contracts

*Maryland Port Commission*

- Port facilities construction and construction-related services contracts, equipment and equipment leases, and Port-related architect/engineering services and maintenance contracts (including options) valued at \$200,000 or less
- Port Administration commodities and supplies contracts
- Port Administration services and information technology contracts valued at \$200,000 or less
- Sole source, single bid contracts, and contract modifications valued at \$50,000 or less
- Modifications to stevedoring and terminal services contracts that do not exceed the contract amount by 20 percent.

*Department of Public Safety and Correctional Services*

With respect only to construction and construction-related services at State correctional facilities:

- Capital contracts valued at \$200,000 or less
- Architect/engineering contracts (based upon DGS selection process) valued at \$200,000 or less
- All commodities and supplies contracts

- Sole source, single bid contracts, and contract modifications valued at \$50,000 or less

## V. PROCUREMENT METHODS

Agencies that must follow the State Procurement Law may obtain goods and services through the following procurement methods.

***Competitive Sealed Bidding.*** Agencies must use competitive sealed bidding unless another method is specifically authorized. Under this method, award is made to the responsible bidder who submits a responsive bid that offers the lowest bid price or lowest evaluated bid price.<sup>20</sup>

***Competitive Sealed Proposals.*** Award is made to the responsible offeror who submits the proposal determined to be most advantageous to the State considering the evaluation factors set forth in the request for proposals.<sup>21</sup> Offerors are ranked based on technical and price proposals.

***Negotiated Award After Unsatisfactory Competitive Sealed Bidding.*** If a competitive-sealed-bid procurement produces bids that are rejected, exceed funds available, or are unreasonable, the agency may request revised bids from the same bidders. Award is made based on the most favorable bid price or most favorable evaluated bid price of the revised bids.<sup>22</sup>

***Sole Source.*** The sole source procurement method may be used if only one source for the goods or services is available.<sup>23</sup>

***Emergency.*** Award may be made by any method that the procurement officer determines appropriate to avoid or mitigate serious damage to public health, safety, or welfare.<sup>24</sup> Emergency awards are within a procurement agency's authority: it may award a contract limited to the quantity and types of items necessary to avoid or mitigate damage without Board of Public Works approval. After award, the agency reports the procurement to the Board.

***Expedited.*** The Maryland Aviation Administration and the Maryland Port Commission may award a contract on an expedited basis, which means that certain standard Procurement Law requirements (primarily, public notice and formal competition requirements) do not have to be followed. The expedited award must be based on as much competition as reasonably possible if: urgent circumstances exist, an expedited procurement would serve the public interest, and the need for an expedited procurement

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<sup>20</sup> § 13-103. The award may be made to the "bid most favorable to the State" for certain revenue-producing contracts under §11-202(3).

<sup>21</sup> § 13-105.

<sup>22</sup> COMAR 21.05.04.01.

<sup>23</sup> § 13-107.

<sup>24</sup> § 13-108.

outweighs the benefits of using the standard methods. The Airport and the Port must seek Board of Public Works approval before soliciting an expedited procurement.

**Small Procurement.** Minimum procurement requirements are in place for agencies to award contracts that do not exceed \$25,000 (or \$50,000 for DGS construction contracts).

**Auction Bids.** Primary procurement units may use an auction (rather than sealed bids) to award contracts for supplies estimated at \$1 million or more. Like the sealed-bid method, when the auction is complete, award is made based on lowest bid price or lowest evaluated bid price.<sup>25</sup> DGS uses this method to purchase electricity.

**Intergovernmental Cooperative Purchasing.** In basic terms, cooperative purchasing is sharing a contract among government entities. An agency may act as a lead agency and award the contract that authorizes other government entities to use it, or an agency may simply “piggyback” off an existing contract. Nonprofits also have the authority to piggyback off government cooperative purchasing agreements.<sup>26</sup>

**Architect and Engineering Services.** When a primary procurement unit solicits offers for architectural or engineering services, it evaluates the offeror’s technical proposal only. After determining the most qualified offeror, award is made to that offeror if the agency and the offeror are able to negotiate a price that is fair, competitive, and reasonable.<sup>27</sup>

**Noncompetitive Negotiated Procurement.** Restricted to certain human, social, or educational services, allowing awards based on “the best interests of the State.”<sup>28</sup>

**BPW Approvals By Method:**

FY 2015 awards<sup>29</sup>:

Competitive Sealed Bid	Competitive Sealed Proposals	Single Bid/Proposal	Sole Source	Emergency/ Expedited	Other
194	80	42	85	52	151

FY 2016 awards<sup>30</sup>:

Competitive Sealed Bid	Competitive Sealed Proposals	Single Bid/Proposal	Sole Source	Emergency/ Expedited	Other
238	87	31	80	62	125

<sup>25</sup> § 13-111

<sup>26</sup> Chapter 677, Laws of 2009

<sup>27</sup> State Finance and Procurement Article, Title 13, Subtitle 3.

<sup>28</sup> § 13-106

<sup>29</sup> FY 2018 Managing For Results, Board of Public Works – FY 2015 actual data. See FY 2018 Proposed Operating Budget for complete MFR data. <http://www.dbm.maryland.gov/budget/Pages/operbudhome.aspx>

<sup>30</sup> FY 2018 Managing For Results, Board of Public Works – FY 2016 actual data. See FY 2018 Proposed Operating Budget for complete MFR data. <http://www.dbm.maryland.gov/budget/Pages/operbudhome.aspx>

**NOTABLE:**

- The number of sole-source contracts approved has been relatively constant in the past three years.<sup>31</sup>
- The number of contract awards resulting from a single bid or proposal received has decreased significantly: from 93 in FY 2014, to 42 in FY 2015 and 31 in FY 2016.

***Encouraging Competition***

The Procurement Advisor, together with the Board’s General Counsel and its Records Manager, continues to work with the Procurement Advisory Council and Senior Procurement Advisory Group to ensure agencies are using procurement best practices to maximize procurement competition. Best practices include:

- Writing specifications to make sure they are not overly restrictive.
- Writing solicitations in plain English.
- Safeguarding against incumbency advantages by establishing reasonable proposal deadlines and not placing unnecessary significance on past performance as an evaluation factor.
- Encouraging direct solicitation notices and notifications in forums in addition to posting on *eMaryland Marketplace*, especially for unique requirements.
- Upon receipt of a single bid/proposal, taking appropriate action including re-soliciting when feasible and further reducing any restrictive requirements.

**VI. SOCIOECONOMIC PROGRAMS**

The General Assembly has adopted various programs to ensure that all persons have access to meaningful opportunities to contract with the State and to ensure that State dollars are spent in a manner that furthers common goals. State Procurement goals include advancing participation by minority business enterprises, small businesses, veteran-owned businesses, and preferred providers in State contracts and the use of environmentally sound practices.

***Preferred Providers***

The General Assembly has set a clear mandate that State agencies “shall buy supplies and services” from certain entities if those entities provide what the agencies are looking to procure.<sup>32</sup> These entities are referred to as preferred providers. They are, in order of preference:

- (1) Maryland Correctional Enterprises<sup>33</sup>
- (2) Blind Industries and Services of Maryland

<sup>31</sup>Total sole source contracts approved by the Board in FY 2014 were 84.

<sup>32</sup>See generally §§ 14-101 – 14-109

<sup>33</sup>MCE trains and employs offenders within the prison system to produce goods and services that are sold to State and local agencies and nonprofit organizations.

- (3) The Employment Works Program, including community service providers and individual-with-disability-owned businesses

The State keeps a master list of supplies and services provided by preferred providers. If an agency is seeking to procure supplies or services on that list, it must procure what it needs from a preferred provider unless: the preferred provider cannot meet the State's reasonable specifications, including time requirements; the preferred provider's price exceeds the fair market price or exceeds the agency's budget; or the procurement is being made on an emergency basis.<sup>34</sup>

#### ***Minority Business Enterprise Program***

- *Goal:* The Minority Business Enterprise program requires procurement agencies to structure procurement procedures to try to achieve an overall minimum of 29% of the agency's total dollar value of procurement contracts to be made directly or indirectly with certified MBEs.<sup>35</sup>
- *FY 2015\*:* The State had 26.2% MBE participation.<sup>36</sup> This is slightly lower than the 27.3% participation in FY 2014.<sup>37</sup>

#### ***Veteran Small Business Program***

- *Goal:* The Veterans Small Business Program requires procurement agencies to structure procurement procedures to try to achieve an overall minimum of 1%<sup>38</sup> of the agency's total dollar value of procurement contracts to be made directly or indirectly with veteran businesses verified by the United States Department of Veterans Affairs.<sup>39</sup>
- *FY 2015\*:* Veteran-owned small business participation for FY 2015 is 0.22% – less than one-fourth of the new 1% statewide goal. However, participation for FY 2015 reflects a significant increase over the 0.097% participation rate in FY 2014 and the 0.016% participation rate in FY 2013.<sup>40</sup>

#### ***Small Business Reserve***

- *Goal:* The Small Business Reserve Program aims to increase participation in State procurements by small businesses. Under this Program, 23 designated State agencies must structure their procurement procedures to ensure that at least 10%

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\* FY 2016 data has not yet been published, but will be provided in the Procurement Advisor's Report for FY 2017.

<sup>34</sup> COMAR 21.11.05.07

<sup>35</sup> COMAR 21.11.03.01

<sup>36</sup> *Governor's Office of Minority Affairs Annual Report FY2015*

[http://goma.maryland.gov/Reports/GOMA\\_FY2015\\_AnnualReport.pdf](http://goma.maryland.gov/Reports/GOMA_FY2015_AnnualReport.pdf)

<sup>37</sup> *Minority Business Enterprise Program Statistical Report, Fiscal Year 2014*

<http://goma.maryland.gov/Reports/FY2014MBEStatisticalReportFINAL.pdf>

<sup>38</sup> Chapters 343 and 344 (Laws of 2015), effective October 1, 2015, increased the goal from 0.5% to 1%.

<sup>39</sup> Title 14, Subtitle 6 of the State Finance and Procurement Article

<sup>40</sup> *Report to the Legislative Policy Committee on Veteran-Owned Small Business Participation, Fiscal Year 2015* <http://bpw.maryland.gov/Publications/FY15%20VSBE%20Report.pdf>

of the agencies' procurement dollars are expended directly with certified small businesses.<sup>41</sup>

- *FY 2015\**: The State made payments totaling \$418,746,478 to certified small businesses, which represents 10.56% of the agencies' procurement dollars. This is lower than the \$441,592,601 spend in FY 2014 (11.82% of total FY 2014 spend).<sup>42</sup>

### ***Small Business Preference***

- *Goal*: The Small Business *Preference* Program is distinct from the Small Business *Reserve* Program. The Preference Program establishes a price preference of up to 8% for certified small businesses including veteran-owned and service-disabled veteran-owned small businesses.<sup>43</sup>
- *FY 2015\**: Few participating agencies reported contract awards in FY 2015 based on application of the Preference, and this pattern has been consistent over the last six reporting periods. See *The Small Business Preference Program Report, FY 2015*.<sup>44</sup>

### ***Green Purchasing***

The Green Purchasing Committee provides information, assistance, and guidelines to maximize procurement of environmentally beneficial products and services by State agencies.<sup>45</sup> State agencies annually report to the Department of General Services on the purchases of environmentally preferable products and services.<sup>46</sup>

## **VII. PROCUREMENT ADVISOR ACTIVITIES**

As Procurement Advisor, I report the following activities during FY 2015, FY 2016, and into FY 2017:<sup>47</sup>

### ***Procurement Reform***

- Member, One Maryland Blue Ribbon Commission
- Staff, Commission to Modernize State Procurement

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\* FY 2016 data has not yet been published, but will be provided in the Procurement Advisor's Report for FY 2017.

<sup>41</sup> Title 14, Subtitle 5 of the State Finance and Procurement Article

<sup>42</sup> *Report on the Operations and Effectiveness of the Small Business Reserve Program, Fiscal Year 2015*, Board of Public Works. <http://bpw.maryland.gov/Publications/FY15%20SBR%20Report.pdf>

<sup>43</sup> Title 14, Subtitle 2 of the State Finance and Procurement Article

<sup>44</sup> [http://bpw.maryland.gov/Publications/FY15\\_Small-Business-Preference-Program-report.pdf](http://bpw.maryland.gov/Publications/FY15_Small-Business-Preference-Program-report.pdf)

<sup>45</sup> <http://dgs.maryland.gov/Pages/GreenOperations/GreenPurchasing/index.aspx>

<sup>46</sup> [http://dgs.maryland.gov/Pages/Publications/green\\_purchasing\\_annual\\_reports.aspx](http://dgs.maryland.gov/Pages/Publications/green_purchasing_annual_reports.aspx)

<sup>47</sup> § 12-102(a)(2)(x)

### ***Committees and Organizations***

- Chair, Council for the Procurement of Health, Education, and Social Services
- Staff, Procurement Advisory Council
- Board representative, Senior Procurement Advisors Group
- MBE Liaison, Board of Public Works
- Coordinator, Managing for Results
- Member, National Association of State Procurement Officials (NASPO)
- Member, National Institute of Governmental Purchasing (NIGP)
- Member, Maryland Public Purchasing Association (MPPA)

### ***Reports***

- Annual report to General Assembly on Small Business Reserve Program
- Annual report to General Assembly on Small Business Preference Program
- Annual MBE waiver report
- Certified MBE Report
- Veteran Small Business Report

### ***Regulations/Policy***

- COMAR Title 21 – current
- Board of Public Works procurement advisories – current

### ***Communication***

- Regularly advise General Assembly and Office of Legislative Audits
- Monitor OLA reports and assist agencies with respect to procurement findings
- Brief procurement officers from counties and schools on procurement legislation
- Brief Maryland Public Purchasing Association on changes to procurement laws and regulations
- Advise Senior Procurement Advisors Group on procurement best practices, procurement laws, and Board policy
- Instruct MBE liaisons on implementing Veteran Small Business Program
- Participated in the 2016 NIGP Annual Forum in National Harbor, MD



## VIII. LOOKING FORWARD – FISCAL YEAR 2017

### *Procurement Reform*

Four State-level reviews of State procurement have been conducted in the past four years, with each review resulting in a report:

- *May 2013: Procurement Improvement Review, State of Maryland* by Treya Partners, a consultant procured by the Board of Public Works to look at current challenges to the State's procurement system, with detailed findings, recommendations, and supporting analysis.<sup>48</sup>
- *November 2014: Review of Maryland's Procurement Policies and Structures* by the Department of Legislative Services, built on the 2013 report by Treya Partners and made recommendations for statutory and administrative changes to improve State procurement.<sup>49</sup>
- *June 2016: Reforming State Procurement for Maryland Businesses*, the report of the One Maryland Blue Ribbon Commission, surveyed vendors and State procurement officers to study procurement challenges faced by Maryland businesses.<sup>50</sup>
- *December 2016: Report of the Commission to Modernize State Procurement*, the result of a nearly year-long review of the State's procurement code, regulations, and procedures contained 57 recommendations to improve and modernize State procurement.<sup>51</sup>

Common themes among these reports include improving the training of State procurement staff, modernizing the State's procurement information technology systems and software, simplifying solicitation templates and other procurement documents, and centralizing procurement authority.

While bills have been proposed in recent legislative sessions to enact several of the recommendations included in these reports, the current 2017 Regular Session has seen an even greater influx of bills focused on reforming the State's procurement system, based on recommendations made in several of the reports noted above. The Board of Public Works looks forward to working with the General Assembly and with procurement agencies to identify the best practices for these recommendations and potential changes to law, and to assist in the training and consistent application of those best practices.

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<sup>48</sup> *Procurement Improvement Review, State of Maryland*, May 2013, Treya Partners.

<http://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/017000/017746/unrestricted/20131758e.pdf>

<sup>49</sup> *Review of Maryland's Procurement Policies and Structures*, November 2014, Department of Legislative Services

<http://mgaleg.maryland.gov/Pubs/BudgetFiscal/2014-Procurement-Structures-Policies-Practices.pdf>

<sup>50</sup> "Reforming State Procurement for Maryland Businesses" June 2016, One Maryland Blue Ribbon Commission <https://marylandassociationofcounties.files.wordpress.com/2016/07/reforming-state-procurement-for-maryland-businesses.pdf>

<sup>51</sup> *Report of the Commission to Modernize State Procurement*, December 2016, Lt. Governor Boyd K. Rutherford, Chair <https://governor.maryland.gov/ltgovernor/wp-content/uploads/sites/2/2016/12/Commission-to-Modernize-State-Procurement-Final-Report-web.pdf>

## ***Procurement Manual***

Recommendation 4.2 of the Report of the Commission to Modernize State Procurement tasks a workgroup of designated State procurement staff to create and eventually distribute a State of Maryland Procurement Manual, as well as establish a system for periodically updating the Manual. This Manual is to promote standardized best practices for the planning, conducting, and completion of procurements, with an emphasis on consistent practices under the State's procurement regulations. It is to be electronically accessible for use by all State agencies and the business community, and will later be used in the development of a Maryland Procurement Training Curriculum (Recommendation 4.3).

While development of the Manual is still in its early stages, the State workgroup for the Manual has been established and meetings are currently being held. As Procurement Advisor to the Board, I am a member of this workgroup and welcome the opportunity to take part in the creation of a manual that will provide consistency in procurement practices across all State agencies and form the basis of a much-needed ongoing State procurement training curriculum.

## Fiscal Year 2015 Summary

<b>Categories of Work</b>	<b>Contract Award Amount - State Agencies other than MDOT</b>	<b>Contract Award Amount - MDOT</b>
<i>Commodities, Supplies, and Equipment</i>	\$214,339,016	\$100,395,351
<i>Services</i>	\$11,574,620,975	\$366,473,288
<i>Architect and Engineering</i>	\$15,229,598	\$548,264,310
<i>Human, Cultural, Social and Educational Services</i>	\$358,085,349	-----
<i>IT</i>	\$317,558,619	\$102,889,678
<i>IT Hardware</i>	\$76,265,503	\$12,146,825
<i>IT Software</i>	\$51,114,027	\$45,730,165
<i>Construction</i>	\$453,871,542	\$1,238,090,547
<i>Construction-Related Services</i>	(\$1,129)	\$8,631,723
<i>Capital Equipment</i>	\$8,066	\$20,475
<i>Maintenance</i>	\$53,701,790	\$276,710,598
<i>Energy Performance</i>	\$16,902,420	-----
<i>Revenue</i>	(\$6,337,562)	(\$52)
<b>Totals</b>	<b>\$13,125,358,214</b>	<b>\$2,699,352,909</b>

### Fiscal Year 2016 Summary

Categories of Work	Contract Award Amount - State Agencies other than MDOT	Contract Award Amount - MDOT
<i>Commodities, Supplies, and Equipment</i>	\$229,013,204	\$262,509,680
<i>Services</i>	\$1,364,951,043	\$656,223,218
<i>Architect and Engineering</i>	\$25,335,428	\$424,338,631
<i>Human, Cultural, Social and Educational Services</i>	\$466,467,378	-----
<i>IT</i>	\$440,642,274	\$70,478,702
<i>IT Hardware</i>	\$273,469,248	\$9,805,775
<i>IT Software</i>	\$147,978,625	\$13,679,183
<i>Construction</i>	\$748,701,629	\$2,138,667,256
<i>Construction-Related Services</i>	\$7,046,045	\$46,027,911
<i>Capital Equipment</i>	\$61,148	\$650,441
<i>Maintenance</i>	\$85,680,219	\$307,559,309
<i>Energy Performance</i>	\$1,268,671	-----
<i>Revenue</i>	(\$23,141,797)	-----
<b>Totals</b>	<b>\$3,767,473,115</b>	<b>\$3,929,940,106</b>