

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 228

(Senator Ferguson, *et al.*)

Budget and Taxation and Education, Health,
 and Environmental Affairs

Appropriations

Maryland Corps Program – Revisions

This bill makes significant changes to the Maryland Corps Program, including allowing participants to transition to the workforce (as well as to an institution of higher education). Under the restructured Maryland Corps, in addition to other specified expenses, program funding is to be used to (1) expand the Chesapeake Conservation Corps and the Maryland Conservation Corps and (2) create a Maryland Civilian Climate Corps and a Maryland Historic Trades Corps. The Maryland Corps Board of Directors is restructured and established as a separate body, with an executive director and authority to hire staff directly. Accordingly, the bill removes the responsibility for program staffing from the Governor’s Office on Service and Volunteerism and removes program administration from an operator selected via a request for proposals (RFP). The Governor must appropriate the following amounts to the Maryland Corps Program Fund: \$5 million in fiscal 2024; \$10 million in fiscal 2025; \$15 million in fiscal 2026, and \$20 million in fiscal 2027 and each fiscal year thereafter. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: No effect in FY 2022; in FY 2023, budgeted resources are sufficient to begin implementing the bill, but special fund expenditures likely increase due to the bill, as discussed below. General fund expenditures increase by \$5 million in FY 2024, increasing to \$20 million in FY 2027, with corresponding increases in special fund revenues and expenditures to administer the program and provide participants with stipends and services (and possible further increases if the program utilizes expanded authority to seek additional funding). **This bill establishes a mandated appropriation beginning in FY 2024.**

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	\$0.0	\$5.0	\$10.0	\$15.0	\$20.0
GF Expenditure	\$0.0	\$5.0	\$10.0	\$15.0	\$20.0
SF Expenditure	-	\$5.0	\$10.0	\$15.0	\$20.0
Net Effect	(\$-)	(\$5.0)	(\$10.0)	(\$15.0)	(\$20.0)

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

Local Effect: To the extent local governments participate in the Maryland Corps Program or the AmeriCorps Program using the Maryland Corps Program as an intermediary, local governments benefit from the value of volunteer hours served in local governments.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Maryland Corps Program

The purpose of the program is altered such that it no longer specifies that the program will provide meaningful opportunities *to at least 100 corps* participants. The bill also clarifies that the purpose of the program is to equip corps participants with the skills to transition to the workforce (in addition to higher education).

The Maryland Civilian Climate Corps is to be created to conserve and restore State and local parks and engage in other climate or environmental projects. The Maryland Historic Trades Corps is to be created to place young adults and young veterans in regionally based work crews tasked with rehabilitation of State historic resources.

The Maryland Corps Program is exempted from general State procurement law except for the State's Minority Business Enterprise (MBE) Program. Additionally, the Maryland Corps Program is subject to legislative review.

"Participating organization" is defined as a nonprofit organization or government agency that has a focus on community or other service, service learning, volunteerism, or other activities or experiences with a similar mission; hosts a program participant in a service role; and complies with specified civil rights and nondiscrimination statutes.

Participant Eligibility

The bill expands eligibility for the program by repealing the requirements that a corps participant be between 17 and 23 years old, be eligible for in-state tuition, have obtained a high school diploma or GED, and have not obtained a vocational certificate or degree from an institution of higher education.

Maryland Corps Board of Directors

Composition: The bill establishes the Maryland Corps Board of Directors as a body politic and corporate and an instrumentality of the State and specifies certain actions the board

may take, including, but not limited to, all things necessary or convenient to carry out powers expressly granted in statute.

The bill restructures the Maryland Corps Board of Directors. The President of the Senate and the Speaker of the House must jointly appoint a board chair. The board chair may be removed jointly by the President and the Speaker for specified reasons. The number of Governor appointees to the board is reduced from three to two, and one of the Governor's appointees must be a representative from the Governor's Office on Service and Volunteerism. The number of members appointed by the President of the Senate and the Speaker of the House individually is reduced to one member each. Instead, two members must be jointly appointed by the President of the Senate and the Speaker of the House, one of whom must represent a service organization in the State, and one of whom must be a current participant in a public service program or have ended his or her participation during the preceding three years.

The terms of board members are staggered, as specified. New members of the board must be appointed by their respective appointing authorities on or before September 1, 2022.

Responsibilities: The bill specifies that board members are subject to certain provisions of State Public Ethics Law. Board members must meet at least once every two months, and board meetings are subject to the requirements of the Open Meetings Act.

The board is responsible for expanding service opportunities in the State in accordance with specified goals relating to creating a strong annual cohort bond of unity, ensuring equitable access to participate in the program, helping participants develop critical job skills, and ensuring each district of the State can communicate its unique needs and choose appropriate solutions. The board must prioritize for participation in the program individuals historically underrepresented in either (1) higher education enrollment or completion or (2) employment by large-scale and community employers or participating organizations.

The board must adopt regulations regarding:

- selection criteria for and classification of regional operating partners;
- eligibility requirements for participating organizations;
- prioritizing placement of program participants with large-scale employers;
- a centralized and efficient screening and placement process;
- stipends for participants, including monetary payment of at least \$15 per hour, health insurance benefits, the potential for wraparound services, and requirements for large-scale employers to provide matching funds;
- an education award of \$6,000 for participants that complete at least nine months of service, which must be deposited into a tax-exempt Maryland 529 account;

- workforce development training and wraparound services;
- additional training and support services for participants after service completion;
- ongoing evaluation of opportunities to expand service in the State; and
- ongoing evaluation of the program to ensure access and effectiveness, including demographics, post-participation trajectories of participants, and an evaluation of the needs served in the community by the program.

The board must act as an intermediary with the AmeriCorps Program to secure federal funding and alleviate the administrative burden on State organizations to participate in AmeriCorps. The board must focus on expanding service opportunities in State and local parks and in the public health sector when working with AmeriCorps.

Executive Director and Staff of the Maryland Corps Board of Directors

The bill repeals the responsibility of the Governor's Office on Service and Volunteerism to provide staff, technical assistance, and other support to the board and its operator. Relatedly, the bill repeals the requirement for the board to have an operator and the accompanying RFP process to select a program operator.

Instead, the bill specifies that (1) the board must appoint an executive director who serves at the pleasure of the board and (2) the board must determine the salary of the executive director. The executive director is the chief administrative officer of the program and must manage the administrative affairs and technical activities of the program in accordance with the policies and procedures the board establishes.

The board may employ a staff in accordance with its budget, and staff employed by the board are State employees subject to the Maryland Public Ethics Law under Title 5 of the General Provisions Article. Employees may participate in the State Retirement and Pension System under Division II of the State Personnel and Pensions Article.

Stipends and Other Benefits for Participants

The bill repeals provisions requiring a corps participant to serve for at least nine months and allowing a participant to be eligible for a monetary stipend of up to \$15,000 as determined by the board. Also repealed are provisions that allow participants who complete the program to receive a one-time scholarship award for up to \$6,000, which may be used toward a vocational certificate, an associate's degree, or a bachelor's degree. Instead, as noted above, the board must adopt regulations regarding an education award of \$6,000 for program participants who complete at least nine months of service. Stipends for participants also include monetary payment of at least \$15 per hour, health insurance benefits, and wraparound services as specified in regulations to be adopted by the board.

“Wraparound services” includes child care, transportation, housing, mental health, crisis intervention, substance abuse prevention or treatment, legal aid, financial literacy programming, job search and application support, and college application support.

The bill expands the in-state residency requirement waiver that allows individuals who have completed all service hours for an AmeriCorps Program in the State to receive in-state tuition to also include individuals who completed a service program under the Maryland Corps Program.

Funding and Legislative Intent

The Governor must include in the annual budget bill an appropriation to the Maryland Corps Program Fund of \$5 million in fiscal 2024, \$10 million in fiscal 2025, \$15 million in fiscal 2026, and \$20 million in fiscal 2027 and each fiscal year thereafter.

In addition to the money appropriated to the board, the board may use State or federal grant money; borrow money; accept gifts, contributions, or loans; and exercise a power usually possessed by a private corporation in performing similar functions unless to do so would conflict with State law.

The bill expresses legislative intent that appropriations to the special fund are in addition to any federal funding received for State service or volunteer programming, and any funding received for State service or volunteer programming be deposited into the fund for use by the program.

The bill authorizes additional uses for appropriated funding and any other funding received, including providing staff for the program. The fund must cover marketing and recruitment expenses and specified programmatic expenses to expand service opportunities throughout the State. Marketing and recruitment conducted by the program must prioritize historically black colleges and universities, community colleges, high schools with low rates of matriculation, trade schools, and youth who are disconnected from school or work.

Current Law:

Maryland Corps Program

Statute specifies that the Maryland Corps Program is administered and managed by a seven-member board of directors, with two members each appointed by the President of the Senate and the Speaker of the House of Delegates, and three members appointed by the Governor. Members are appointed for staggered four-year terms. In appointing members of the board, the appointing authorities must take into consideration the prospective appointees’ experience and the diversity of the State, as specified in statute. Members of

the board may be removed by their respective appointing authorities for incompetence, misconduct, immorality, or failure to perform their duties. They do not receive compensation but may be reimbursed for their expenses.

The Governor's Office on Service and Volunteerism within the Governor's Office of Community Initiatives must staff the board and provide technical and other assistance to the program operator. By June 1, 2017, the board was required to issue an RFP for a program operator, which had to contain elements specified in statute. Individuals who participate in Maryland Corps:

- must be between the ages of 17 and 23;
- must be eligible for in-state tuition;
- must have obtained a high school diploma or general equivalency diploma; and
- must not have obtained a vocational certificate, associate's degree, or bachelor's degree from an institution of higher education

Maryland Corps participants must serve for at least nine months with a nonprofit organization or government agency that has a focus on community or other service, civic engagement, volunteerism, or other activities or experiences with a similar mission. During their service, they are eligible for a stipend of up to \$15,000. Upon successful completion of their service, they are eligible for a one-time scholarship of \$6,000, to be used at a public or private nonprofit institution of higher education in the State that is certified by the Maryland Higher Education Commission. The scholarship may not be construed to prohibit or impede the award of any other financial aid for which the participant is eligible.

The Maryland Corps Program Fund is a continuing, nonlapsing special fund of the State for the purpose of:

- providing stipends and scholarships to participants;
- covering expenses incurred by the board, including those related to issuing the RFP;
- covering expenses incurred by the program operator selected by the board;
- covering expenses incurred to study the potential use of the program as a workforce development tool;
- covering expenses incurred to study how alumni of the program could be better positioned to meet the current and future needs of employers in the State; and
- provide funding for the program to match gifts or grants received by the board for the fund.

Funding is as provided in the State budget. The board must explore the possibility of accessing federal or other grant funding for the program and awarding participants with academic credit for their service. The fund is subject to audit by the Legislative Auditor.

The board must make annual reports related to the operation of the Maryland Corps Program.

The Governor's Office on Service and Volunteerism

The Governor's Office on Service and Volunteerism has four staff that administer approximately \$6 million in federal funds (\$5.1 million of which are direct subawards to AmeriCorps State programs). The current staff oversee AmeriCorps State programs supporting 923 AmeriCorps members and supporting volunteer connector organizations throughout the State. The current staff also provide administrative support and funding packages to the 25-member Governor's Commission on Service and Volunteerism. The current staff are fully subscribed with their current duties.

Chesapeake Conservation Corps and Maryland Conservation Corps Programs

The [Chesapeake Conservation Corps Program](#) facilitates youth involvement in energy conservation and environmental efforts, and associated career opportunities for the participants, by pairing young individuals ages 18 to 25 with qualifying host organizations to undertake energy conservation and environmental projects. The program provides stipends to participating young adults and optional grants to host organizations for costs associated with projects undertaken as part of the one-year term of service. A host organization can be a nonprofit organization; a school; a community association; a service, youth, or civic group; an institution of higher education; a county or municipality; or a unit of State government.

The program is administered by the Chesapeake Bay Trust in consultation with the Chesapeake Conservation Corps Board, which is established to advise the trust in the development and implementation of the program. The program has 30 to 35 participants a year.

The [Maryland Conservation Corps](#) is an AmeriCorps program that aims to provide meaningful and productive employment for youth (ages 16 to 24) to conserve or develop natural resources and enhance and maintain environmentally important lands and waters. The program furthers the understanding and appreciation of natural resources, while teaching basic and fundamental work ethics. According to the program's [2019-2020 Annual Report](#), the program includes 35 members working in crews of five hosted across seven Maryland State Parks. The program is administered by the [Maryland Park Service](#), which also operates the Maryland Conservation Jobs Corps, and the Veterans Conservation Corps.

Minority Business Enterprise Program

For an overview of the State's MBE program, please see the **Appendix – Minority Business Enterprise Program**.

State Fiscal Effect: Although the Maryland Corps Program has existed in statute since 2016, the board has not been appointed as the program has not, through fiscal 2022, received any funding. Accordingly, all mandated funding for the program reflects additional spending by the State. With a June 1, 2022 effective date, this analysis assumes no additional expenditures are required in fiscal 2022 – particularly given the need to appoint the new board and a likely 120-day start-up delay.

Expenditures and Capitalization of the Special Fund

The fiscal 2023 operating budget, as enacted (specifically Supplemental Budget No. 5), includes \$5 million in general funds for the expansion of the Maryland Corps Program as an identified legislative priority – in addition to the \$150,000 for the Maryland Corps Program Fund already included in the budget as introduced. Therefore, due to the budget, not this bill, special fund revenues increase by \$5 million in fiscal 2023. Further, assuming the restructured board is appointed by September 1, 2022 (as required by the bill), the executive director and necessary staff are hired shortly thereafter, and any required regulations to implement the program are developed before the end of fiscal 2023, special fund expenditures increase in fiscal 2023. Absent the bill (which requires certain staffing and expands the program in several ways), this analysis assumes a portion of the special funding available in the budget might not otherwise be expended in fiscal 2023. Special fund expenditures incurred in fiscal 2023 reflect start-up, staffing, and administrative costs, as well as provision of any remaining available funding as awards to program participants, as discussed below. It is assumed that any budgeted funding not used in fiscal 2023 is held in the Maryland Corp Program Fund to be used in in future years for the uses allowed by the fund.

General fund expenditures increase and Maryland Corps Program Fund revenues and expenditures increase by \$5 million in fiscal 2024, rising to \$20 million in fiscal 2027, reflecting the mandated appropriations. Although the bill no longer requires a minimum number of program participants, this analysis assumes the program uses any funds not spent on program administration or staffing to expand program participation such that available funds are exhausted in each fiscal year.

As noted above, staffing expenditures are likely significant beginning in fiscal 2023. The Department of Legislative Services advises that approximately five staff members, including the executive director, are required to fully administer the expanded program, though the number of required staff likely grows as available funding increases. The

Governor’s Office on Service and Volunteerism is currently responsible for staffing the program and its board. However, because no funding has been allocated to the program from its creation through fiscal 2022, no staff are available to transfer to the new program.

Maryland Corps Program Fund expenditures related to hiring additional staff, therefore, are assumed to total \$379,265 in fiscal 2023 (which are fully covered by budgeted funding) and \$451,507 in fiscal 2024 (which accounts for 9% of the bill’s mandated funding that year). This estimate reflects the cost of hiring two general program staff and two grant officers and an executive director. This analysis assumes that the executive director and program staff are hired October 1, 2022, which reflects the September 1, 2022 deadline for appointing new board members. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. To the extent that hiring staff is delayed, staffing costs are less in fiscal 2023.

	<u>FY 2023</u>	<u>FY 2024</u>
New Positions	5.0	0
Salaries and Fringe Benefits	\$342,550	\$446,180
One-time Start-up Costs	32,740	0
Operating Expenses	<u>3,975</u>	<u>5,327</u>
Total State Personnel Expenditures	\$379,265	\$451,507

Administrative activities for the program likely include, but are not limited to, (1) outreach, screening, and selection of regional operating partners and participating organizations; (2) application development, marketing, recruitment, and creation of a selection process for program participants; (3) processing stipends; (4) development of additional training and support services provided to program participants after the completion of services; (5) ongoing evaluation of opportunities to expand service in the State; and (6) ongoing evaluation of the program. Maryland 529 advises that, as a result of the bill, the Maryland Corps Program will likely need to collaborate with Maryland 529 to establish procedures relating to the disbursement of \$6,000 educational awards into a tax-exempt Maryland 529 account. However, it is assumed this can be accomplished with existing resources.

The board must also act as an intermediary for the AmeriCorps Program to secure federal funding and alleviate the administrative burden on State organizations seeking to participate in AmeriCorps programming. This analysis assumes existing administration of AmeriCorps grant programs housed within the Governor’s Office on Service and Volunteerism will continue in parallel with the board acting as an intermediary and seeking to expand other grant opportunities in the State.

Any funds remaining after staffing and administrative expenses, including budgeted funds in fiscal 2023, may be allocated toward stipends and other specified compensation and

wraparound services for program participants. Assuming a Maryland Corps Program participant completes a full nine months of service with about 40 hours of service per week, the monetary compensation for one program participant at \$15 per hour would total about \$21,600 for the nine months of service. The bill specifies that the board must adopt regulations regarding health insurance benefits and the potential for wraparound services for program participants. In addition, program participants will receive an education award of \$6,000, which must be deposited into a Maryland 529 account. All told, each program participant who completes nine months of full-time service costs the program around \$27,600, plus the value of any health insurance and wraparound services provided, which may be significant. Thus, under those assumptions, for every \$1 million allocated to the program, after staffing costs, the program could provide stipends and educational awards to as many as 36 participants, depending on the length of service, hourly pay rate, cost of health insurance benefits, and wraparound services provided. The actual number of participants that the program can support annually depends on the program designed by the board.

Other Revenue Impacts

To the extent large-scale employers participate and, thus, are required to provide matching funds, additional funds may be available to support additional participants or increase participant compensation.

To the extent of the Maryland Corps Program authority to (1) acquire, hold, and dispose of property; (2) sell, lease, or otherwise convey any property it owns; and (3) borrow money for a corporate purpose and mortgage or otherwise encumber its property as a security for the loan generates additional revenue, Maryland Corps Program Fund revenues increase. Additionally, the bill specifies that the board may accept gifts, contributions or loans of money, supplies, goods, and services. To the extent the board solicits and acquires such gifts, contributions, or loans, special fund revenues also increase.

Any effect on higher education revenues due to in-state tuition waivers under the restructured and expanded program cannot be reliably quantified but is assumed to be minimal.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 443 (Delegate Rosenberg) - Appropriations.

Information Source(s): Comptroller's Office; Governor's Office; Maryland State Department of Education; Morgan State University; College Savings Plans of Maryland; Department of Budget and Management; Maryland Department of Labor; Department of Natural Resources; Maryland Department of Planning; Chesapeake Bay Trust; Department of Legislative Services - Office of Legislative Audits; Department of Legislative Services

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Appendix – Minority Business Enterprise Program

The State’s Minority Business Enterprise (MBE) program requires that a statewide goal for MBE contract participation be established biennially through the regulatory process under the Administrative Procedure Act. The biennial statewide MBE goal is established by the Special Secretary for the Governor’s Office of Small, Minority, and Women Business Affairs (GOSBA), in consultation with the Secretary of Transportation and the Attorney General. In a year in which there is a delay in establishing the overall goal, the previous year’s goal applies. The Special Secretary is also required to establish biennial guidelines for State procurement units to consider in deciding whether to establish subgoals for different minority groups recognized in statute. In a year in which there is a delay in issuing the guidelines, the previous year’s guidelines apply. The Maryland Department of Transportation (MDOT) is the State’s MBE certification agency.

In August 2013, GOSBA announced a new statewide goal of 29% MBE participation that applied to fiscal 2014 and 2015; as no new goal has been established, the 29% goal remains in effect for fiscal 2022. GOSBA issued subgoal guidelines in July 2011 and then updated them effective August 2020, as summarized in **Exhibit 1**. The guidelines state that subgoals may be used only when the overall MBE goal for a contract is greater than or equal to the sum of all recommended subgoals for the appropriate industry, plus two. MBE prime contractors may count their own work for up to 50% of a contract’s MBE goal and up to 100% of any contract subgoal. Their full participation counts toward the State’s 29% goal.

Exhibit 1 Subgoal Guidelines for Minority Business Enterprise Participation

	<u>Construction</u>	<u>Architectural/ Engineering</u>	<u>Maintenance</u>	<u>Information Technology</u>	<u>Services</u>	<u>Supplies/ Equipment</u>
African American	8%	7%	9%	10%	-	6%
Hispanic	-	-	3%	-	2%	2%
Asian	-	-	2%	-	3%	-
Women	11%	10%	-	10%	10%	8%
Total	19%	17%	14%	20%	15%	16%
Total +2	21%	19%	16%	22%	17%	18%

Source: Governor’s Office of Small, Minority, and Women Business Affairs

There are no penalties for agencies that fail to reach the statewide target. Instead, agencies are required to use race-neutral strategies to encourage greater MBE participation in State procurements.

History and Rationale of the Minority Business Enterprise Program

In 1989, the U.S. Supreme Court held in the *City of Richmond v. J.A. Croson Co.* that state or local MBE programs using race-based classifications are subject to strict scrutiny under the equal protection clause of the Fourteenth Amendment to the U.S. Constitution. In addition, the ruling held that an MBE program must demonstrate clear evidence that the program is narrowly tailored to address actual disparities in the marketplace for the jurisdiction that operates the program. As a result, prior to each reauthorization of the State's MBE program, the State conducts a disparity study to determine whether there is continued evidence that MBEs are underutilized in State contracting.

The disparity study completed in 2017 serves as the basis for the most recent reauthorization of the MBE program. It found continued and ongoing disparities in the overall annual wages, business earnings, and rates of business formation between nonminority males and minorities and women in Maryland. For instance, average annual wages for African Americans (both men and women) were 37% lower than for comparable nonminority males; average annual wages for nonminority women were 33% lower than for comparable nonminority males. It also found continued disparities in the use of MBEs by the State compared to their availability in the marketplace to perform work in designated categories of work. For instance, African American-owned construction businesses were paid 5.1% of State construction contract dollars, but they made up 10.3% of the construction sector in the relevant State marketplace. Nonminority women-owned construction businesses were paid 7.5% of State construction contract dollars but made up 13.7% of the construction sector. According to the analysis, these differences were large and statistically significant.

The MBE program is scheduled to terminate July 1, 2022; Chapter 340 of 2017, which reauthorized the program for the eighth time since its inception, required a new disparity study to be completed by September 2021 to inform the subsequent reauthorization process. However, MDOT has requested an extension to September 2023 due to delays in procuring a consultant to conduct the study. The program may be reauthorized in its current form pending the completion of the study. **Exhibit 2** provides MBE participation rates for major Executive Branch agencies based on contract awards made during fiscal 2020, the most recent year for which data is available.

Exhibit 2
Minority Business Enterprise Participation Rates, by Agency
Fiscal 2020

<u>Cabinet Agency</u>	<u>% Participation</u>
Aging	0.6%
Agriculture	7.2%
Budget and Management	0.8%
Commerce	9.1%
Education	3.7%
Environment	9.0%
Executive Department	1.4%
General Services	16.5%
Health	10.5%
Higher Education Commission	1.1%
Housing and Community Development	20.9%
Human Services	7.2%
Information Technology	3.7%
Juvenile Services	5.6%
Labor	6.0%
Military	3.3%
Natural Resources	2.5%
Planning	6.6%
State Police	24.0%
Public Safety and Correctional Services	11.3%
Transportation – Aviation Administration	25.0%
Transportation – Motor Vehicle Administration	38.6%
Transportation – Office of the Secretary	22.0%
Transportation – Port Administration	14.3%
Transportation – State Highway Administration	18.4%
Transportation – Transit Administration	17.0%
Transportation – Transportation Authority	20.3%
Statewide Total¹	14.1%

¹ Includes the University System of Maryland, Morgan State University, St. Mary’s College of Maryland, and non-Cabinet agencies.

Source: Governor’s Office of Small, Minority, and Women Business Affairs

Requirements for Minority Business Enterprise Certification

An 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.

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. An MBE owned by a woman who is also a member of an ethnic or racial minority group may be certified as being owned by both a woman and by a member of a racial or ethnic minority, but for the purpose of participating on a contract as an MBE, it can only be counted as one or the other.

A socially disadvantaged individual is someone who has been subject to racial or ethnic prejudice or cultural bias within American society because of his or her 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, adjusted annually for inflation, is not considered economically disadvantaged. The inflation-adjusted limit for calendar 2022 is \$1,847,024.