

**R**on Owens is a Baltimore native and Federal Hill resident who does most of his work in Washington, D.C. - not by choice, but because his minority-owned marketing firm rarely finds a Maryland-based prime contractor willing to collaborate on projects.

Four years ago, before becoming a certified minority business in Maryland, Baltimore-based Greibo Media collected about 60 percent of its billings from this state's agencies. Now, the certified minority firm - meaning that at least 51 percent of its owners are minorities - earns less than 20 percent of its revenues from the state, said Shelonda Stokes, one of the firm's partners.

Comparatively speaking, Robert Wallace's company has been fortunate: Prime contractors have not dropped the Bith Group as a subcontractor on state projects. Instead, the primes have changes at the last minute the amount of work - and thus, income - allotted for the Columbia-based technology consulting firm.

"They call it prime contractor amnesia," Wallace said. And it's one of many flaws that recently have been discovered in Maryland's Minority Business Enterprise, or MBE, contracting program, which has a goal of awarding 25 percent of state procurements to minority-owned firms.

During the past 18 months a legislative audit and state-appointed task force have shown - among other things - that Maryland's MBE program lacks oversight, its leaders lack authority and that several state agencies inflated MBE participation and contract awards by about \$185 million.

With a growing chorus of minority business owners calling for changes, state lawmakers passed and Gov. Robert Ehrlich signed in April five pieces of legislation aimed at reforming the state's MBE program - one of the most cussed and discussed of all state programs.

Critics - some of whom were part of the 17-member task force chaired by Lt. Gov. Michael Steele that produced about 50 recommendations for improving the MBE program - say the latest reforms did not go far enough. Proponents of the new laws say this package of legislation will keep Maryland at the forefront of minority-business participation efforts and boost the state's overall economy.

"The reforms create the environment that make it possible for companies like mine to help where they can, to help the economy grow, to help the government solve problems and build solutions," said Wallace, whose company ([www.bithgroup.com](http://www.bithgroup.com)) does about 80 percent of its work with the federal, state, and local governments.

**The Legislation**

The legislative pieces of the MBE reforms include:

- **Senate Bill 904:** The bill calls for 10 percent of all state procurement dollars to be awarded each year to small businesses, including the 82,000 minority-owned and 128,000 women-owned firms in Maryland.

The legislation promotes small businesses to the perch of prime contractor on 10 percent of the state's contracted businesses. In years past, small businesses often had to settle for a piece of subcontract work on a state project.

"The playing field was never level [for



**Robert Wallace of the Bith Group says the MBE reforms give his firm a chance to contribute to the state's economy.**

## Two steps forward ... one step back?

*New laws signal modest beginning  
 to reforming the state's MBE program*

SCOTT GRAHAM | STAFF

small businesses]," said Sharon R. Pinder, special secretary and director of the Governor's Office of Minority Affairs ([www.oma.state.md.us](http://www.oma.state.md.us)), which oversees the MBE program. "The best you could do was to go after subcontracts."

Advocates of Senate Bill 904 say it eventually will help small businesses grow. "Businesses will be in a better position to grow when they're in a prime contracting position," said Wallace, a member of the MBE task force. "It gives you experience and exposure."

Three states (Arizona, Connecticut and Illinois) and Washington, D.C., have similar procurement reserve requirements for small businesses.

- **Senate Bill 903:** For starters, this bill eliminates the 10-day rule, the period of time prime contractors used to have to name their subcontractors on an awarded state project.

In the past, some prime contractors have either dropped subcontractors from the project, shopped around their price to other subcontractors or changed the amount of work on the project that subcontractors - sometimes minority-owned firms - had agreed to perform.

"It's fair to say that if we dance together, if we put all that time into drafting a bid proposal with a prime, that we should stay together and complete the work we agreed to complete," said Greibo's Stokes, who was a member of the state's MBE task force.

The legislation also elevated Pinder - formerly director of the Governor's Office of Minority Affairs - to the position of special secretary within Ehrlich's Cabinet. In theory, the move give Pinder both the support and authority affect change within her department.

Some minority business owners are skeptical.

"I think [Pinder's] appointment is a step

in the right direction," Owens said. "However, I don't think she will have the complete power to step in when she sees firms not playing by the rules."

"The entire program lacks oversight," Owens added. "As long as that is the case, and there is no one to enforce the 25 percent set-aside, [prime contractors] can do as they want."

- **House Bill 415:** Perhaps the most contentious of the proposed changes to the state's MBE program, this bill stops short of the MBE task force's recommendations to track commercial lenders' lending habits.

The MBE task force wanted the state to require banks and other lenders to help it track which small businesses receive loans and at what percent interest the firms would have to repay the loans. A 2001 disparity study for Maryland's minority businesses found that minority-owned firms were more often denied loans and required to pay as much as 2 percent more in interest for loans they did receive.

Lenders cried foul, saying the request would add a layer of cost and administrative burden.

The compromise was the creation of another task force to study the issue - an issue some critics believe already has been studied. The task force will submit an interim report by Dec. 1 and file a final report by Sept. 1, 2005.

"Basically it was watered down," said Franklin Lee, an attorney with Shapiro Sher Guinot & Sandler ([www.shapirosher.com](http://www.shapirosher.com)) in Baltimore who was a member of the MBE task force. "It's now a bill to study a problem. We've already studied this problem."

- **House Bill 721:** The bill simply requires the state's Department of Transportation to create something similar to a Yellow Pages directory of minority-owned businesses in Maryland.

The list eventually will be put online.

- **House Bill 806:** The legislation ties companies that receive at least \$100,000 from the state's Economic Development Opportunities Program Fund or the Maryland Economic Development Assistance Authority to the state's MBE participation goal of 25 percent.

The bill is considered another layer of assurance that prime contractor will turn to minority-owned firms for subcontract work.

### Comparatively Speaking

For all the talk of the flaws within Maryland's MBE program, it still is considered a model for minority business participation.

Both skeptics and supporters of Maryland's MBE program say this state has one of the best, if not the best, minority business programs in the country. Its executive-level commitment, leadership and accountability are better than similar MBE-type programs in other states, local observers say.

"It's one of the more aggressive programs in the country," Lee said of Maryland's MBE program.

Other states are catching up.

White and minority contractors in Jacksonville, Fla., introduced in April a package of reforms that would set aside a percentage of city contracts for small businesses, help small businesses obtain low-interest loans and waive some bonding requirements for smaller projects.

Last year, Arkansas passed legislation that established a disadvantaged business certification process for that state and a bill that calls for state agencies awarding contracts worth more than \$25,000 to demonstrate an effort to include minority-owned businesses in the bidding process.

"On paper, Maryland looks great compared to other states," Owens said. "But as far as its enforcement, it's strictly lip service."

DAVID REPORT CONTRIBUTOR