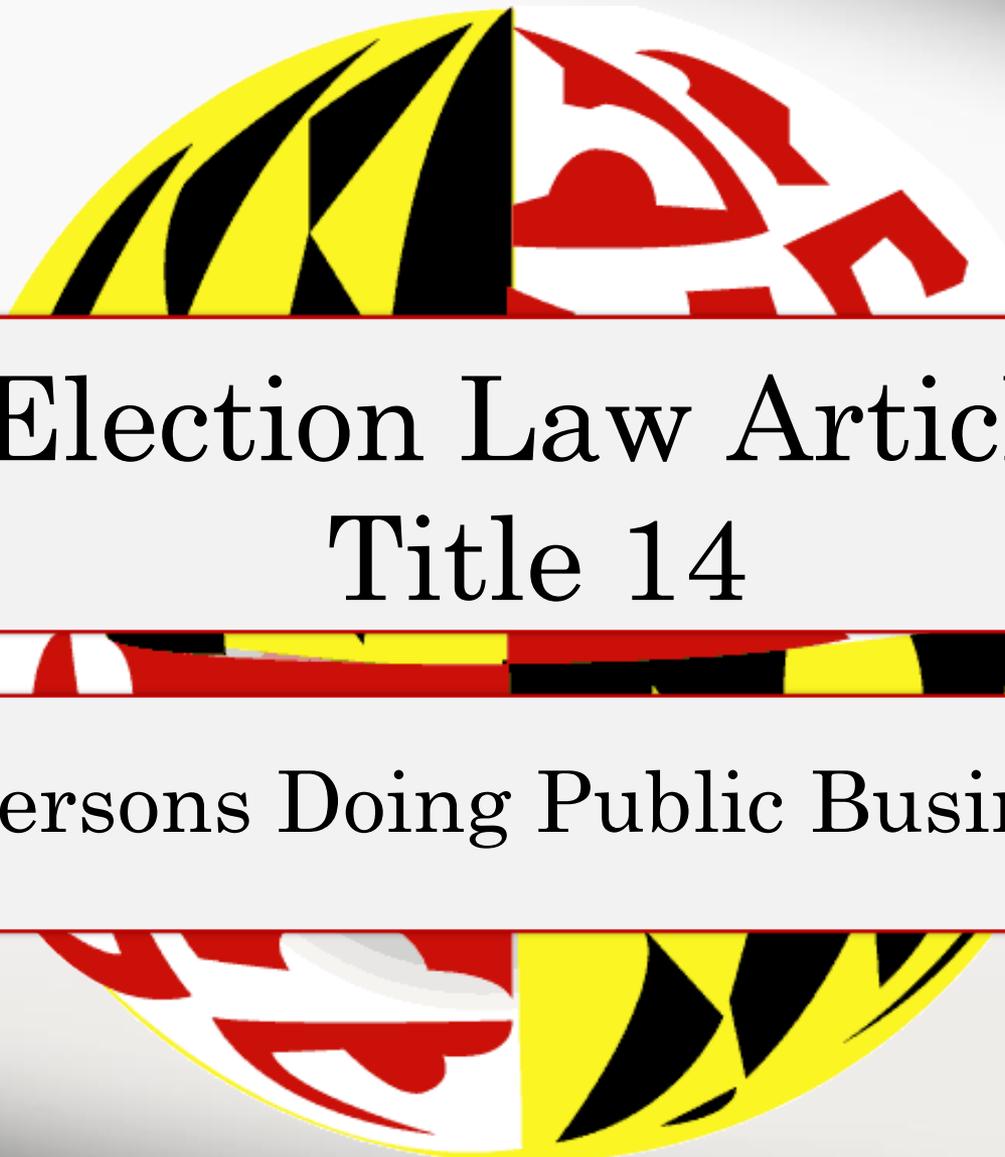


Contribution Disclosure Statement

State Ethics Commission
State Board of Elections





Election Law Article
Title 14

Persons Doing Public Business

Doing Public Business

A person (including subsidiaries) doing business with the State, or with any one or more counties, incorporated municipalities, or other political subdivisions of the State, or with any one or more agencies of the State or a political subdivision involving **aggregate consideration of \$200,000 or more**, must provide the following information on the registration:

- Name of Business (including address if subsidiary is listed)
- Name of Government Agency
- Nature of Business
- Amount of Consideration
- Length of Contract

No Contributions to Report

- May file an affidavit
- Need to disclose the governmental entities which the filer has contract

Subsidiaries

- 30% or more of the equity of the subsidiary is owned or controlled by the business entity, it is attributed to the business entity
- All subsidiaries of the filer are included, not just the ones that do public business
- Covers all officers, directors and partners of the subsidiaries

Who is required to file?

Any person with a **single contract** with a single governmental entity of **\$200,000** or more.

If a business entity with a single contract of \$200,000 or more is a subsidiary of 30% or more of another business entity (owned or controlled), the immediate parent of the business entity with the contract is considered the person doing public business.

What is the standard for control?

30% or more of the voting shares or rights, membership, or partnership interests with voting or governing authority, control rights, trust control, or other form of governance or rights authority in a business.

Do pre-existing contracts apply?

Yes. Business entities having contracts prior to December 31, 2014 over \$200,000 are subject to the disclosure requirement.

How and where to file.

A person must electronically file reports using the Maryland Business Contribution Disclosure System (BCDS) to the State Board of Elections.

A person must register the business prior to the submission of any report in order to receive a temporary password and username. The system is a browser-based filing program.

What is a contract?

An agreement in any form entered into by governmental entity for a procurement.

Procurement means leasing real or personal property as lessee or buying or otherwise obtaining supplies, services, construction, construction related services, and other services. Procurement is defined in §11-101(m)(1) of the State Finance and Procurement Article.

Does the definition of procurement limit the application of the statute to State contracts?

No. It is only for definitional purpose not limiting the application of the law.

What is the length of the contract?

A person is considered doing public business when the total consideration of the contract is \$200,000 or more for the entire period of performance required under the contract. Optional year renewal for the purposes of Title 14 is considered a new contract.

What happens if the contract is modified?

If the contract is modified or any additional funds are appropriated increasing the amount of the contract to \$200,000 or more for the remainder of the period of performance, the person is considered doing public business and shall file a registration notice at the time of the modification or additional funds were approved.

What is an applicable contribution?

A contribution or donation of **ANY** amount by a person or attributed to a person to or for the benefit of a candidate for an office of a governmental entity with which the person is doing public business.

Does Title 14 apply to municipal level candidates and incumbents?

Yes.

Are contributions to slate and legislative party caucus committees attributed to a candidate for the purposes of this title?

Yes. As well as contributions to a political party central committee, except for the administrative account, if the contributor knows that the contribution will be used for a coordinated expenditure for the candidate or a political action committee whose major purpose is to support or oppose a candidate.

What are donations and for the benefit of a candidate?

Donations refer to contributions given to Independent Expenditure entities or Electioneering Communication entities. Any donation to an independent expenditure or electioneering communication entity whose stated purpose is to elect a candidate is for the benefit of that candidate and attributed to the candidate for the purposes of this title.

When are filings due?

Initial Report is due when a contract is awarded. Then Statements of Contributions are due every 6 months on May 31 and November 30.

Reporting Periods.

Initial Report: 24 months prior to when a contract is awarded. (This includes contracts)

May 31 Report (Spring Report)- November 1 of the preceding year to April 30

November 30 Report (Fall Report) - May 1 to October 31

Attribution of Contributions.

A contribution or donation by the following are attributable to the business entity:

- i. A subsidiary of the business entity;
- ii. An officer, director, or partner of the business entity;
- iii. An officer, director, or partner of the subsidiary;
- iv. A Political Action Committee sponsored by the business entity; or
- v. An employee or agent of the business entity or of its subsidiary, if the employee or agent makes a contribution at the direction of the business entity or the subsidiary.

Terms “officer” and “director” are defined. Officer means a CEO, President, Vice President, Secretary, Treasurer, Chief Financial Officer, Managing Partner, Managing Member, or Principal. Director means a member of the board of directors.

Reports to the CEO.

Each officer, director, partner, employee, agent, or other person who at suggestion or direction of the business entity makes an applicable contribution shall report the applicable contribution to the CEO.

When are applicable contributions disclosed?

After CEO receives the report on all applicable contributions to candidates, only contributions in the cumulative amount of \$500 or more to a single candidate are disclosed on the contribution disclosure report.

Retention of Records.

A person doing public business shall maintain detailed and accurate records of contracts made that causes the person to be doing public business and applicable contributions made for 10 years after the creation of the record or 4 years after the performance on the contract is completed.

Violations.

A person who knowingly and willfully violated Title 14 may be fined up to \$1,000 and/or imprisonment not to exceed 1 year.

Late fees will be imposed for late filings or amended filings of \$10 per day up to \$500.

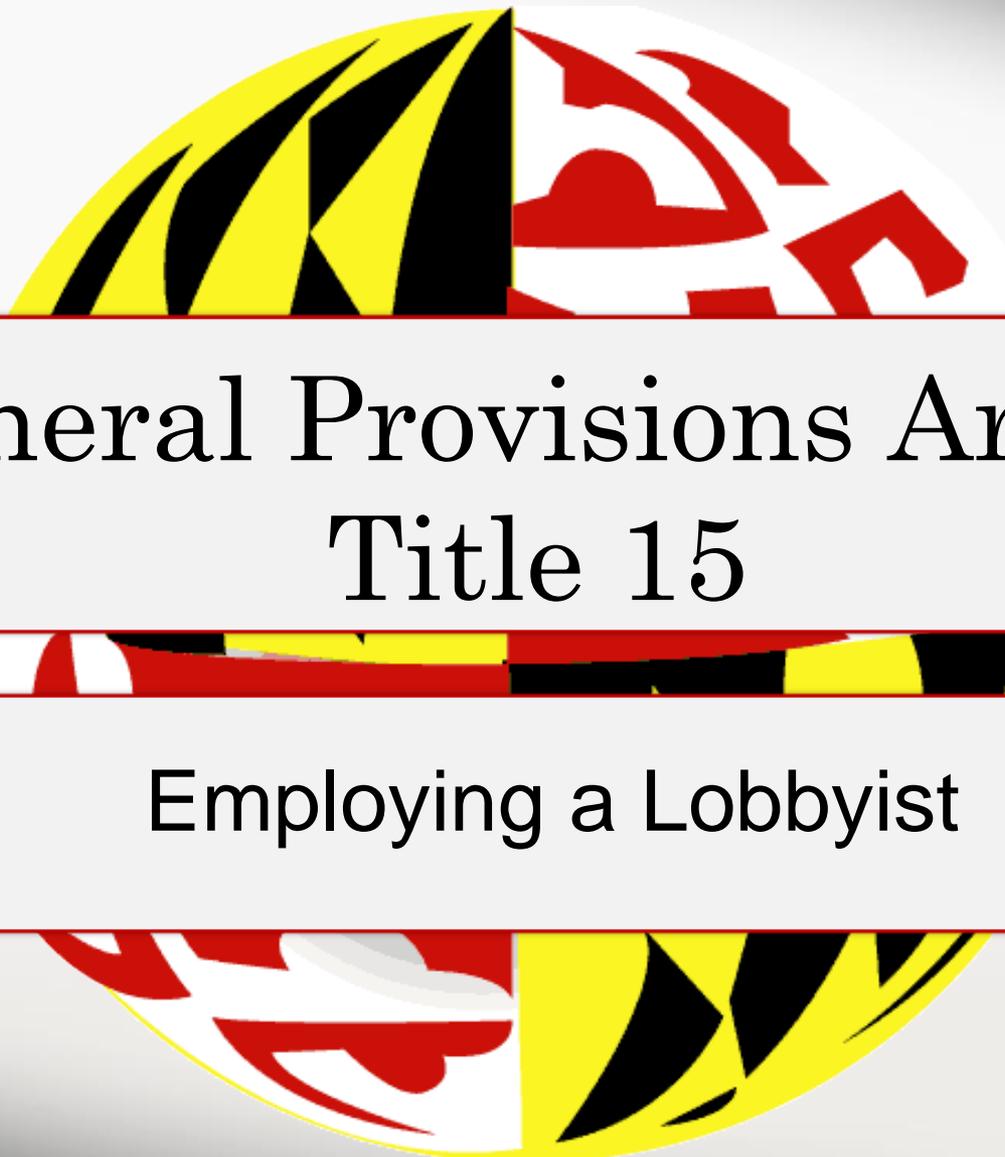
Verification by the governmental entity awarding the contract.

The governmental entity that awarded the contract will require the contractor to certify that the initial statement has been filed. If not, the governmental entity shall notify the State Board of the Elections.

Also, a business which enters into contracts, leases or other agreements with the State, or its units, in which the business receives a total of \$100,000 or more, is required to file with Secretary of State's office.

If the business has been granted a waiver of disclosure of contracts, does the business need to reapply?

Yes. The waiver is valid for one year.



General Provisions Article Title 15

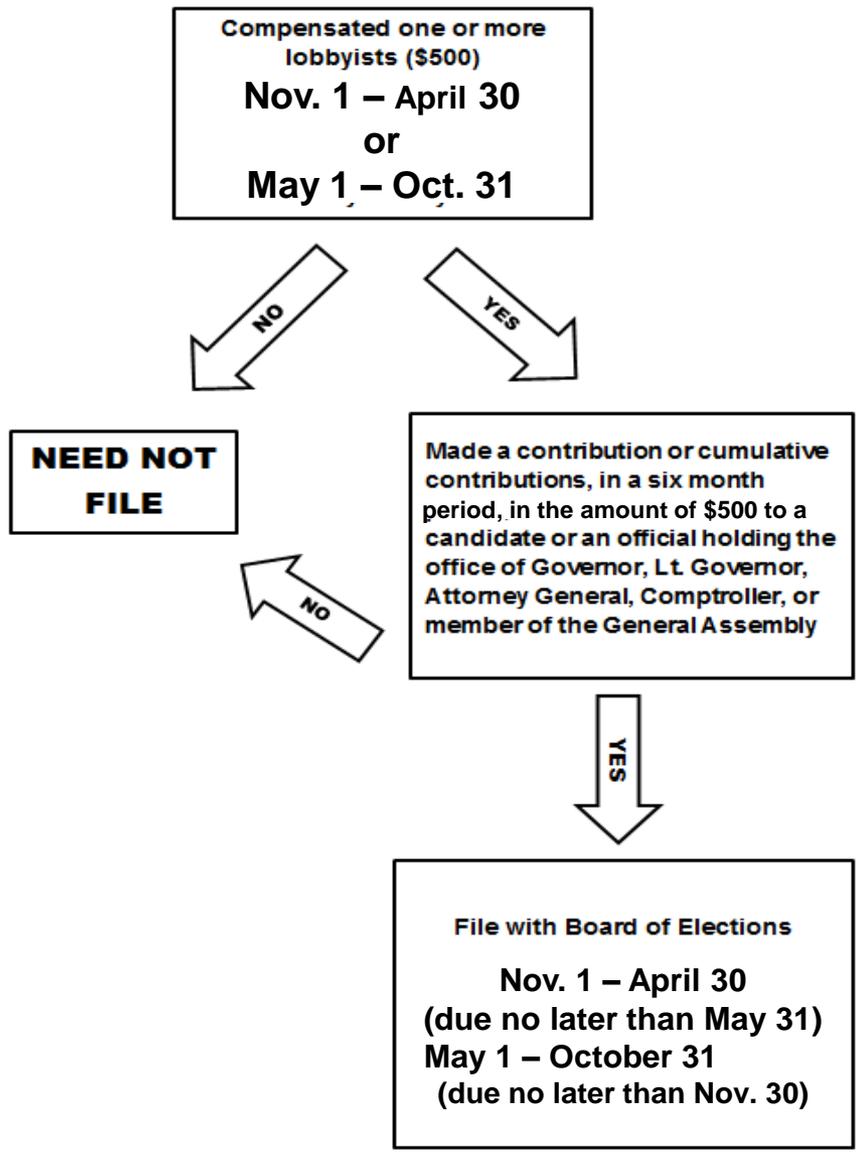
Employing a Lobbyist

Lobbyist Employed by Filer

For a person (including subsidiaries) providing \$500 or more in compensation for one or more regulated lobbyists, provide the following information:

- Name of employer
- Name of regulated lobbyist

Lobbyist employed by a subsidiary is attributed to the parent business entity if 30% or more of equity is owned or controlled by the business entity.



Disclosure of Contributions

For each cumulative contribution of \$500 or more made by the Filer, subsidiaries of the Filer, officers, directors, or partners of the Filer or its subsidiaries, and certain employees or agents of the Filer or its subsidiaries, provide the following information:

- Name of contributor (If the contribution was not made by the Filer, state the name, address, and relationship to the Filer of each individual or entity that made a contribution)
- Candidate, Campaign Account Name, Office Sought (or currently held if an incumbent)
- Date of Contribution
- Amount
- Aggregate Amount for the individual entry



Whose applicable contributions need to be disclosed?

- The Filer
- A subsidiary of the Filer
- An officer, director, or partner of the Filer
- An officer, director, or partner of a subsidiary of the Filer
- A Political Action Committee of the Filer or the Filer's subsidiary
- An employee or agent of the Filer or of a subsidiary of the Filer, if the employee or agent makes a contribution at the direction of the Filer or the subsidiary. An employee is required by law to report any applicable contribution to the company's chief executive officer

Non- Profits

Whose contributions need to be disclosed?

- Non-profits (A “business entity” for the purposes of both statutes is an entity operated for or not-for-profit.)
- A contribution made by an individual who serves as a trustee or member of the board of directors of a not-for-profit organization is not attributable to the organization and does not need to be reported **unless**:
 - The contribution is made at the recommendation of the organization; or
 - The individual who made the contribution is paid by the organization.
- A contribution by an officer of a not-for-profit organization is attributable to the organization and must be reported unless the officer is not paid and the organization is filing this disclosure report only because it employs a lobbyist.



Election Law Article Title 14
General Provisions Article Title 15

Review

Review

- Electronic filing
- Contract is defined from State Finance and Procurement Article §11-101
- Director and Officer defined
- Contract amount of \$200,000
- All contributions and donations regardless of amount must be reported to the CEO of the business entity
- Contributions and contracts must be at same level
 - State contracts and contributions to State officials
 - County contracts and contributions to county officials
- Must file a report even if no contributions were made for Title 14 filers.
- First filing occurs at the time of award for Title 14 filers
- Records retention - 10 years
- Late Fees for failure to file
- New Waiver Process for Title 14 filers

Due Diligence

- Review the Department of Budget and Management's Funding Accountability and Transparency website <http://www.spending.dbm.maryland.gov/> or the Department of General Services Active Blanket Purchase Orders website <http://dgsweb.dgs.state.md.us/activeBPO/commodities.html> to determine if clients have been doing business with the State.
- Remind clients to maintain a list of individuals whose contributions need to be disclosed and to review the State Board of Elections Maryland Campaign Finance Database <https://campaignfinancemd.us/Public/ViewReceiptsMain> to determine if filer or others have given contributions that need to be reported.
- Recommend lobbying clients to file reports even when having no contributions to report so that it becomes practice to file the reports.
- Remind clients that failure to meet disclosure requirements both as a lobbyist or a company doing business with the State carries criminal penalties. Section 14-107 of the Elections article provides that a person who knowing and willfully violates Title 14 is guilty of a misdemeanor and on conviction subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both. Additionally, an officer or a business, whether operated for profit or not for profit that knowingly authorizes or participates in a violation of Title 14 is subject to the same penalties. Section 5-716(k)(1-2) of the State Government article contains the same penalties.
- Remind clients of other disclosure requirements such as the form filed with the Secretary of State's office by a business that enters into an agreement with a total value in excess of \$100,000 with the State or any of its entities. The form is required to be filed within 30 days after entering into the agreement. Md. Ann. Code, State Fin. & Proc. Art. §13-221 (2014).