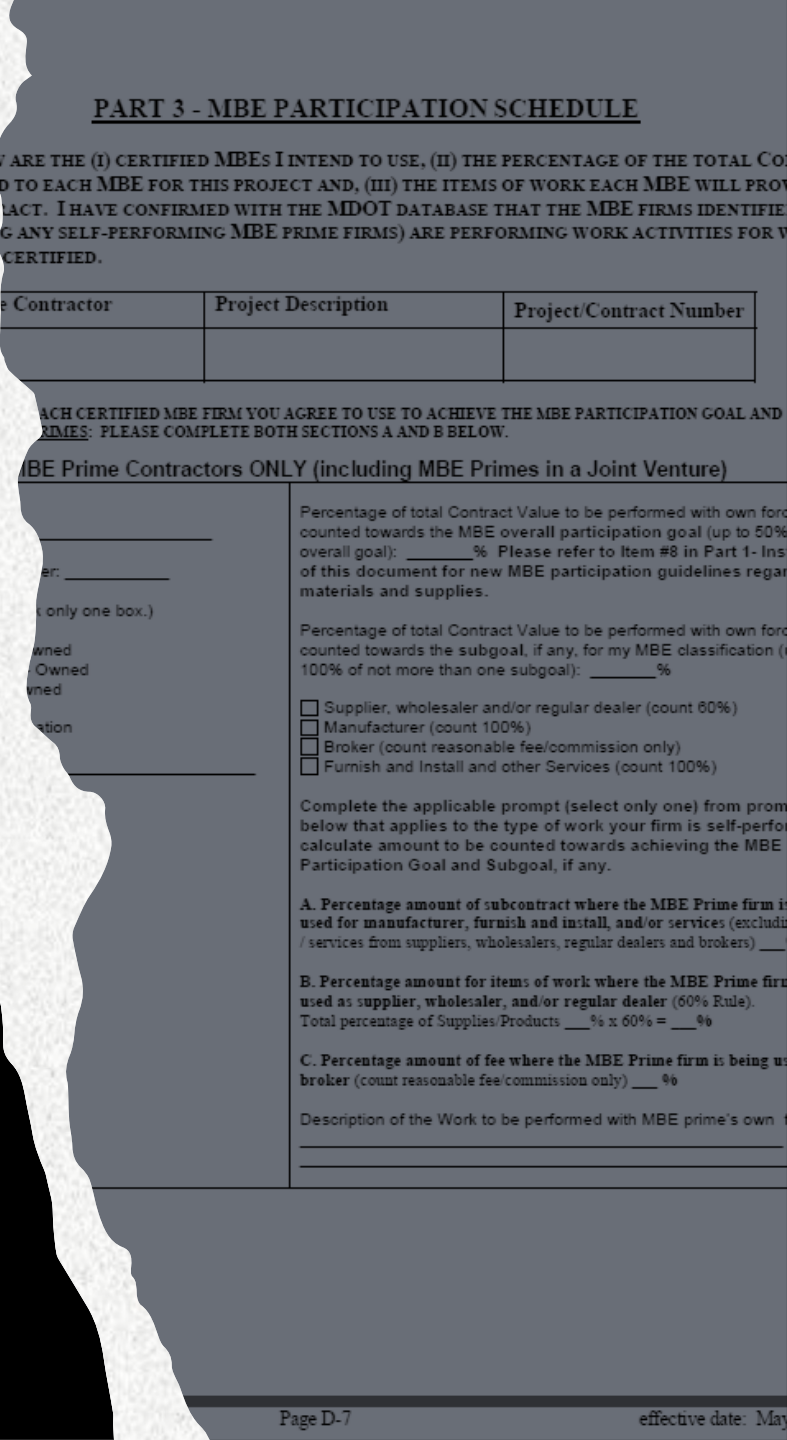
MBE Forms Training

Presented by the Governor's Office of Small, Minority & Women Business Affairs

Maryland
GOVERNOR'S OFFICE OF SMALL, MINORITY & WOMEN BUSINESS AFFAIRS



PART 3 - MBE PARTICIPATION SCHEDULE

ARE THE (I) CERTIFIED MBEs I INTEND TO USE, (II) THE PERCENTAGE OF THE TOTAL CO
D TO EACH MBE FOR THIS PROJECT AND, (III) THE ITEMS OF WORK EACH MBE WILL PRO
ACT. I HAVE CONFIRMED WITH THE MDOT DATABASE THAT THE MBE FIRMS IDENTIFIE
G ANY SELF-PERFORMING MBE PRIME FIRMS) ARE PERFORMING WORK ACTIVITIES FOR W
CERTIFIED.

Contractor	Project Description	Project/Contract Number

ACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND
RIMES: PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.

BE Prime Contractors ONLY (including MBE Primes in a Joint Venture)

Percentage of total Contract Value to be performed with own for
counted towards the MBE overall participation goal (up to 50%
overall goal): _____% Please refer to Item #8 in Part 1- Ins
of this document for new MBE participation guidelines rega
materials and supplies.

Percentage of total Contract Value to be performed with own for
counted towards the subgoal, if any, for my MBE classification (
100% of not more than one subgoal): _____%

- ☐ Supplier, wholesaler and/or regular dealer (count 60%)
- ☐ Manufacturer (count 100%)
- ☐ Broker (count reasonable fee/commission only)
- ☐ Furnish and Install and other Services (count 100%)

Complete the applicable prompt (select only one) from prom
below that applies to the type of work your firm is self-perfo
calculate amount to be counted towards achieving the MBE
Participation Goal and Subgoal, if any.

A. Percentage amount of subcontract where the MBE Prime firm i
used for manufacturer, furnish and install, and/or services (excludi
/ services from suppliers, wholesalers, regular dealers and brokers) ___

B. Percentage amount for items of work where the MBE Prime firm
used as supplier, wholesaler, and/or regular dealer (60% Rule).
Total percentage of Supplies/Products ___% x 60% = ___%

C. Percentage amount of fee where the MBE Prime firm is being u
broker (count reasonable fee/commission only) ___ %

Description of the Work to be performed with MBE prime's own

Page D-7 effective date: May

OUR AGENDA

This training will provide a detailed overview of the Attachment D: MBE Forms:

1. General Overview
2. MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule
3. Waiver Guidance
4. Good Faith Efforts Documentation
5. Outreach Efforts Compliance Statement
6. Certified MBE Subcontractor Project Participation Certification
7. MBE Prime Project Participation Certification
8. Prime Contractor Paid/Unpaid Invoice Report
9. MBE Prime Contractor Report
10. MBE Subcontractor Paid/Unpaid Invoice Report

For Internal Training Purposes Only

GENERAL OVERVIEW



Governor's Office of Small, Minority & Women Business Affairs

For Internal Training Purposes Only

FY2021 MBE Performance



In FY2021, approximately 8,000 contracts totaling $1.1 Billion were awarded to Maryland Certified MBE firms

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MBE Form Rules and Regulations

- **State Finance & Procurement Articles (SF&P) § 14-302. Procurement from minority businesses**

- **COMAR 21.11.03.09**

MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule

- **COMAR 21.11.03.10-11**

MBE Waiver Guidance & Forms

- **COMAR 21.11.03.10**

MBE Project Participation Statements (Certifications)

- **COMAR 21.11.03.13**

MBE Compliance Data – Payment Reports

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IMPORTANT NOTE:

- The latest MBE Forms are always located at the link below. Please make sure you are using the most recent version.

Located here: https://procurement.maryland.gov/rfp/

- Some Agencies use their own approved version of the MBE forms such as MDOT and the School Districts for Public School Construction.

For Internal Training Purposes Only

Form Requirements – Certified Firms

- Only Certified MBE Firms can participate in the State's MBE Program and be named on these forms
- "Certified MBE Firms" refers to firms certified by the Maryland Department of Transportation ("MDOT") under COMAR 21.11.03.
- Certified firms named on MBE forms should be verified in the MDOT Directory *every time*.
  - https://marylandmdbe.mdbecert.com/

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Form Requirements – Useful Function (1 of 2)

- Work performed by named MBE firms can only be counted if they are performing a **commercially useful function** [*COMAR 21.11.03.12-1A/B]*

- Commercially useful function **is defined as when a firm is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved**

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Form Requirements – Useful Function (2 of 2)

- The Procurement Agency must evaluate the commercially useful function of each named certified MBE firm:
  - The amount of work subcontracted;
  - Industry practices;
  - Whether the amount the certified MBE is to be paid under the contract is commensurate with the work it is actually performing; and
  - If the MBE firm's role (1) is limited to less than 30% of awarded work or (2) is that of an extra participant on a contract

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Form Requirements – MBE Primes

- Prime Contractors who are also MBE firms can self-perform 50% of the Overall MBE goal, and 100% of one subgoal [COMAR 21.11.03.12-1D]
- When an MBE prime indicates their intent to self-perform a portion of subcontract goal(s):
  - Work to be self-performed must be covered by at least one of the MBE's NAICS codes for which they are certified for in the MBE Directory

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The 60% Rule

- **THE RATIONAL**
  - In a narrowly tailored program, it is important that MBE credit be awarded only for work actually being performed by the MBEs themselves and that minority firms are actually getting the benefit

- **THE RULES**
  - MBE firms named on contracts must serve a commercially useful function

  - MBE firms identified as Regular Dealers/Wholesalers or Brokers must be counted as outline in COMAR 21.11.03.12-1E

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Understanding the 60% Rule



- Chapter 438, Laws of Maryland 207 (SB 309)
- Became effective Oct. 1, 2017
- Mirrors Federal DBE rules, which define how work performed by DBE suppliers will be counted towards the overall project goal
- Discusses 3 Supplier Classifications:
  - MANUFACTURERS
  - REGULAR DEALERS/ AND OR WHOLESALERS
    FURNISH & INSTALL & OTHER SERVICES
  - BROKERS

For Internal Training Purposes Only

Manufacturers



- 100% of materials or supplies obtained from an MBE manufacturer, may be counted toward MBE goal achievement

- What is a manufacturer?
  - A firm that operates or maintains a factory or establishment that produces, on the premises, the material, supplies, articles or equipment required under the contract

For Internal Training Purposes Only

Regular Dealer



- 60% of the material or supplies purchased from a regular dealer count toward the project's overall MBE goal

- What is a regular dealer?
  - A firm that owns, operates, or maintains a store, warehouse, or establishment, in which the materials, supplies articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

For Internal Training Purposes Only

Furnish & Install or Other Services



- Where an MBE supplier, wholesaler, regular dealer, both provides (i.e., furnishes) AND installs the materials, 100% of the cost of the materials, supplies and labor will count toward the MBE goals.

EXAMPLE

- PAINTER SUPPLIER – a wholesale merchant, who maintains a warehouse where he/she regularly keeps in stock and sells paint to prime contractors. Only 60% of the spend with this PAINT SUPPLIER can be counted toward the overall goal of the project
- PAINTER that PAINTS- same scenario as above, except the painter, in additional to selling the paint from their warehouse, will be responsible for doing the actual painting. In this case, we would count 100% of the cost of the material, supplies, and the labor toward the MBE project goal.

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Broker



- Count the entire amount of:
  - fees or commissions charged for assistance in the procurement of the materials and supplies; or
  - fees of transportation charges for delivery of materials or supplies required on job site
- Caveat
  - Fees must be reasonable and not excessive as compared with fees customarily allowed for similar services
  - Do not count any portion of the cost of materials or supplies themselves

For Internal Training Purposes Only

MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (1 of 7)

Governor's Office of Small, Minority & Women Business Affairs

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Regulations

COMAR Sec. 21.11.03.09 C Procurement Solicitations

- (3) On forms provided by the procurement agency, a bidder or offeror shall submit with its bid or proposal:
- (a) A completed MBE utilization and fair solicitation affidavit including either an agreement to meet the certified MBE participation goal or a request for a full or partial waiver; and
- (b) A completed MBE participation schedule that identifies the certified minority businesses that the bidder or offeror agrees to utilize in the performance of the contract and the percentage of contract value attributed to each MBE.
- (4) The MBE participation schedule shall:
- (a) Include the name of each certified MBE that will participate in the project including the certification category under which the MBE is participating; and
- (b) Include the percentage of the contract to be paid to each MBE for the work or supply.
- **(5) The failure of a bidder to accurately complete and submit the MBE utilization affidavit and the MBE participation schedule shall result in a determination that the bid is not responsive unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.**
- **(6) The failure of an offeror to accurately complete and submit the MBE utilization affidavit and the MBE participation schedule shall result in a determination that the proposal is not reasonably susceptible of being selected for award unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.**

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MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (2 of 7)



SUBMISSION:

- Prime Contractors must utilize the forms that are provided in the solicitation documents
- Forms must be submitted **with** the bid/proposal
- Failure to submit these forms results in the rejection of bid/proposal
- Failure to submit completed or accurate forms requires the agency to determine if ***minor irregularities*** can be cured [*COMAR 21.06.02.04*]

MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (3 of 7)

COMAR 21.06.02.04: Minor Irregularities in Bids or Proposals.

A. A minor irregularity is one which is merely a matter of form and not of substance or pertains to some immaterial or inconsequential defect or variation in a bid or proposal from the exact requirement of the solicitation, the correction or waiver of which would not be prejudicial to other bidders or offerors.

B. The defect or variation in the bid or proposal is immaterial and inconsequential when its significance as to price, quantity, quality, or delivery is trivial or negligible when contrasted with the total cost or scope of the procurement.

C. The procurement officer shall either give the bidder or offeror an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or proposal or waive the deficiency, whichever is to the advantage of the State.

Agency's MBE liaison officer and legal counsel should be consulted on minor irregularity determinations and waiver issues ***prior to seeking*** Governor's Office of Small, Minority & Women Business Affairs weigh in.

For Internal Training Purposes Only

MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (4 of 7)



GENERAL REQUIREMENTS:

- Must indicate the Primes clear intent to either meet the goal or request either a full or partial waiver of the MBE goal and/or subgoals
- Must provide specific commitment to each named MBE
- Must describe the specific work each MBE will perform
- Must list only active fully certified MBE firms listed in the MBE Directory hosted by MDOT. Take special note of graduated firms.

For Internal Training Purposes Only

MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (5 of 7)



WHAT IS GRADUATION?

- The term "GRADUATED" means a firm has exceeded the allowable industry size standard set for MBE/DBE participants and may no longer be counted as an MBE/DBE on state or federal contracts for work performed in this category.
- US Small Business Size Standards: https://www.sba.gov/federal-contracting/contracting-guide/size-standards
- Graduation is outlined in COMAR 21.11.03.15

For Internal Training Purposes Only

MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (6 of 7)



WHAT IS GRADUATION?

- Certified MBE firms may be fully or partially graduated.
- Graduation is the recognition that a firm has attained a fiscally significant presence in the marketplace. Firms are reviewed annually and are assigned a graduate status for any NAICS code that relates to an industry in which the firm is proven to have exceeded the allowable MBE/DBE participant revenue threshold. Firms may also graduate as a whole entity if the personal net worth (PNW) of the owner exceeds the allowable maximum for MBE/DBE program participants.

For Internal Training Purposes Only

MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule (7 of 7)



FULLY GRADUATED VS PARTIALLY GRADUATED

- Fully Graduated Firms - have exceeded the size standard for all of their assigned NAICS code or exceeded the personal net worth (PNW) threshold set for MBE/DBE program participants. Fully graduated firms may not be used for state and/or federal MBE/DBE procurement purposes.
- Partially Graduated Firms - have one or more graduated NAICS codes but have at least one assigned NAICS code for which they are not graduated. Only non-graduated codes may be used for state and/or federal MBE/DBE procurement purposes.

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MBE Utilization and Fair Solicitation Affidavit

- PART 2 - MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT

1. **MBE Participation (PLEASE CHECK ONLY ONE)**

☐ I acknowledge and intend to meet IN FULL both the overall certified Minority Business Enterprise (MBE) participation goal of percent and all of the following subgoals:

____percent for African American-owned MBE firms
____percent for Hispanic American-owned MBE firms
____percent for Asian American-owned MBE firms
____percent for Women-owned MBE firms

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by checking the above box and agreeing to meet the stated goal and subgoal(s), if any, I **must** complete PART 3 - MBE Participation Schedule and Part 4 Signature Page in order to be considered for award.

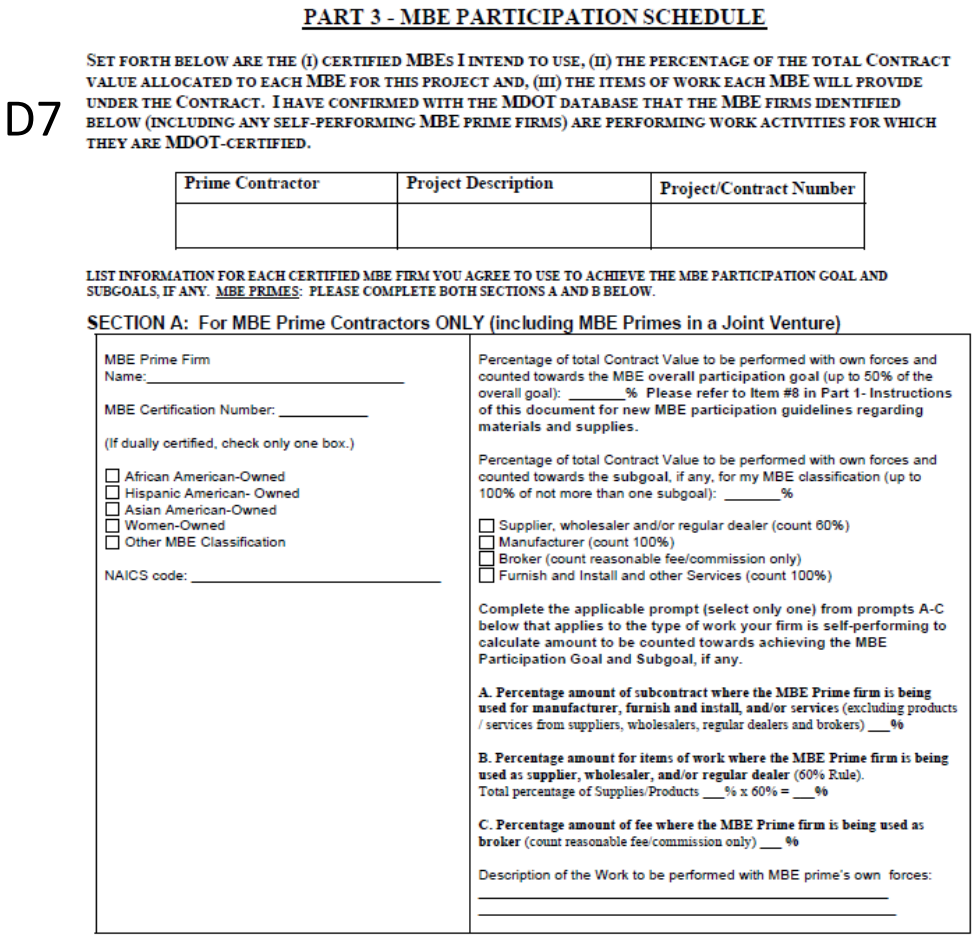
OR

☐ After making good faith outreach efforts prior to making this submission, I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals I acknowledge that by checking this box and requesting a partial waiver of the stated goal and/or one or more of the stated subgoal(s) if any, I must complete Part 3, the MBE Participation Schedule and Part 4 Signature Page for the portion of the goal and/or subgoal(s) if any, for which I am not seeking a waiver, in order to be considered for award. I acknowledge that by checking this box and requesting a full waiver of the stated goal and the stated subgoal(s) if any, I must complete Part 4 Signature Page in order to be considered for award.

For Internal Training Purposes Only

MBE Participation Schedule

D7



PART 3 - MBE PARTICIPATION SCHEDULE

SET FORTH BELOW ARE THE (I) CERTIFIED MBEs I INTEND TO USE, (II) THE PERCENTAGE OF THE TOTAL CONTRACT VALUE ALLOCATED TO EACH MBE FOR THIS PROJECT AND, (III) THE ITEMS OF WORK EACH MBE WILL PROVIDE UNDER THE CONTRACT. I HAVE CONFIRMED WITH THE MDOT DATABASE THAT THE MBE FIRMS IDENTIFIED BELOW (INCLUDING ANY SELF-PERFORMING MBE PRIME FIRMS) ARE PERFORMING WORK ACTIVITIES FOR WHICH THEY ARE MDOT-CERTIFIED.

Prime Contractor	Project Description	Project/Contract Number

LIST INFORMATION FOR EACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. MBE PRIMES: PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.

SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture)

MBE Prime Firm
Name:_____

MBE Certification Number: _____

(If dually certified, check only one box.)

☐ African American-Owned
☐ Hispanic American- Owned
☐ Asian American-Owned
☐ Women-Owned
☐ Other MBE Classification

NAICS code: _____

Percentage of total Contract Value to be performed with own forces and counted towards the MBE overall participation goal (up to 50% of the overall goal): _____% Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.

Percentage of total Contract Value to be performed with own forces and counted towards the subgoal, if any, for my MBE classification (up to 100% of not more than one subgoal): _____%

☐ Supplier, wholesaler and/or regular dealer (count 60%)
☐ Manufacturer (count 100%)
☐ Broker (count reasonable fee/commission only)
☐ Furnish and Install and other Services (count 100%)

Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work your firm is self-performing to calculate amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.

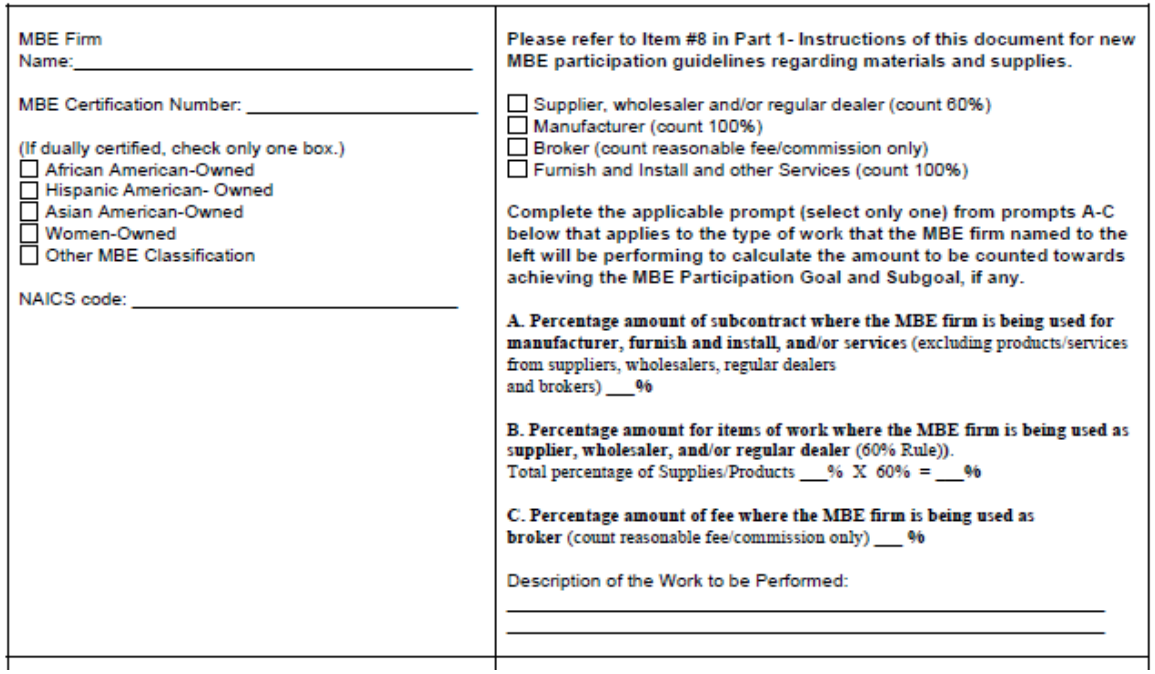
A. Percentage amount of subcontract where the MBE Prime firm is being used for manufacturer, furnish and install, and/or services (excluding products / services from suppliers, wholesalers, regular dealers and brokers) ___%

B. Percentage amount for items of work where the MBE Prime firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule).
Total percentage of Supplies/Products ___% x 60% = ___%

C. Percentage amount of fee where the MBE Prime firm is being used as broker (count reasonable fee/commission only) ___ %

Description of the Work to be performed with MBE prime's own forces:
_____
_____

D8



SECTION B: For all Contractors (including MBE Primes and MBE Primes in a Joint Venture)

MBE Firm
Name:_____

MBE Certification Number: _____

(If dually certified, check only one box.)
☐ African American-Owned
☐ Hispanic American- Owned
☐ Asian American-Owned
☐ Women-Owned
☐ Other MBE Classification

NAICS code: _____

Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.

☐ Supplier, wholesaler and/or regular dealer (count 60%)
☐ Manufacturer (count 100%)
☐ Broker (count reasonable fee/commission only)
☐ Furnish and Install and other Services (count 100%)

Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that the MBE firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.

A. Percentage amount of subcontract where the MBE firm is being used for manufacturer, furnish and install, and/or services (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ___%

B. Percentage amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule)).
Total percentage of Supplies/Products ___% X 60% = ___%

C. Percentage amount of fee where the MBE firm is being used as broker (count reasonable fee/commission only) ___ %

Description of the Work to be Performed:
_____
_____

Governor's Office of Small, Minority & Women Business Affairs

MBE Participation Schedule (cont.)

D10

PART 4 – SIGNATURE PAGE

To complete Affidavit committing to MBE(s) or requesting waiver, Bidder/Offeror must sign below:

I solemnly affirm under the penalties of perjury that: (i) I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule, and (ii) the information contained in the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule is true to the best of my knowledge, information and belief.

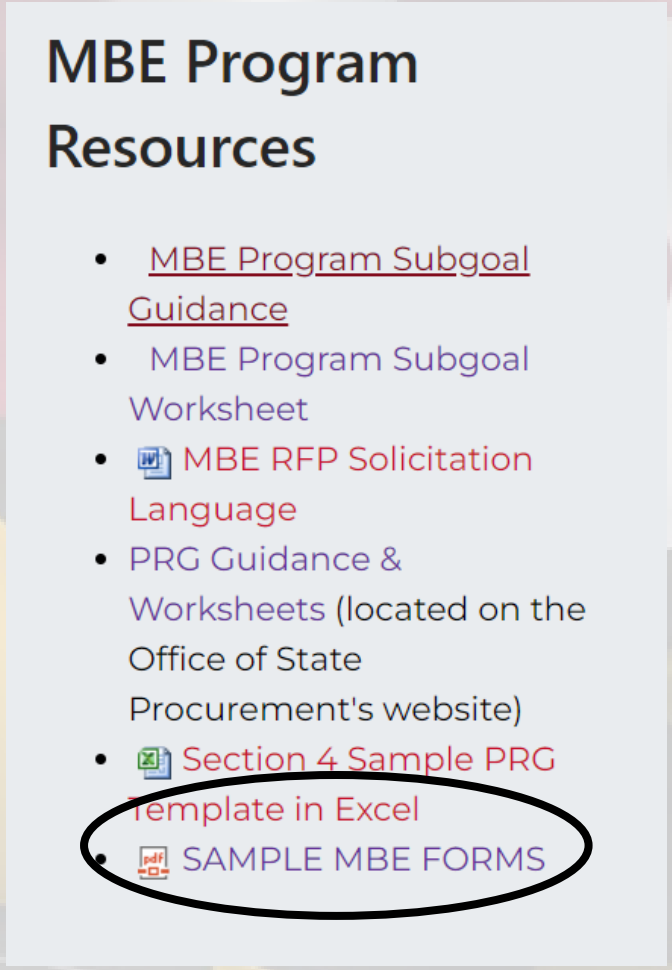
Bidder/Offeror Name *(PLEASE PRINT OR TYPE)*	Signature of Authorized Representative
Address	Printed Name and Title
City, State and Zip Code	Date

SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL

MBE Form Samples

- Updated MBE Form Samples are located on our website in the MBE toolkit in the MBE Program Resources Section:

- Let's look at a few EXAMPLES.



WAIVER GUIDANCE

Governor's Office of Small, Minority & Women Business Affairs

For Internal Training Purposes Only

Waiver Guidance and Good Faith Efforts Documentation

- Waiver Guidance - lays out main criteria used to determine ***good faith efforts***
  - Considers quality, quantity and intensity of bidder's efforts
  - Does not cover all factors state may consider
  - Guidance covered on pp. D11 – D14 of MBE Attachment D
- Good Faith Effort Documentation - must be submitted within 10 working days of request from the state
- A copy of waiver, when granted, should be forwarded to our office
- Waiver data is to be reported annual to the Board of Public Works and our office by July 31st annually

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Waiver Documentation

D15

D-1B - Exhibit A
MBE Subcontractor Unavailability Certificate

1. It is hereby certified that the firm of _____
(Name of Minority firm)

located at _____
(Number) (Street)

_____
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. _____

in _____ County by _____
(Name of Prime Contractor's Firm)

****

2. _____ (Minority Firm), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

_____

_____

_____

_____

****

_____
(Signature of Minority Firm's MBE Representative) (Title) (Date)

_____
(MDOT Certification #) (Telephone #)

****

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

_____
(Signature of Prime Contractor) (Title) (Date)

D16

D-1C
GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PAGE __ OF ___

Prime Contractor:	Project Description:	PROJECT/CONTRACT
Offeror Company Name, Street Address, Phone		Solicitation #:

Parts 1, 2, and 3 must be included with this certificate along with all documents supporting your waiver request.

I affirm that I have reviewed **Attachment D-1B**, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this **Attachment D-1C** Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

Company: _____

Company Name (please print or type)

By: _____

Signature of Authorized Representative

Printed Name: _____

Printed Name

Title: _____

Title

Date: _____

Date

Address: _____

Company Address

Governor's Office of Small, Minority & Women Business Affairs

GOOD FAITH EFFORTS DOCUMENTATION (1 of 3)

For Internal Training Purposes Only

Good Faith Efforts Documentation (2 of 3)

- Consider COMAR 21.11.03.09C(2) when considering if a "Good Faith Effort" was made:

C. MBE Subcontracting Provisions

(2) Solicitation Content. Each solicitation identified by a procurement agency as having subcontract opportunities shall contain the clauses required by COMAR 21.05.08.03 and .04. The solicitation shall also contain provisions requiring bidders or offerors including those bidders or offerors that are certified MBEs to:

(a) Identify specific work categories within the scope of the procurement appropriate for subcontracting;

(b) Solicit certified MBEs in writing at ***least 10 days before bids or proposals are due,*** describing the identified work categories and providing instructions on how to bid on the subcontracts;

(c) Attempt to make personal contact with the certified MBEs solicited and to document these attempts;

(d) Assist certified MBEs to fulfill, or to seek waiver of, bonding requirements; and

(e) Attend prebid or other meetings the procurement agency schedules to publicize contracting opportunities to certified MBEs.

For Internal Training Purposes Only

Good Faith Efforts Documentation (3 of 3)

- Good Faith Efforts Documentation should include:
  - The names, addresses, dates, telephone numbers, and classification of certified MBEs contacted
  - A detailed statement of the reasons for rejected quotations from certified MBE firms
  - Emails & phone contact records
  - Any other records of negotiations with MBE firms

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Good Faith Efforts Documentation (cont.)

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GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PART 1 – IDENTIFIED ITEMS OF WORK OFFEROR MADE AVAILABLE TO MBE FIRMS

PAGE __ OF ___

Prime Contractor:	Project Description:	PROJECT/CONTRACT
Offeror Company Name, Street Address, Phone		Solicitation #:

Identify those items of work that the Offeror made available to MBE Firms. This includes, where appropriate, those items the Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Offeror's responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of Proposal items identified during the goal setting process as possible items of work for performance by MBE Firms, the Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

Identified Items of Work	Was this work listed in the procurement?	Does Offeror normally self-perform this work?	Was this work made available to MBE Firms? If no, explain why not.
	◻ Yes ◻ No	◻ Yes ◻ No	◻ Yes ◻ No
	◻ Yes ◻ No	◻ Yes ◻ No	◻ Yes ◻ No
	◻ Yes ◻ No	◻ Yes ◻ No	◻ Yes ◻ No
	◻ Yes ◻ No	◻ Yes ◻ No	◻ Yes ◻ No
	◻ Yes ◻ No	◻ Yes ◻ No	◻ Yes ◻ No
	◻ Yes ◻ No	◻ Yes ◻ No	◻ Yes ◻ No
	◻ Yes ◻ No	◻ Yes ◻ No	◻ Yes ◻ No

☐ Please check if Additional Sheets are attached.

D18

GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS

PAGE __ OF ___

Prime Contractor:	Project Description:	PROJECT/CONTRACT
Offeror Company Name, Street Address, Phone		Solicitation #:

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (**Attachment D-1B - Exhibit A**). If the Offeror used a Non-MBE or is self-performing the identified items of work, Part 4 must be completed.

Name of Identified MBE Firm & MBE Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Rec'd	Quote Used	Reason Quote Rejected
Firm Name: MBE Classification (Check only if requesting waiver of MBE subgoal.) ☐ African American-Owned ☐ Hispanic American- Owned ☐ Asian American-Owned ☐ Women-Owned ☐ Other MBE Classification		Date: ◻ Mail ◻ Facsimile ◻ E-mail	Date: ◻ Phone ◻ Mail ◻ Facsimile ◻ E-mail	Time of Call: Spoke with: _____ ◻ Left Message	◻ Yes ◻ No	◻ Yes ◻ No	◻ Used Other MBE ◻ Used Non-MBE ◻ Self-performing
Firm Name: MBE Classification (Check only if requesting waiver of MBE subgoal.) ☐ African American-Owned ☐ Hispanic American- Owned ☐ Asian American-Owned ☐ Women-Owned ☐ Other MBE Classification		Date: ◻ Mail ◻ Facsimile ◻ E-mail	Date: ◻ Phone ◻ Mail ◻ Facsimile ◻ E-mail	Time of Call: Spoke with: _____ ◻ Left Message	◻ Yes ◻ No	◻ Yes ◻ No	◻ Used Other MBE ◻ Used Non-MBE ◻ Self-performing

☐ Please check if Additional Sheets are attached.

Governor's Office of Small, Minority & Women Business Affairs

Good Faith Efforts Documentation (cont.)

D19

GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST

PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES

PAGE __ OF ___

Prime Contractor:	**Project Description:**	**PROJECT/CONTRACT NUMBER:**
Offeror Company Name, Street Address, Phone		**Solicitation #:**

This form must be completed if Part 1 indicates that an MBE quote was rejected because the Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

Describe Identified Items of Work Not Being Performed by MBE (Include spec/ section number from Proposal)	**Self-performing or Using Non-MBE (Provide name)**	**Amount of Non-MBE Quote**	**Name of Other Firms who Provided Quotes & Whether MBE or Non-MBE**	**Amount Quoted**	**Indicate Reason Why MBE Quote Rejected & Briefly Explain**
	☐ Self-performing ☐ Using Non-MBE _____	$_____	_____ ☐ MBE ☐ Non-MBE	$_____	☐ Price ☐ Capabilities ☐ Other
	☐ Self-performing ☐ Using Non-MBE _____	$_____	_____ ☐ MBE ☐ Non-MBE	$_____	☐ Price ☐ Capabilities ☐ Other
	☐ Self-performing ☐ Using Non-MBE _____	$_____	_____ ☐ MBE ☐ Non-MBE	$_____	☐ Price ☐ Capabilities ☐ Other
	☐ Self-performing ☐ Using Non-MBE _____	$_____	_____ ☐ MBE ☐ Non-MBE	$_____	☐ Price ☐ Capabilities ☐ Other
	☐ Self-performing ☐ Using Non-MBE _____	$_____	_____ ☐ MBE ☐ Non-MBE	$_____	☐ Price ☐ Capabilities ☐ Other
	☐ Self-performing ☐ Using Non-MBE _____	$_____	_____ ☐ MBE ☐ Non-MBE	$_____	☐ Price ☐ Capabilities ☐ Other

☐ Please check if Additional Sheets are attached.

For Internal Training Purposes Only



Outreach Efforts Compliance Statement

- Not required to be submitted with bid/offer
- Requested from procurement officer in connection with notice of intent to award
- Asks for bidder's MBE outreach efforts and attempts made to assist MBE subcontractors
- Reasonable timeframe to submit (10 working days)
- Failure to submit this form could result in withdrawal of offer (see pg. 5 of Affidavit)

For Internal Training Purposes Only

Outreach Efforts Compliance Statement (cont.)

D20

D- 2
OUTREACH EFFORTS COMPLIANCE STATEMENT

Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the Proposal submitted in response to Solicitation No. _____, I state the following:

1. Offeror identified subcontracting opportunities in these specific work categories:

   _____

   _____

   _____

2. Attached to this form are copies of written solicitations (with Proposal instructions) used to solicit certified MBE firms for these subcontract opportunities.

3. Offeror made the following attempts to personally contact the solicited MDOT-certified MBE firms:

   _____

   _____

   _____

4. **Please Check One:**

   ☐ This project does not involve bonding requirements.

   ☐ Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS):

   _____

   _____

   _____

5. **Please Check One:**

   _____ Offeror did attend the pre-Proposal conference.

   _____ No pre -Proposal meeting/conference was held.

   _____ Offeror did not attend the pre-Proposal conference.

D21

PLEASE PRINT OR TYPE

Company: _____

Company Name (please print or type)

By: _____

Signature of Authorized Representative

Printed Name: _____

Printed Name

Title: _____

Title

Date: _____

Date

Address: _____

Company Address

Governor's Office of Small, Minority & Women Business Affairs

Certified MBE Subcontractor Project Participation Certification

Governor's Office of Small, Minority & Women Business Affairs

For Internal Training Purposes Only

MBE Project Participation Certifications (1 of 3)

MBE Subcontractor Project Participation Certification

- Must be submitted for each named MBE within 10 working days
- Prime must complete sections A, B, & D ***before*** presenting to subcontractor for signature, note the fraud provisions on this form
- MBE names, dollar amounts, percentages, and work descriptions must be consistent with Participation Schedule
- Subcontractors should verify information on form before signing it; and finalize their Subcontract Agreement
- Procurement officer and MBE liaison should answer questions, if any arise
- A copy should be held by the Subcontractor, with one copy sent to the Prime, and the original sent to the Agency directly NOT THROUGH THE PRIME

For Internal Training Purposes Only

MBE Subcontractor Project Participation Certification

D22

D-3A
CERTIFIED MBE SUBCONTRACTOR PARTICIPATION CERTIFICATION

INSTRUCTIONS:

PRIME CONTRACTOR: After completing SECTIONS A, B, and D, provide this form to *each* certified Minority Business Enterprise subcontractor (MBE) listed on the MBE Participation Schedule (Attachment D-1A) allowing sufficient time for the MBE to respond within the required timeframe.

CERTIFIED MBE SUBCONTRACTOR: Complete SECTION C to acknowledge and certify the information in SECTION A. Return the completed form directly to the Procurement Officer identified in SECTION D within 10 days after notice from the Prime Contractor of the State's intent to award the Contract. Provide a copy to the Prime Contractor.

IF THIS FORM IS NOT RETURNED WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE PRIME CONTRACTOR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.

SECTION A

Provided that (Prime Contractor) _____ is awarded the State contract in conjunction with Solicitation Number _____, (Prime Contractor) _____ intends to enter into a subcontract with (Certified MBE Subcontractor) _____ with MDOT Certification Number _____ committing to participation by (Certified MBE Subcontractor) _____ of at least $_____ which equals _____% of the Total Contract Value for the following products/services:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

The Contractor and certified MBE each acknowledge that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes. The Contractor and certified MBE each solemnly affirms under the penalties of perjury that: (i) the information provided in this Certified MBE Subcontractor Participation Certification is true to the best of its knowledge, information and belief, and (ii) it has fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a Contractor may not identify a certified MBE in a Bid/Proposal and:

(1) fail to request, receive, or otherwise obtain authorization from the MBE to identify the MBE in its Bid/Proposal;
(2) fail to notify the MBE before execution of the Contract of its inclusion of the Bid/Proposal;
(3) fail to use the MBE in the performance of the Contract; or
(4) pay the MBE solely for the use of its name in the Bid/Proposal.

D23

PAGE 2 – CERTIFIED MBE SUBCONTRACTOR PARTICIPATION CERTIFICATION

SECTION B – Prime Contractor

Signature of Representative: _____

Printed Name and Title: _____

Prime Firm's Name: _____

Federal Identification Number: _____

Street Address, City, State, Zip Code: _____

_____

Phone: _____

Date: _____

SECTION C – Certified MBE Subcontractor

Signature of Representative: _____

Printed Name and Title: _____

MBE Firm's Name: _____

Federal Identification Number: _____

Street Address, City, State, Zip Code: _____

_____

Phone: _____

Date: _____

SECTION D

This completed form is due to the Procurement Officer on or before: _____

Solicitation #: _____ Solicitation Title: _____

Agency/Dept.: _____ Procurement Officer: _____

Phone: _____ Email: _____

Street Address, City, State, Zip Code: _____

_____

Governor's Office of Small, Minority & Women Business Affairs

MBE Project Participation Certifications (2 of 3)

For Internal Training Purposes Only

MBE Project Participation Certifications (3 of 3)

MBE Prime Project Participation Certifications

- Separate attestation for MBE prime self-performance
- Entries here must be consistent with Affidavit/Schedule
- Confirms that a specified percentage of work will be performed by MBE prime's own workforce
- Work must be within NAICS codes and fulfill commercially useful function
- Subject to confirmation via field inspections, office visits, etc.

For Internal Training Purposes Only

MBE Participation Certification

D24

D-3B
MBE PRIME PROJECT PARTICIPATION CERTIFICATION

Please complete and submit this form to attest to each specific item of work that your MBE firm has listed on the MBE Participation Schedule (Attachment D-1A) for purposes of meeting the MBE participation goals. This form must be submitted within 10 Business Days of notification of apparent award. If the Offeror fails to return this affidavit within the required time, the Procurement Officer may determine that Proposal is not susceptible of being selected for Contract award.

Provided that _____ (Prime Contractor's Name) with Certification Number _____ is awarded the State contract in conjunction with Solicitation No. _____, such MBE Prime Contractor intends to perform with its own forces at least $_____ which equals to___% of the Total Contract Amount for performing the following goods and services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE) For Construction Projects, General Conditions must be listed separately	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

MBE Prime Contractor

Company: _____

Company Name (please print or type)

FEIN: _____

Federal Identification Number

Company Address: _____

_____

Phone: _____

Printed Name: _____

Title: _____

By: _____

Signature of Authorized Representative

Date: _____

Governor's Office of Small, Minority & Women Business Affairs

MBE Compliance - Payment Reports

Governor's Office of Small, Minority & Women Business Affairs

For Internal Training Purposes Only

Prime Contractor Paid/Unpaid Invoice Report (1 of 2)

- Required per COMAR 21.11.03.13
- This form is to submitted by the Prime Contractor
- The form is submitted monthly for each MBE subcontractor named on the contract
- Reports all payments made to the named MBE subcontractor during the reporting period
- Reports any outstanding invoices for the MBE subcontractor

Prime Contractor Paid/Unpaid Invoice Report (2 of 2)

D-4A
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid Invoice Report

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided. **Note: Please number reports in sequence**	Contract Amount: MBE Subcontract Amt: Project Begin Date: Project End Date: Services Provided:

Prime Contractor:			Contact Person:		
Address:					
City:			State:		ZIP:
Phone:	FAX:		E-mail:		
MBE Subcontractor Name:			Contact Person:		
Phone:	FAX:		E-mail:		
Subcontractor Services Provided:					
List all payments made to MBE subcontractor named above during this reporting period:			**List dates and amounts of any outstanding invoices:**		
	Invoice #	**Amount**		**Invoice #**	**Amount**
1.			1.		
2.			2.		
3.			3.		
4.			4.		
Total Dollars Paid: $			**Total Dollars Unpaid: $**		

- If more than one MBE subcontractor is used for this contract, you must use separate **Attachment D-4A** forms. Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in **Attachment D-4B**.

- **Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

Contract Monitor Name	Contracting Unit
Address	City, State Zip
Email	Phone Number
Signature (Required)	Date

D25

MBE Prime Contractor Report (1 of 2)

- Required per COMAR 21.11.03.13
- This form is to submitted only by an MBE Prime Contractor, if they are self performing
- The form is submitted monthly
- Reports all payments made to the MBE Prime contractor during the reporting period which count towards the MBE goal

MBE Prime Contractor Report (2 of 2)

D-4B
Minority Business Enterprise Participation
MBE Prime Contractor Report

MBE Prime Contractor:	Contract #:
Certification Number:	Contracting Unit:
Report #:	Contract Amount:
Reporting Period (Month/Year):	Total Value of the Work to the Self-Performed for purposes of Meeting the MBE participation goal/subgoals:
MBE Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided. **Note: Please number reports in sequence**	Project Begin Date:
	Project End Date:

Contact Person:			
Address:			
City:		State:	ZIP:
Phone:	FAX:	E-mail:	

Invoice Number	Value of the Work	NAICS Code	Description of Specific Products and/or Services

Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):

Contract Monitor Name	Contracting Unit
Address	City, State Zip
Email	Phone Number
Signature (Required)	Date

D26

MBE Subcontractor Paid/Unpaid Invoice Report (1 of 2)

- Required per COMAR 21.11.03.13
- This form is to submitted by each MBE subcontractor on the contract
- The form is submitted monthly
- Reports all payments made to the MBE subcontractor during the reporting period
- Reports any unpaid invoices owed to the MBE subcontractor which are over 30 days old

MBE Subcontractor Paid/Unpaid Invoice Report (2 of 2)

D-5
Minority Business Enterprise Participation
MBE Subcontractor Paid/Unpaid Invoice Report

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
Report is due by the 10th of the month following the month the services were performed.	MBE Subcontract Amt:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:			
MDOT Certification #:			
Contact Person:			
Address:			
City:		State:	ZIP:
Phone:	FAX:	E-mail:	
Subcontractor Services Provided:			

List all payments received from Prime Contractor during reporting period indicated above.			**List dates and amounts of any unpaid invoices over 30 days old.**		
	Invoice Amount	**Date**		**Invoice Amount**	**Date**
1.			1.		
2.			2.		
3.			3.		
4.			4.		
Total Dollars Paid: $			**Total Dollars Unpaid: $**		
Prime Contractor:			Contract Person:		

Return one copy of this form to the following addresses (electronic copy with signature and date is preferred):

Contract Monitor Name	Contracting Unit
Address	City, State Zip
Email	Phone Number
Signature (Required)	Date

D27

MBE FORMS – SPECIAL CONSIDERATIONS

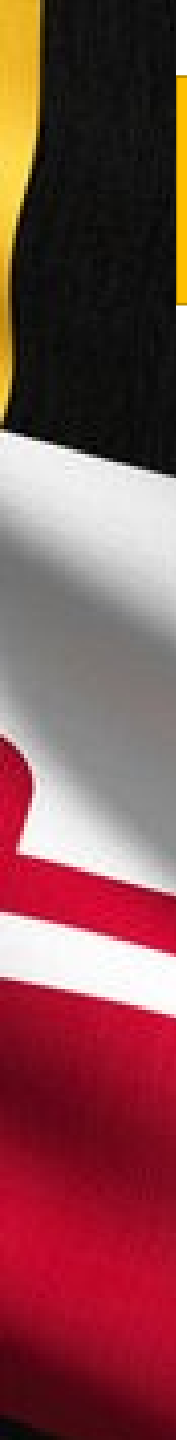
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SUB-TIER SUBCONTRACTORS (1 of 2)

- THIRD TIER CONTRACTING is defined in the MBE Manual as - the process in which a prime contractor subcontracts a portion of an original contract to a subcontractor who in turn subcontracts a portion of a subcontract to a third party. This latter action is termed entering into a third-tier contract.

- Third tier contracting is not the usual way for a prime contractor to achieve a DBE/MBE goal , therefore MBE forms are not actually formatted for third tier contracting.

- If approved, the agency/department must determine how the MBE forms will be used to capture the third-tier contractor's information at bid, at award, and during the life of the contract.



SUB-TIER SUBCONTRACTORS (2 of 2)

- The agency/department that approves third tier contracting on a contract must be satisfied that there is no other way to achieve the DBE/MBE goal, except by third tier contracting AND
- The prime contractor should request this approval in writing with an explanation of why third tier contracting is being requested
- Approval by the agency /department should be provided in writing and should outline the terms/parameters of the third-tier contract.

Amendment of MBE Forms (1 of 2)

Per COMAR 21.11.03.12

72 Hour rule: After bid/proposal submission and *before execution of contract*

- Certified MBE becomes ineligible or unavailable to perform
- Bidder/Offeror notifies PO within 72 hours of determination
- Bidder/Offeror request MBE form amendment within 5 days of determination

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Amendment of MBE Forms (2 of 2)

Per COMAR 21.11.03.12

"Good Cause" termination/cancellation: *After contract award*

- Certified MBE has documented nonperformance or elected to cease work
- Agency legal counsel should be consulted for additional reasons for termination
- Requires written consent of MBE liaison and approval of unit head
- Copy of written consent should go to Governor's Office of Small, Minority & Women Business Affairs

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Wrap Up

- The accuracy of MBE forms and reports directly affects the successful award of contracts with MBE goals , MBE Contract compliance, and achievement of MBE goals.

- As a stakeholder in the MBE space, you have the power to ensure that the MBE Program is executed successfully within your agency.

- Share your knowledge of how to accurately complete MBE forms with both Prime and subcontractors often at Pre-bid meetings, outreach events, and even one on one.

If you have any questions, after today's training please contact your designated MBE Compliance Manager.

Compliance Managers:

Nichelle Johnson

Nichelle.johnson1@Maryland.gov

(410) 697-9605

(667) 232-1369

Karen Reyes

Karen.reyes@maryland.gov

(410) 697-9608

(443) 346-0630

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(410) 697-9600

Maryland

GOVERNOR'S OFFICE
OF SMALL, MINORITY & WOMEN
BUSINESS AFFAIRS