

Minority Business Enterprise (MBE) Goal

One-on-One Services 15% MBE Goal – no subgoals
611710 Education Support Services,
621330 Offices of Mental Health Practitioners (except
Physicians),
624190 Other Individual and family services

Guidelines established by the Small, Minority & Women Business Affairs
<http://goma.maryland.gov/Documents/MBERightsandResponsibilities.pdf>



Prime Contractor and Subcontractor Rights and Responsibilities

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MBE SubContractors

- Have the same rights as all prime contractors
- Are entitled to receive fair and equal treatment during the procurement process
- May submit written questions to and receive a written response from State agency
- May ask State agency how MBE goals and sub-goals were set
- Raise any technical or MBE-related concerns with the procurement officer BEFORE the submission deadline

Contractors

- May add MBE subcontractors, but not at the expense of originally-named MBE subcontractors
- Must ask to remove MBEs, but must demonstrate good cause
- Any additions, removals or other changes to original MBE participation commitments must be approved in writing by the MBE Liaison
 - COMAR 21.11.03.12 (Amending Participation Schedule); after award, must have prior written consent of MBE liaison to change Participation Schedule



Contractor Responsibilities

- Ensure the MBE forms are complete and accurate
- To receive credit for the MBE goal
 - Use MBE subcontractors named on the MBE solicitation forms
 - Comply with monthly MBE reporting requirements and ensure that MBE subcontractors do so as well
- Meet all deliverables on time
- Keep good records to document your technical and MBE subcontracting performance



MBE Subcontractors Rights

The Prime Contractor must:

- Provide MBE subcontractors with enough time (10 days before the bid/proposal is due) and information to submit a qualified, competitive quote
- Provide MBE subcontractors with no less than the same information and amount of time to respond as any other potential subcontractor
- Obtain the subcontractors authorization to list the MBE subcontractor on a bid or proposal
- Notify the MBE subcontractor before execution of the contract on which the firm has been listed as an MBE subcontractor



MBE Subcontractors Responsibilities

- Carefully review all forms and agreements before signing
- Keep copies of all documents
- Never sign a blank form presented by a prime contractor; all documents should be completed before you sign
- Keep good records/documentation
- Complete and submit monthly MBE payment forms and other required State submissions on time
- Deliver goods and/or services as promised
- Get advance written confirmation of requests for additional work



MBE Subcontractors Responsibilities

MBE subcontractors are entitled to:

- Receive prompt payment from the prime contractor for undisputed work completed successfully
- Be treated fairly and without fear of harassment or intimidation
- Contact the project manager, procurement officer, MBE Liaison directly when appropriate



Contracts with MBE Goals

- Contractors must utilize their assigned subcontractors
 - If the Contractor wants to use an unassigned subcontractor to complete a project
 - They must submit in writing the reason why the assigned subcontractor cannot be utilized for the project
 - The letter will be reviewed and approved by the MBE team.
 - The MBE team will verify the subcontractor in the MDOT directory to ensure they are MBE certified.



Contracts with MBE Goals

Self Performing

- An MBE prime contractor may self-perform up to 50% of the overall MBE contract goal
 - May self-perform up to 100% of any one MBE contract sub-goal
 - Provided that the certified MBE prime contractor is properly identified on the MBE participation schedule
 - The firm must be NAICS code-certified to do the work
 - May use themselves to meet the VSBE Goal

Contracts with MBE Goals

Self Performing continued

MBE /VSBE dual-certification. Effective 10/2017 21.11.13.05

(2) If a solicitation contains an MBE goal and a VSBE goal, participation by a subcontractor dually-certified as an MBE and a VSBE may be counted toward meeting both the MBE and VSBE contract goals to the extent its participation meets the cumulative MBE and VSBE contract goals, or portions thereof that it is committed to perform.

(3) Participation by a dually-certified subcontractor may be counted toward the agency's overall MBE and VSBE goals.

MBE ATTACHMENTS (MBE participation forms)

- Form A – Certified MBE Utilization and Fair Solicitation Affidavit (page 1 of 2)
- Form B – Instructions for and MBE Participation Schedule (page 1 of 6)
- Form C – Outreach Efforts Compliance Statement
- Form D – MBE Subcontractor Project Participation Affidavit
- Form D 1 - MBE Prime Project Participation Affidavit (self performing)

Waiver Requests Attachments

- Form E – Good Faith Efforts Guidance and Documentation (page 1 of 6)
- Form C1 - Good Faith Efforts Documentation to Support Waiver Request
 - Part 1 – Identified Items of Work Bidder/Offeror made Available to MBE Firms
 - Part 2 - Identified MBE Firms and Records of Solicitations
 - Part 3 – Additional Information regarding Rejected MBE Quotes

Attachments A thru D1 are required for all solicitation
Attachments E and C1 are required for all waiver requests

Fraud

- A certified MBE was listed in a bid or proposal without its permission
- An MBE is offered payment solely for the use of its State of Maryland issued MBE Certification Number in bid/solicitation documents, or
- The certified MBE gave permission to be listed in the bid documents, but its services were not used to perform the contract.
- Suspected Abuse of the MBE Program

Waiver Request

Guidance for Documenting Good Faith Efforts to meet the MBE Participation Goals

- PART 2 - MBE Utilization and Fair Solicitation Affidavit & MBE Participation Scheduled is due with the Bid Package
 - Implied Waiver Request:
 - MBE Participation checkbox is selected
 - Waiver Request Checkbox is selected

Note:

If your firm is awarded the solicitation the entire MBE waiver package is due within 10 days

Waiver Request

The following forms are required with a waiver request:

- MBE Subcontractor Unavailability Certificate
- Good Faith Efforts Documentation to support the waiver Request
- Good Faith Efforts Documentation to support the waiver Request
Part 1 – Identified items of Work Offeror Made available to MBE Firms
- Good Faith Efforts Documentation to support the waiver Request
PART 2 – Identified MBE Firms and Record of Solicitations
- Good Faith Efforts Documentation to support the waiver Request
Part 3 – Additional Information Regarding Rejected MBE Quotes



Monthly MBE Payment Reports

- Contracts with MBE Goals:
 - Primes and subcontractors are required to complete the monthly MBE payment reports
 - Please email the Monthly Payment form for each month
 - Prime contractors and all MBE subcontractor payment reports must be sent directly to Christopher.kelly1@maryland.gov by the 10th of each month.
 - Prime contractors will not receive credit for the submission of the MBE payments if the subcontractor fails to submit their monthly payment reports.

MBE Team

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Resource: [MBE Sample Form](#)