

## ATTACHMENT D Minority Business Enterprise Participation Forms

### STATE OF MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES MINORITY BUSINESS ENTERPRISE PARTICIPATION

#### PURPOSE

The Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the Minority Business Enterprise (MBE) goal stated in the Request for Proposals (RFP). MBE performance shall be in accordance with this Exhibit, as authorized by Minority Business Enterprise Policies as set forth by 21.11.03 of the Code of Maryland Regulations (COMAR). Accordingly, the Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Exhibit.

To meet the goal using MBE subcontractors, all Prime Contractors shall:

- Identify work areas for subcontracting
- Solicit minority business enterprises through written notice or personal contact
- Help minority businesses meet bonding requirements or grant them a waiver of bonding requirements
- Identify their MBE subcontractors at the time they submit their bids or proposals

#### MBE GOAL AND SUB GOALS

An MBE subcontract participation goal of **20% of the total value of the contract, excluding the cost of pharmaceutical drugs (legend or non-legend) and medical supplies**, has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror agrees that this percentage of the administrative fees paid under the Contract will be performed by certified minority business enterprises.

A prime Contractor — including an MBE prime Contractor — shall accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors. (COMAR 21.11.03.09B(2))

#### SOLICITATION AND CONTRACT FORMATION

- ◆ A bidder or offeror must include with its bid or offer a completed *Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D-1)* whereby:
  - (1) the bidder or offeror acknowledges the certified MBE participation goal or requests a waiver, commits to making a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process; and.

- (2) the bidder or offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission. The bidder or offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.
- ◆ *If a bidder or offeror fails to submit a completed Attachment D-1 with the bid or offer, the Procurement Officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.*
  - ◆ Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee shall provide the following documentation to the Procurement Officer:
    - (1) Outreach Efforts Compliance Statement (Attachment D-2)
    - (2) Subcontractor Project Participation Certification (Attachment D-3)
    - (3) If the apparent awardee has requested a waiver (in whole or in part) of the overall MBE goal, it shall submit a fully documented waiver request that complies with COMAR 21.11.03.11.
    - (4) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

**NOTE: If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for Contract award. If the Contract has already been awarded, the award is voidable.**

## MBE REPORTING INSTRUCTIONS

### **Prime Contractor shall:**

1. Submit by the 10<sup>th</sup> of each month to the Department a Prime Contractor Paid/Unpaid MBE Invoice Report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit by the 10<sup>th</sup> of each month to the Department a Subcontractor Paid/Unpaid MBE Invoice Report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement Department, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### ATTACHMENTS

- A. Certified MBE Utilization and Fair Solicitation Affidavit – Attachment D-1 (must be submitted with bid or offer)
- B. Outreach Efforts Compliance Statement – Attachment D-2 (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)
- C. Subcontractor Project Participation Certification – Attachment D-3 (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)
- D. Prime Contractor Paid/Unpaid MBE Invoice Report – Attachment D-4 (must be submitted by the 10<sup>th</sup> of each month by the Prime Contractor)
- E. Subcontractor Paid/Unpaid MBE Invoice Report – Attachment D-5 (must be submitted by the 10<sup>th</sup> of each month by the Subcontractor)

<b>CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT</b>
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This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. **DPSCS Q0012015**, I affirm the following:

1.  I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of **20% of the total value of the contract, excluding the cost of pharmaceutical drugs (legend or non-legend) and medical supplies**. Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

**OR**

- I conclude that I am unable to achieve the MBE participation goal. I hereby request a complete waiver, in whole, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.

**OR**

- I conclude that I am unable to achieve the entire MBE participation goal. I hereby request a partial waiver of the overall goal and have identified the portion of the MBE goal I intend to achieve through a specific commitment of the certified Minority Business Enterprises listed in the MBE Participation Schedule below. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation (for the portion I am unable to achieve) in accordance with COMAR 21.11.03.11.

2. *I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.*

- (a) Outreach Efforts Compliance Statement (Attachment D-2)  
 (b) Subcontractor Project Participation Certification (Attachment D-3)  
 (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.

4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project and the work activity(ies) each MBE will provide under the contract. I hereby affirm that the MBE firms are only providing those work activities for which they are certified by the Maryland Department of Transportation.

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number:	

**List Information For Each Certified MBE Subcontractor On This Project**

Minority Firm Name	MBE Certification Number
<p align="center">For Dually Certified MBE Subcontractors, Identify the Applicable Certification Category (Check Only One Certification Category)</p> <p align="center"> <input type="checkbox"/> African American Owned         <input type="checkbox"/> Woman-Owned       </p>	
Percentage of Total Contract Value to be provided by this MBE: ____ % Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
<p align="center">For Dually Certified MBE Subcontractors, Identify the Applicable Certification Category (Check Only One Certification Category)</p> <p align="center"> <input type="checkbox"/> African American Owned         <input type="checkbox"/> Woman-Owned       </p>	
Percentage of Total Contract Value to be provided by this MBE: ____ % Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
<p align="center">For Dually Certified MBE Subcontractors, Identify the Applicable Certification Category (Check Only One Certification Category)</p> <p align="center"> <input type="checkbox"/> African American Owned         <input type="checkbox"/> Woman-Owned       </p>	
Percentage of Total Contract Value to be provided by this MBE: ____ % Description of Work to Be Performed:	
Minority Firm Name	MBE Certification Number
<p align="center">For Dually Certified MBE Subcontractors, Identify the Applicable Certification Category (Check Only One Certification Category)</p> <p align="center"> <input type="checkbox"/> African American Owned         <input type="checkbox"/> Woman-Owned       </p>	
Percentage of Total Contract Value to be provided by this MBE: ____ % Description of Work to Be Performed:	

Continue on a separate page, if needed.

**SUMMARY**

Total *African-American MBE* Participation: \_\_\_\_\_ %  
Total *Woman-Owned MBE* Participation: \_\_\_\_\_ %  
Total *Other* Participation: \_\_\_\_\_ %

**Total ALL MBE Participation:** \_\_\_\_\_ %

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

\_\_\_\_\_  
Bidder/Offeror Name

*(PLEASE PRINT OR TYPE)*

\_\_\_\_\_  
Signature of Affiant

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**OUTREACH EFFORTS COMPLIANCE STATEMENT**

**Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier.**

In conjunction with the proposal or offer submitted in response to Solicitation Number **DPSCS Q0012015**, I state the following:

1. Bid/Offeror identified opportunities to subcontract in these specific work categories.
  
2. Attached to this form are copies of written solicitation (with instructions) used to solicit certified MBEs for these subcontract opportunities.
  
3. Bid/Offeror made the following attempts to contact personally the solicited MBEs.
  
4. Bid/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements.  
(DESCRIBE EFFORTS)

\_\_\_\_\_ This project does not involve bonding requirements.

5. Bid/Offeror \_\_\_\_\_ DID \_\_\_\_\_ DID NOT attend the pre-proposal conference.

\_\_\_\_\_ No pre-proposal conference was held.

\_\_\_\_\_  
Bid/Offeror Name

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Address

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**SUBCONTRACTOR PROJECT PARTICIPATION  
CERTIFICATION**

*Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1 within 10 working days of notification of apparent award.*

\_\_\_\_\_ (prime Contractor) has entered into a contract with \_\_\_\_\_ (subcontractor) to provide services in connection with the Solicitation No. **DPSCS Q0012015** described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have 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 minority business enterprise in a bid or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or proposal;
- (3) fail to use the certified minority business enterprise in the performance of the contract; or
- (4) pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

**PRIME CONTRACTOR SIGNATURE**

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name, Title

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name, Title

\_\_\_\_\_  
Date



MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
MINORITY BUSINESS ENTERPRISE PARTICIPATION

**PRIME CONTRACTOR PAID/UNPAID MBE INVOICE REPORT**

*To be Completed Monthly by Prime Contractor*

Report: Month/Year \_\_\_\_\_

Report due by the 10<sup>th</sup> of following month.

ADPICS Document Numbers \_\_\_\_\_ MBE Subcontract Amount \_\_\_\_\_

**Blanket Purchase Order Number** \_\_\_\_\_ Contract Begin Date \_\_\_\_\_

Purchase Order Number \_\_\_\_\_ Contract End Date \_\_\_\_\_

Prime Contractor \_\_\_\_\_ Subcontractor \_\_\_\_\_

Contact Person \_\_\_\_\_ Contact Person \_\_\_\_\_

Address \_\_\_\_\_ Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_ City/State/Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_

Subcontractor Services Provided  
\_\_\_\_\_

List any unpaid invoices over 30 days old received from this Contractor and reason for non-payment.

- 1.
- 2.
- 3.

Total Amount Unpaid \$ \_\_\_\_\_

**\*\* If more than one MBE subcontractor is used for this contract, please use separate forms & include the blanket purchase order number.**

Signature \_\_\_\_\_  
(Prime Contractor)

Date \_\_\_\_\_

Return one (1) copy of this form to each of the following addresses:

Karen K. Shipley, MBE Manager  
Office of Minority Affairs  
Department of Public Safety & Correctional Services  
6776 Reisterstown Road, Suite 208  
Baltimore, MD 21215  
KShipley@dpscs.state.md.us

Thomas P. Sullivan, Director of Treatment Services  
Department of Public Safety & Correctional Services  
6776 Reisterstown Road, Suite 309  
Baltimore, MD 21215  
TPSullivan@dpscs.state.md.us

**ATTACHMENT D-5**  
**MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**  
**MINORITY BUSINESS ENTERPRISE PARTICIPATION**

**SUBCONTRACTOR PAYMENT REPORT**

*To be Completed Monthly by MBE Subcontractor*

Report: Month/Year \_\_\_\_\_

**Report due by the 10<sup>th</sup> of following month.**

ADPICS Document Numbers \_\_\_\_\_ MBE Subcontract Amount \_\_\_\_\_

*Blanket Purchase Order Number* \_\_\_\_\_ Contract Begin Date \_\_\_\_\_

Purchase Order Number \_\_\_\_\_ Contract End Date \_\_\_\_\_

MBE Subcontractor Name \_\_\_\_\_ MDOT Certification # \_\_\_\_\_

Contact Person \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

Subcontractor Services Provided \_\_\_\_\_

*List all payments received from Prime Contractor in the preceding 30 days.*

**List dates and amounts of any outstanding invoices.**

1.

2.

3.

TOTAL DOLLARS PAID  
\$ \_\_\_\_\_

Prime Contractor Name  
\_\_\_\_\_

Signature \_\_\_\_\_  
(Subcontractor)

1.

2.

3.

TOTAL DOLLARS UNPAID  
\$ \_\_\_\_\_

Contact Person  
\_\_\_\_\_

Date \_\_\_\_\_

**Return one (1) copy of this form to each of the following addresses:**

Karen K. Shipley, MBE Manager  
Office of Minority Affairs  
Department of Public Safety & Correctional Services  
6776 Reisterstown Road, Suite 208  
Baltimore, MD 21215  
KShipley@dpscs.state.md.us

Thomas P. Sullivan, Director of Treatment Services  
Department of Public Safety & Correctional Services  
6776 Reisterstown Road, Suite 309  
Baltimore, MD 21215  
TPSullivan@dpscs.state.md.us