

Maryland
Transportation
Authority

Martin O'Malley
Governor

Anthony Brown
Lt. Governor

Beverley K. Swaim-Staley
Chairman

Peter J. Basso
Rev. Dr. William C. Calhoun, Sr.
Mary Beyer Halsey
Louise P. Hoblitzell
Richard C. Mike Lewin
Isaac H. Marks, Sr., Esq.
Michael J. Whitson
Walter E. Woodford, Jr., P.E.

Ronald L. Freeland
Executive Secretary

Division of Procurement and
Statutory Program Compliance
2310 Broening Highway
Suite 160
Baltimore MD 21224
410-537-6769
410-537-1044 (fax)
410-355-7024 (TTY)
1-866-713-1596

e-mail: mdta@
mdtransportation
authority.com

www.mdtransportation
authority.com

April 29, 2010

TO ALL PURCHASERS OF CONTRACT DOCUMENTS:

**RE: Contract No. MA 951-000-002
Lighting Renovations at the I-95/I-395 and I-95/I-895 Interchanges**

ADDENDUM NO. 1

To Whom It May Concern:

It is important that you acknowledge receipt of this Addendum No. 1 on the referenced contract regardless if you will be bidding or not bidding.

Very truly yours,

Linda McGill, CPPB
Chief Procurement Officer

Enclosures

Contract No. MA 951-000-002

This will acknowledge receipt of the attached Addendum No.1.

NAME OF COMPANY

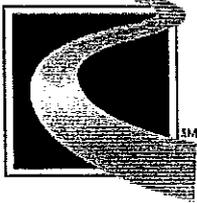
SIGNATURE

DATE

THIS SIGNED ADDENDUM ACKNOWLEDGEMENT PAGE SHALL BE RETURNED TO THIS OFFICE VIA FAX AT 410-537-7801, ATTENTION: MAGGIE JOHNSON PRIOR TO THE BID OPENING DATE.

IN ADDITION, THIS SIGNED ADDENDUM ACKNOWLEDGEMENT PAGE MUST BE ATTACHED TO THE OUTSIDE COVER OF THE BID BOOK. FAILURE TO DO SO MAY RESULT IN REJECTION OF YOUR

BID.



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April 29, 2010

TO ALL PURCHASER'S OF CONTRACT DOCUMENTS

ADDENDUM NO. 1

RE: Contract No. MA 951-000-002
Lighting Renovations at the I-95/I-395 and I-95/I-895 Interchanges

To Whom It May Concern:

- A. The Bid Due Date for the above referenced contract remains **May 6, 2010** at 12:00 Noon.
- B. The following changes have been made to the Invitation for Bids book:
 - 1. Delete pages 090, 091, 105, 152, 153, and 154 and replace with pages numbered the same dated April 15, 2010 Addendum # 1.
- C. Attached are responses to questions submitted and MBE Handout information for this contract.

Very truly yours,

Linda McGill, CPPB
Chief Procurement Officer

LM/mdj

THIS ADDENDUM SIGNED ACKNOWLEDGEMENT PAGE MUST BE ATTACHED TO THE OUTSIDE COVER OF THE BID BOOK. FAILURE TO DO SO MAY RESULT IN REJECTION OF YOUR BID.



Maryland
Transportation
Authority

Maryland Transportation Authority

LIGHTING RENOVATIONS AT THE I-95/I-395 AND I-95/I-895 INTERCHANGES

SPECIAL PROVISIONS INSERT

CONTRACT NO. MA-951-000-002

Page 1 of 2

CATEGORY 800
TRAFFIC

808 - LIGHTING STRUCTURES

634 808.02 MATERIALS

ADD:

Highmast Lighting Structures 963

808.03 CONSTRUCTION

ADD:

The area around the foundation of a highmast pole shall be cleared of debris to facilitate the raising and lowering of the luminaire ring. All branches and vegetation that might interfere with the raising and lowering of the luminaire ring shall be removed.

Remove portions of existing highmast pole, including baseplate, as required to facilitate erection of the new/replacement pole.

Perform work so as not to damage existing wiring, foundation, or anchor bolts.

Remove portions of grout as required around leveling nuts to facilitate leveling of the new pole. Leave space open, i.e. do not re-grout, so that air may circulate and water may exit the pole base.

Anchor Bolts. Construction of cast-in-place anchor bolts shall comply with requirements of Section 150.03.04.

808.04 MEASUREMENT AND PAYMENT

ADD:

808.04.05 Highmast lighting structures will be measured and paid for at the Contract unit price for each highmast lighting structure complete and in place and fully operational by height of highmast lighting structure. The payment shall be full compensation for all material, including but not limited to, anchor bolts, luminaries, winch assembly, cables, wiring, terminal board, junction box, electrical connectors, circuit breaker, lamps, pulleys, structural steel, welding, inspection, testing, certification, engineering, calculations; labor including but not limited to assembly, erection, electrical connection, and testing; tools; equipment; and incidentals necessary to complete the work. This item



Maryland
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Maryland Transportation Authority

LIGHTING RENOVATIONS AT THE I-95/I-395 AND I-95/I-895 INTERCHANGES

SPECIAL PROVISIONS INSERT

CONTRACT NO. MA-951-000-002

Page 2 of 2

does not include the highmast foundation.

808.04.06 Two (2) electric winch assemblies furnished, tested, and found acceptable for high mast poles shall be included in item 819.



SPECIAL PROVISIONS
Lighting Renovations at the I-95/I-395 and I-95/I-895 Interchanges
Contract No. MA-951-000-002

Page 2 of 2

807	#6 AWG BARE GROUND CONDUCTOR	LINEAR FEET
808	#10 AWG GROUND CONDUCTOR	LINEAR FEET
809	2 1/2" RIGID GALVANIZED EXPANSION/DEFLECTION FITTING	PER EACH
810	TYPE I CONNECTOR	PER EACH
811	TYPE II CONNECTOR	PER EACH
812	TYPE III CONNECTOR	PER EACH
813	TYPE IV CONNECTOR	PER EACH
814	40 FT POLE W/ 18" BRACKET ARM	PER EACH
815	40 FT POLE W/ 6' BRACKET ARM	PER EACH
816	40 FT POLE W/ 2 - 18" BRACKET ARM	PER EACH
817	40 FT POLE W/ 3 - 18" BRACKET ARM	PER EACH
818	40 FT POLE W/ 4 - 18" BRACKET ARM	PER EACH
819	120 FT POLE HIGH MAST POLE WITH LUMINAIRE RING AND LOWER SYSTEM	PER EACH
820	100 FT POLE HIGH MAST POLE WITH LUMINAIRE RING AND LOWER SYSTEM	PER EACH
821	250W HPS ROADWAY LUMINAIRE	PER EACH
822	400W HPS HIGHMAST LUMINAIRE	PER EACH
823	400W HPS HIGHMAST LUMINAIRE W/ SHIELD, TYPE 'HM1'	PER EACH
824	400W HPS UNDERVIADUCT LUMINAIRE	PER EACH
825	GROUND ROD	PER EACH
826	HANDHOLE	PER EACH
827	CONCRETE FOUNDATIONS	PER CUBIC YARD
828	REMOVE AND DISPOSE OF ROADWAY LIGHTING STRUCTURES (POLE MOUNTED)	PER EACH
829	REMOVE AND DISPOSE OF ROADWAY LIGHTING STRUCTURES (UNDERVIADUCT)	PER EACH
830	MISCELLANEOUS ELECTRICAL REPAIRS AND/OR CONSTRUCTION	ALLOWANCES

SCHEDULE OF PRICES

NOTE: This proposal shall be filled in by the bidder, with the prices written in words and numerals. The extension amounts of unit costs shall also be filled in. For complete information concerning these items, see Specifications, Special Provisions and Contract Form.

ITEM NOS.	APPROXIMATE QUANTITIES	DESCRIPTION OF ITEM AND PRICE BID (IN WRITTEN WORDS)	UNIT PRICE		AMOUNTS	
			DOLLARS	CTS.	DOLLARS	CTS.
819	8	EACH OF 120 FT POLE HIGH MAST POLE WITH LUMINAIRE RING AND LOWER SYSTEM AT _____ PER EACH				
820	6	EACH OF 100 FT POLE HIGH MAST POLE WITH LUMINAIRE RING AND LOWER SYSTEM AT _____ PER EACH				
821	11	EACH OF 250W HPS ROADWAY LUMINAIRE AT _____ PER EACH				
822	193	EACH OF 400W HPS HIGHMAST LUMINAIRE AT _____ PER EACH				
823	84	EACH OF 400W HPS HIGHMAST LUMINAIRE W/ SHIELD, TYPE 'HM1' AT _____ PER EACH				
824	140	EACH OF 400W HPS UNDERVIADUCT LUMINAIRE AT _____ PER EACH				

SCHEDULE OF PRICES

NOTE: This proposal shall be filled in by the bidder, with the prices written in words and numerals. The extension amounts of unit costs shall also be filled in. For complete information concerning these items, see Specifications, Special Provisions and Contract Form.

ITEM NOS.	APPROXIMATE QUANTITIES	DESCRIPTION OF ITEM AND PRICE BID (IN WRITTEN WORDS)	UNIT PRICE		AMOUNTS	
			DOLLARS	CTS.	DOLLARS	CTS.
825	28	EACH OF GROUND ROD AT _____ PER EACH				
826	16	EACH OF HANDHOLE AT _____ PER EACH				
827	448	CUBIC YARD OF CONCRETE FOUNDATIONS AT _____ PER CUBIC YARD				
828	150	EACH OF REMOVE AND DISPOSE OF ROADWAY LIGHTING STRUCTURES (POLE MOUNTED) AT _____ PER EACH				
829	142	EACH OF REMOVE AND DISPOSE OF ROADWAY LIGHTING STRUCTURES (UNDERVIADUCT) AT _____ PER EACH				
830	ALLOWANCES	ALLOWANCES OF MISCELLANEOUS ELECTRICAL REPAIRS AND/OR CONSTRUCTION AT <u>One-Hundred Eighty Thousand & 00/100</u> . ALLOWANCES			\$180,000	00

SCHEDULE OF PRICES

NOTE: This proposal shall be filled in by the bidder, with the prices written in words and numerals. The extension amounts of unit cost shall also be filled in. For complete information concerning these items, see Specifications, Special Provisions and Contract Form.

ITEM NOS.	APPROXIMATE QUANTITIES	DESCRIPTION OF ITEM AND PRICE BID (IN WRITTEN WORDS)	UNIT PRICE		AMOUNTS	
			DOLLARS	CTS.	DOLLARS	CTS.
X	X	AGGREGATE AMOUNT AT UNIT PRICES USING ITEMS 101-109, 801-830.	X	X		

Pre-bid Meeting Minutes

Contract No. MA 951-000-002
Lighting Renovations at the I-95/I-395 and I-95/I-895 Interchanges

April 15, 2010

The following were in attendance:

Alisha Wright	MdTA Procurement and Statutory Program Compliance
David Dabkowski	MdTA Engineering
Dennis Goldberger	Lighting Maintenance
Roger Hale	TS and T
Craig Hoffman	Midasco, LLC.
Tom D'Amour	Portico Services
Andrew Helble	Bruce and Merrilees
Stephanie Romeo	Holophane
Kathleen Deppe	Valley Lighting
Kevin Chambers	Valley Lighting
Meshelle Howard	MdTA Procurement and Statutory Program Compliance
Mekeisha Suavez	MdTA Procurement and Statutory Program Compliance
Jeff Robson	MdTA Electrical (Central Region)
Mike Darago	MdTA FMT Supervisor

Ms. Wright opened the meeting with the following notes:

This project is located on the Fort McHenry Tunnel and Baltimore Harbor Tunnel Thruway Facilities of the Maryland Transportation Authority. The Maryland Transportation Authority ("Authority") desires to renovate roadway lighting at the I-95/I-395 and I-95/I-895 Interchanges.

The proposed renovation includes replacing under viaduct and low level lighting on I-95 and I-395 from the I-95/I-395 Interchange to the Russell Street crossing under I-95. In addition, all low level lighting at the I-95/I-895 interchange shall be replaced with high mast lighting. The contractor shall properly dispose of all materials they remove. Renovation will also require coordination of work with and some permits from the City of Baltimore, Stadium Authority and Maryland Transit Administration Light Rail.

The contract time is 315 calendar days with liquidated damages of \$500.00 per day.

Ms. Wright drew the bidders' attention to the following points:

1. The bid due date is **May 6, 2010 by 12 Noon**. Late bids will not be accepted.
2. Bid packages must be placed in the bid box located on the first floor of the Engineering Building at the Francis Scott Key Bridge, 300 Authority Drive and should consist of one complete bid book.

3. The Authority does not encourage overnight delivery service. However, if a bidder chooses to send a package via overnight delivery, the bid should be delivered at least a day in advance. It will be the responsibility of the bidder to make sure that his/her bid package is placed in the bid box. The outside envelope of the mailed package must clearly identify the Contract Number and mention that it is a bid package.
4. These minutes will be distributed to all purchasers of bid documents and will be considered as official record of this meeting. Remember to complete the bid tabs completely or your bid may be considered non-responsive.
5. It is strongly recommended that potential bidders review page 001, the Notice to Bidders, and pages 003-005, Important Information Regarding MBE Utilization and Bidding Requirements of this invitation for bids prior to submitting their bids on this project.
6. Following this meeting, all questions should be submitted in writing and addressed to the Project Manager Mr. David Dabkowski via fax 410-537-7801. The Authority will accept written questions until **4:00 P.M., April 22, 2010**. Answers to questions will be distributed to all purchasers of bid documents.
7. The MBE participation goal for this contract is **30%** with no sub-goals. All prime Contractors must achieve all MBE goals through certified MBE subcontractors, regardless of the MBE status of the prime Contractor. MBE firms must be certified by the Maryland Department of Transportation (City or County certification is not acceptable). A list of certified MBE firms may be obtained by calling MBE office at (410) 537-7832.

If bidders require assistance, prior to submitting its bid, with the MBE directory, they should contact Ms. Meshelle Howard at 410-537-7832.

The meeting was then opened to questions and comments concerning the project. Questions asked at the meeting include but are not limited to the following:

Question 1: Which AASHTO standard shall be used for high mast poles under this contract?

Response: Please refer to sheet LP-1.00, General Notes for details.

Question 2: For 40 feet pole specification, shall we use SHA or MDTA standards or both?

Response: Please see Section 1-2, Specifications, of Proposal Book on Page 014, for details.

Question 3: On page 152 line item, 820 please clarify bulb Wattage.

Response: The correct number is 250 Watt. Please delete page 105 and 152 of Invitation for Bids and replace with page numbered the same dated April 15, 2010 Addendum No. 1.

Question 4: On page 152 line item, 819 please clarify 6 bracket arm or 6 fixtures?

Response: Please delete page 105 and 152 of Invitation for Bids and replace with page numbered the same dated April 15, 2010 Addendum No. 1.

Question 5: In reference to high mast poles, how many electric winch drives are required for project?

Response: Two (2) high mast pole electric winch drives shall be included in line item 819. Please delete page 091 of Invitation for Bids and replace with page numbered the same dated April 15 2010 Addendum No. 1.

Question 6: On page 90, it states that galvanized poles shall be painted brown, but there is no line item for brown paint?

Response: This section has been revised. Please delete page 090 of Invitation for Bids and replace with page numbered the same dated April 15 2010 Addendum No. 1.

Question 7: Are vibration pads required on all proposed poles?

Response: Vibration pads are required for all proposed pole installations at the I-95/I-395 interchange as stated in General Note #12 on plan sheet E-1.01.

Question 8: Is a field office required?

Response: Yes. Please see Section 103 Engineers Office for details.

Question 9: Please explain why the MOT is lump sum, but there are additional MOT related line items?

Response: Please refer to page 078 of Invitation for Bids, 104.02.04 MEASUREMENT AND PAYMENT.

Maintenance of Traffic will not be measured but will be paid for at the Contract lump sum price. The payment will be full compensation for all labor (including Traffic Manager), material and equipment (for which a bid item has not been established), and any incidentals necessary to complete the work. Protection vehicles which include a TMA and arrow panel, portable variable message signs (PVMS) as well as Lane Closures (including all associated material and equipment) are not incidental to the lump sum MOT price and shall be measured and paid for as separate bid items in accordance to the Standard Specifications and Book of Standards.

The cost shall include all required equipment and set ups shown on the maintenance of traffic standards, as well as removal of all traffic control set-ups.

Question 10: On E-1.01 'Lighting Fixture Schedules – New' states high mast poles are 100 feet, but Schedule of Prices item 819 states 120 feet. What is the correct length of the high mast poles?

Response: The mounting height of the luminaires is 100 ft from the roadway surface. The pole lengths will vary depending on variance between the level of the ground at each pole location and the roadway which is to be determined in the field. Please delete page 105, 153, and 154 of Invitation for Bids and replace with page numbered the same dated April 15, 2010 Addendum No. 1.

As there were no further questions, the meeting was then adjourned.

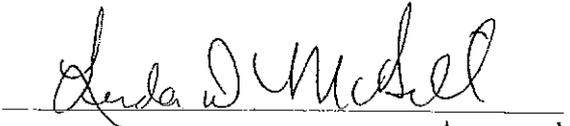
Faxed Question:

Question 1: Please clarify unit of payment for Line Item 825 Handhole?

Response: Please delete page 105 and 153 of Invitation for Bids and replace with page numbered the same dated April 15, 2010 Addendum No. 1.

Question 2: Please clarify Item 826 – 4480 Cubic Yards of Concrete Foundation. Please explain how this quantity was derived?

Response: Please delete page 153 of Invitation for Bids and replace with page numbered the same dated April 15, 2010 Addendum No. 1.

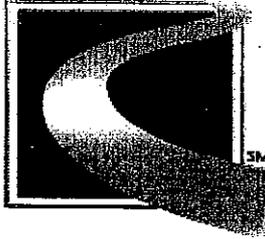

Approved

LIST OF PURCHASERS OF INVITATION FOR BIDS

Contract No.: MA 951-000-002
 Bid Opening Date: May 6, 2010

Price: \$25.00
 Class: E

Rommel Engineering & Construction, Inc. 1177 Patuxent Rd. Odenton, MD 21113 P: (301) 912-5740 F: (301) 912-5541	Midasco, LLC 7121 Dorsey Run Rd. Elkridge, MD 21075 P: (410) 579-6712 F: (410) 579-6795	CDC/Bidtool One Oakbrook Terrace Suite 510 Oak Brook Terrace, IL 60181 P: (512) 634-5966 F: (866) 714-9554
Traffic Systems, Inc. 7462 Railroad Ave. Harmans, MD 21077 P: (443) 557-0025 F: (443) 557-0029	Portico Services 10126 Residency Rd. Manassus, VA 20110 P: (571) 323-5967 F: (703) 330-2125	Bruce & Merrilees Electric Co. 930 Cass St. New Castle, PA 16101 P: (724) 652-5566 F: (724) 652-8290
Lighting Maintenance, Inc. 5193 Raynor Ave. Linthicum, MD 21090 P: (877) 279-7373 ex. 206 F: (877) 279-7374	Holophane 4603 Lincoln Drive Baltimore, MD 21227 P: (410) 247-4545 F: (866) 660-8976	Teco, Inc. 1102 Butterworth Ct. P. O. Box 1030 Stevensville, MD 21666 P: (410) 626-7400 F: (410) 643-8802
Specialty Service Contractors, Inc. 215 Cockeyville Rd. Cockeyville, MD 21030 P: (410) 329-1001 F: (410) 329-9869	Commercial Lighting Sales, Inc. 6797 Dorsey Rd., Ste. 3 Elkridge, MD 21075 P: (410) 796-7660 F: (410) 796-1033	Enterprise Electric Co. 4204 Shannon Dr. Baltimore, MD 21213 P: (410) 488-8200 F: (410) 488-9315



**Maryland
Transportation
Authority**

**Minority Business Enterprise
(MBE)
Program Hand-out**

Prepared By: Procurement and Statutory Program Compliance (PSPC)
September 2009

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MINORITY BUSINESS ENTERPRISE PROGRAM HIGHLIGHTS

Maryland Transportation Authority

Minority Business Enterprise Program Highlights

For purposes of MBE contract goal attainment and MBE Contract Compliance, the following information highlights the Maryland Department of Transportation (MDOT) Program Requirements:

1. Any participating MBE must be certified by MDOT to perform the item(s) of work /service selected for contract goal attainment.
2. Any participating MBE must serve a commercially useful function and may not act like a broker, unless it is certified as a broker (insurance or real estate). A firm is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing and supervising the work involved and /or negotiates the cost of, arranges and accepts delivery of and pays for the materials or supplies required for the work of its contract. If, at any time before execution of the contract, the contractor determines that the designated MBE subcontractor has or will become unavailable, it immediately shall notify the Administration.
3. Any change in the approved MBE Plan must be approved in advance by the Administration and shall indicate the contractor's efforts to substitute another certified MBE subcontractor to perform the work.
4. Contract Goal Credits for Materials and Supplies.
 - a. A bidder may count toward its MBE goal expenditures for materials and supplies obtained from certified business suppliers, provided that the certified businesses assume the actual and contractual responsibility for the provision of the materials and supplies. The bidder may count its entire expenditure to a certified business supplier that manufactures or produces goods from raw material or that substantially alters goods

before resale. The bidder may count 60 percent of the expenditures to certified suppliers who are not manufactures towards its MBE goals.

- b. Double Payee (Joint) checks to MBEs and suppliers for materials used by an MBE subcontractor for its contracted work are allowable providing such a payment arrangement is offered to all subcontractor relationships and not restricted to just MBEs, and the MBE participates in scheduling the delivery of the materials and is fully responsible for ensuring that the materials meet specifications. However, when the contractor makes such payments, it is recommended that the payments be made by jointly endorsable checks signed by the contractor and MBE.
- c. For MBE firms that are not MBE regular dealers or manufacturers, a contractor may only count toward its MBE goal the fees charged for delivery of materials and supplies required on the job site (but not the cost of the materials and supplies themselves) when the trucking enterprise or delivery service is not also the manufacturer of or regular dealer in the materials and supplies, provided that the fee is determined by the administration to be reasonable and not excessive as compared with fees customarily allowed for similar services.

5. Third Tier Subcontracting. Third Tier Contracting is not the usual way for a prime contractor to achieve a MBE goal. However, there may be rare occasions when third tier contracting would be acceptable. Two conditions must be met before approval of a third tier contracting arrangement, which may be entered into to meet a MBE goal:

- a. The Authority must be satisfied that there is no way except by third tier contracting that a MBE/DBE goal can be achieved;
- b. The prime contractor must request of the Authority, in writing, prior to the awarding of a contract, that approval be granted for each third tier contract arrangement. The

request must contain the specifics as to why a third tier contracting arrangement is being requested to meet the MBE goal.

6. Waivers:

The Administration will strictly adhere to the requirement for documentation of any waiver requests as provided in COMAR. Accordingly, if, for any reason, a contractor is unable to achieve the contract goal or sub-goal MBE participation, it may request, in writing, an exception (waiver) to the goal with justification to include the following:

- a. A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE (s);
- b. A detailed statement of the efforts made to contract and negotiate with certified MBEs including:
 - (i) The names, addresses, dates and telephone numbers of MBEs contacted; and
 - (ii) A description of the information provided to MBEs regarding the plans, specifications and anticipated time schedule for portions of the work to be performed;
 - (iii) As to each certified MBE that placed a subcontract quotation or offer that your company considers not to be acceptable, a detailed statement of the reasons for this conclusion; and
 - (iv) A list of certified MBEs found to be unavailable. This list should be accompanied by a MBE Unavailability Certification (Form D-EEO-005) signed by the MBE, or a detailed statement from the contractor concerning the MBE's refusal to give the certification.

A waiver of a contract goal may be granted only upon a reasonable demonstration by the bidder or offeror that certified MBE participation was unable to be obtained or was unable to

be obtained at a reasonable price and if the Administration determines that a waiver serves the public interest.

7. MBE Contract Compliance Monitoring ... MBE contract compliance monitoring commences upon official award of the contract has been made and continues throughout the life of the contract. An assigned contract compliance officer will advise the contractor and all approved participating MBE subcontractors, in writing, of compliance requirements, monitoring activities and will request necessary records to establish MBE contractor compliance. If a contractor or any participating MBE subcontractor is found to be in non-compliance with the terms of MDOT's MBE Program or with the State's MBE Law, and fails or refuses to take the corrective action required, administrative sanctions may be imposed in order to promote the purpose of MDOT's MBE Program. These may be, suspension of work, withholding payment, referral of the matter to the Office of the Attorney General for action, or any other action that is authorized under the contract or by State or federal laws.

8. Fraud Provisions

Bidders are advised that Section 14-308 of the MBE Law provides that a person may be prosecuted for a felony for the following acts:

- a. Fraudulently obtaining, holding or attempting to obtain or hold MBE certification;
- b. Aiding another person in fraudulently obtaining, holding or attempting to obtain or hold MBE certification;
- c. Willfully obstructing, impeding, or attempting to obstruct or impede a State official or employee or employee investigating the qualifications of a business entity that has requested certification;
- d. Fraudulently obtaining, attempting to obtain, or aiding another person in fraudulently obtaining or attempting to obtain, public monies to which the person is not entitled; or

NAICS Codes for Contract MS-951-000-002

NAICS Codes	Descriptions
238910	Site Preparation Contractors
CPM	Critical Path Method
541330	Engineering Services
MOT	Maintenance of Traffic
238110	Poured Concrete Foundation and Structure Contractors
332312	Fabricated Structural Metal Manufacturing
423510	Metal Service Centers and Other Metal Merchant Wholesalers
423610	Electrical Apparatus and Equipment, Wiring Supplies, and Related
423990	Other Miscellaneous Durable Goods Merchant Wholesalers
335932	Noncurrent-Carrying Wiring Device Manufacturing
327332	Concrete Pipe Manufacturing
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers
327320	Ready-Mix Concrete Manufacturing

- e. In any minority business enterprise matter administered under subtitle 14:
- (i) Willfully falsify, conceal, or cover up a material fact by any scheme or device;
 - (ii) Make a false or fraudulent statement or representation; or
 - (iii) Use a false writing or document that the person knows to contain a false statement or entry

Persons found guilty of violating these provisions are guilty of a felony and on conviction are subject to a fine not exceeding \$ 20,000 or imprisonment not exceeding five years, or both.

Persons convicted under Section 14-308 may also be debarred from performing on State contracts by the Board of Public Works ("Board") for a period of time determined to be appropriate by the Board under the circumstances.

9. MBE Contract Support

Personnel of the Maryland Department of Transportation, its Administrations and the Authority offer contractor practicable support for MBE contract goal attainment. This assistance is available from Monday through Friday during normal business hours by calling 410-865-1269. Examples of MDOT Program assistance include:

To Majority Contractors

- Identifying subcontract items for goal attainment
- Answering questions related to MBE Program requirements

To Minority Contractors

- Answering questions related to MBE Program requirements
- Providing information on required contract records
- Referral to designated consultants for assistance for business related problems

**MARYLAND DEPARTMENT OF
TRANSPORTATION
(MDOT)
MINORITY BUSINESS ENTERPRISE
(MBE) FORMS
STATE-FUNDED**

**“A” thru “D”
For bids only**

MDOT MBE FORM A
STATE-FUNDED CONTRACTS (BIDS ONLY)
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 1 OF 2

THIS AFFIDAVIT MUST BE INCLUDED WITH THE BID. IF THE BIDDER FAILS TO ACCURATELY COMPLETE AND
SUBMIT THIS AFFIDAVIT AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE.

In connection with the bid submitted in response to Solicitation No. _____, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE)

I have met the overall certified Minority Business Enterprise (MBE) participation goal of _____ percent (_____ %) and the subgoal of _____ percent (_____ %) for Women-Owned MBE firms and the subgoal of _____ percent (_____ %) for African-American Owned MBE firms. I agree that the MBE firms listed in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts – Bids Only) will be used to accomplish the MBE participation goal and subgoals (if any) for this Contract for at least the dollar amounts set forth therein.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit a written waiver request and all required documentation in accordance with COMAR 21.11.03.11. I agree that the MBE firms listed in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts – Bids Only) will be used to accomplish the MBE participation goal and subgoals (if any) for this Contract for at least the dollar amounts set forth therein.

2. Additional MBE Documentation

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 business days of receiving such notice:

- (a) Outreach Efforts Compliance Statement (MDOT MBE Form C - State-Funded Contracts – Bids Only);
- (b) Subcontractor Project Participation Statement (MDOT MBE Form D - State-Funded Contracts – Bids Only);
- (c) MBE Waiver Request documentation per COMAR 21.11.03.11 (if waiver was requested); and
- (d) Any other documentation required by the Procurement Officer to ascertain bidder's responsibility in connection with the certified MBE participation goal and subgoals, if any.

I acknowledge that if I fail to return each completed document (in 2 (a) through (d)) within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award.

MDOT MBE FORM A
STATE-FUNDED CONTRACTS (BIDS ONLY)
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 2 OF 2

3. Information Provided to MBE firms

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

I solemnly affirm under the penalties of perjury that the information in this affidavit is true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

**PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID. IF THE BIDDER FAILS TO ACCURATELY COMPLETE AND SUBMIT
PART 2 WITH THE BID AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE.**

PAGE 1 OF 2

*** STOP ***

FORM INSTRUCTIONS

PLEASE READ BEFORE COMPLETING THIS FORM

1. Please refer to the Maryland Department of Transportation (MDOT) MBE Directory at www.mdot.state.md.us to determine if a firm is certified for the appropriate North American Industry Classification System ("NAICS") Code and the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit www.naics.com. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals.
2. In order to be counted for purposes of achieving the MBE participation goals, the firm must be certified for that specific NAICS ("MBE" for State-funded projects designation after NAICS Code). **WARNING:** If the firm's NAICS Code is in graduated status, such services/products will not be counted for purposes of achieving the MBE participation goals. Graduated status is clearly identified in the MDOT Directory (such graduated codes are designated with the word graduated after the appropriate NAICS Code).
3. Examining the NAICS Code is the first step in determining whether an MBE firm is certified and eligible to receive MBE participation credit for the specific products/services to be supplied or performed under the contract. The second step is to determine whether a firm's Products/Services Description in the MBE Directory includes the products to be supplied and/or services to be performed that are used to achieve the MBE participation goals.
4. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please call MDOT's Office of Minority Business Enterprise at 1-800-544-6056 or via email at mbe@mdot.state.md.us.
5. The Contractor's subcontractors are considered second-tier subcontractors. Third-tier contracting used to meet an MBE goal is to be considered the exception and not the rule. The following two conditions must be met before MDOT, its Modal Administrations and the Maryland Transportation Authority, may approve a third-tier contracting agreement: (a) the bidder must request in writing approval of each third-tier contract arrangement, and (b) the request must contain specifics as to why a third-tier contracting arrangement should be approved. These documents must be submitted with the bid in Part 2 of this MBE Participation Schedule.
6. For each MBE firm that is being used as supplier/wholesaler/regular dealer/broker/manufacturer, please follow these instructions for calculating the dollar amount of the subcontract for purposes of achieving the MBE participation goals:
 - A. Is the firm certified as a broker of the products/supplies? If the answer is YES, please continue to Item C. If the answer is NO, please continue to Item B.
 - B. Is the firm certified as a supplier, wholesaler, regular dealer, or manufacturer of such products/supplies? If the answer is YES, continue to Item D. If the answer is NO, continue to Item C only if the MBE firm is certified to perform trucking/hauling services under NAICS Codes 484110, 484121, 484122, 484210, 484220 and 484230. If the answer is NO and the firm is not certified under these NAICS Codes, then no MBE participation credit will be given for the supply of these products.
 - C. For purposes of achieving the MBE participation goal, you may count only the amount of any reasonable fee that the MBE firm will receive for the provision of such products/supplies - not the total subcontract amount or the value (or a percentage thereof) of such products and/or supplies. In Column 4 of the MBE Participation Schedule, please state the amount of any reasonable fee that the MBE firm will receive for the provision of such products/services in Line 4.1.
 - D. Is the firm certified as a manufacturer (refer to the firm's NAICS Code and specific description of products/services) of the products/supplies to be provided? If the answer is NO, please continue to Item E. If the answer is YES, for purposes of achieving the MBE participation goal, you may count the total amount of the subcontract. In Column 4 of the MBE Participation Schedule, please state the total amount of the subcontract in Line 4.1.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

PAGE 2 OF 2

- E. Is the firm certified as a supplier, wholesaler and/or regular dealer? If the answer is YES (i) if the MBE firm is furnishing and installing the materials and is certified to perform these services, please include in Line 4.1 the total value of the subcontract amount (including full value of supplies); or (ii) if the firm is only being used as a supplier, wholesaler and/or regular dealer or is not certified to install the supplies/materials, for purposes of achieving the MBE participation goal, you may only count sixty percent (60%) of the value of the subcontract for these supplies/products (60% Rule). In Column 4, Section 4.2 of the MBE Participation Schedule, please state the amount of the subcontract for these supplies/products only (not installation) and sixty percent (60%) of such value.
7. **WARNING:** The percentage of MBE participation, computed using the dollar amounts in Column 4 for all of the MBE firms listed in Part 2, **MUST** at least equal the MBE participation goal and subgoals (if applicable) as set forth in MDOT MBE Form A – State-Funded Contracts (Bids Only) for this solicitation. If a bidder is unable to achieve the MBE participation goal and/or any subgoals (if applicable), then the bidder must request a waiver in Form A or the bid will be deemed not responsive. You may wish to use the Worksheet shown below to assist you in calculating the percentages and confirming that you have met the applicable MBE participation goal and subgoals (if any).

WORKSHEET

Total African American-Owned Firm Participation Amount	\$	<hr/>
(Add amounts listed for African-American Owned Firms in Column 4 of MBE Participation Schedule)		
Divide by Total Contract Amount	÷	<hr/>
Percent African American-Owned Participation	=	<hr/> %
<hr/>		
Total Women-Owned Firm Participation Amount	\$	<hr/>
(Add amounts listed for Women-Owned Firms in Column 4 of MBE Participation Schedule)		
Divide by Total Contract Amount	÷	<hr/>
Percent Women-Owned Firm Participation	=	<hr/> %
<hr/>		
Total MBE Firm Participation Amount	\$	<hr/>
(Add amounts listed for all MBE Firms in Column 4 of MBE Participation Schedule)		
Divide by Total Contract Amount	÷	<hr/>
Percent Overall MBE Participation	=	<hr/> %

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 2 – MBE PARTICIPATION SCHEDULE

PART 2 MUST BE INCLUDED WITH THE BID. IF THE BIDDER FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE.

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR USED TO ACHIEVE THE MBE PARTICIPATION GOAL

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
			Unless the bidder requested a waiver in MDOT MBE Form A – State Funded Contracts (Bids Only) for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals set forth in Form A.
NAME OF MBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND MBE CLASSIFICATION	NAICS CODE/S NAICS Code/s of the specific products to be supplied or services to be performed by the MBE firm	FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS. State the dollar amount of the products/services in Line 4.1 except for those services or products where the MBE firm is being used as a wholesaler, supplier, regular dealer, or broker. For those items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer complete Line 4.2 using the 60% Rule.
<input type="checkbox"/> Please check if MBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other MBE Classification		4.1 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, REGULAR DEALERS AND BROKERS) \$ 4.2 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS). Total value of Supplies/Products \$ X 60% (60% Rule) = \$ (Amount for purposes of achieving the MBE Participation Goal and Subgoals).

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE
CONTINUATION SHEET

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR USED TO ACHIEVE THE MBE PARTICIPATION GOAL

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
			Unless the bidder requested a waiver in MDOT MBE Form A – State Funded Contracts (Bids Only) for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals set forth in Form A.
NAME OF MBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND MBE CLASSIFICATION	NAICS CODE/S NAICS Code/s of the specific products to be supplied or services to be performed by the MBE firm	FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS. State the dollar amount of the products/services in Line 4.1 except for those services or products where the MBE firm is being used as a wholesaler, supplier, regular dealer, or broker. For those items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer complete Line 4.2 using the 60% Rule.
<input type="checkbox"/> Please check if MBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: _____ <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other MBE Classification		4.1 <u>TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, REGULAR DEALERS AND BROKERS)</u> \$ _____ 4.2 <u>TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS).</u> Total value of Supplies/Products \$ _____ X 60% (60% Rule) = \$ _____ (Amount for purposes of achieving the MBE Participation Goal and Subgoals).

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE PARTICIPATION SCHEDULE

PART 3 – CERTIFICATION FOR MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID. AS DIRECTED IN THE INVITATION TO BID.

I hereby affirm that I have reviewed the Products and Services Description (specific product that a firm is certified to provide or areas of work that a firm is certified to perform) set forth in the MDOT MBE Directory for each of the MBE firms listed in Part 2 of this MBE Form B for purposes of achieving the MBE participation goals and subgoals that were identified in the MBE Form A that I submitted with this solicitation, and that the MBE firms listed are only performing those products/services/areas of work for which they are certified. I also hereby affirm that I have read and understand the form instructions set forth in Part 1 of this MBE Form B.

I solemnly affirm under the penalties of perjury that the contents of Parts 2 and 3 of MDOT MBE Form B are true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT MBE FORM C

STATE-FUNDED CONTRACTS (BIDS ONLY) OUTREACH EFFORTS COMPLIANCE STATEMENT

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

1. Bidder took the following efforts to identify subcontracting opportunities in these specific work categories:

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

3. Bidder made the following attempts to personally contact the solicited MBE firms:

4. **Please Check One:**

Bidder assisted MBE firms to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)

This project does not involve bonding requirements.

5. **Please Check One:**

- Bidder did attend the pre-bid meeting/conference
- No pre-bid meeting/conference was held.
- Bidder did not attend the pre-bid meeting/conference

Company Name

Address

Signature of Representative

Printed Name and Title

Date

**STATE-FUNDED CONTRACTS (BIDS ONLY)
MBE SUBCONTRACTOR PROJECT PARTICIPATION AFFIDAVIT**

IF THE BIDDER FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.
SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED IN THE MBE PARTICIPATION SCHEDULE

Provided that _____ (Prime Contractor's Name) is awarded the State contract in conjunction with Solicitation No. _____, such Prime Contractor will enter into a contract with _____ (Subcontractor's Name) committing to participation by the MBE firm _____ (MBE Name) with MDOT Certification Number _____ (if subcontractor previously listed is also the MBE firm, please restate name and provide MBE Certification Number) will receive for at least \$ _____ (Total Subcontract Amount) for performing the following products/services for the Contract:

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

I solemnly affirm under the penalties of perjury that the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of my knowledge, information and belief. I 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.

PRIME CONTRACTOR	SUBCONTRACTOR (SECOND-TIER)	SUBCONTRACTOR (THIRD-TIER)
Signature of Representative: _____	Signature of Representative: _____	Signature of Representative: _____
Printed Name and Title: _____	Printed Name and Title: _____	Printed Name and Title: _____
Firm's Name: _____	Firm's Name: _____	Firm's Name: _____
Address: _____	Address: _____	Address: _____
Telephone: _____	Telephone: _____	Telephone: _____
Date: _____	Date: _____	Date: _____

IF MBE FIRM IS A THIRD-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE EXECUTED BY THE SECOND-TIER SUBCONTRACTOR THAT HAS THE SUBCONTRACT AGREEMENT WITH THE MBE FIRM.

Maryland Transportation Authority (MdTA)
Office of Minority Business Enterprise
2310 Broening Highway, Suite 150
Baltimore, Maryland 21224
(410) 537-6769 (410) 537-7801 - Fax



Disadvantaged/Minority Contractor
Unavailability Certificate -
D-005 (02-03)

PLEASE COMPLETE AND RETURN TO THE ABOVE ADDRESS;

It is hereby certified that:

(Name of Prime Contractor)

(Number) (Street) (City) (State) (Zip code)

On _____ contacted the Disadvantage/Minority Business Enterprise:
(Date)

(Name of Sub-contractor)

(Number) (Street) (City) (State) (Zip code)

Seeking to obtain a Bid for work/service in relation to project/contract number: _____

List the type of work/service requested:

Indicate the form of Bid sought:

Reason given by Sub-contractor for lack of participation:

Certification:

To the best of my knowledge and belief, said subcontractor is unavailable or unable to participate due to the above reason. Signature of Prime Contractor:

(Name) (Date)

The above statement is a true and accurate account of why my Firm is unable to participate. Signature of Sub-contractor:

(Name) (Date)

**MARYLAND DEPARTMENT OF
TRANSPORTATION
(MDOT)
MINORITY BUSINESS ENTERPRISE
(MBE) FORMS
STATE-FUNDED**

**“A” thru “D”
For Proposals only**

MDOT MBE FORM A
STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 1 OF 2

THIS AFFIDAVIT MUST BE INCLUDED WITH THE PROPOSAL AS DIRECTED IN THE SOLICITATION. THE FAILURE OF AN OFFEROR TO PROPERLY COMPLETE AND SUBMIT THIS AFFIDAVIT SHALL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

In connection with the proposal submitted in response to Solicitation No. _____, I affirm the following:

1. MBE Participation (PLEASE CHECK ONLY ONE)

I have met the overall certified Minority Business Enterprise (MBE) participation goal of _____ percent (_____ %) and the subgoal of _____ (_____ %) percent for Women-Owned MBE firms and the subgoal of _____ percent (_____ %) for African-American Owned MBE firms. I agree that the MBE firms listed in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts – Proposals Only) will be used to accomplish the MBE participation goal and subgoals (if any) for this Contract for at least the percentage amounts set forth therein.

OR

I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit a written waiver request and all required documentation in accordance with COMAR 21.11.03.11. I agree that the MBE firms listed in the MBE Participation Schedule - Part 2 of the MDOT MBE Form B (State-Funded Contracts – Proposals Only) will be used to accomplish the MBE participation goal and subgoals (if any) for this Contract for at least the percentage amounts set forth therein.

2. Additional MBE Documentation

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 business days of receiving such notice:

- (a) Outreach Efforts Compliance Statement (MDOT MBE Form C - State-Funded Contracts – Proposals Only);
- (b) Subcontractor Project Participation Statement (MDOT MBE Form D - State-Funded Contracts – Proposals Only);
- (c) MBE Waiver Request documentation per COMAR 21.11.03.11 (if waiver was requested); and
- (d) Any other documentation required by the Procurement Officer to ascertain offeror's responsibility in connection with the certified MBE participation goal and subgoals, if any.

I acknowledge that if I fail to return each completed document (in 2 (a) through (d)) within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award.

MDOT MBE FORM A
STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 2 OF 2

3. Information Provided to MBE firms

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

I solemnly affirm under the penalties of perjury that the information in this affidavit is true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE PROPOSAL. THE FAILURE OF AN OFFEROR TO PROPERLY COMPLETE AND SUBMIT PART 2 SHALL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

PAGE 1 OF 2

*** STOP ***

FORM INSTRUCTIONS

PLEASE READ BEFORE COMPLETING THIS FORM

1. Please refer to the Maryland Department of Transportation (MDOT) MBE Directory at www.mdot.state.md.us to determine if a firm is certified for the appropriate North American Industry Classification System ("NAICS") Code and the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit www.naics.com. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the MBE participation goals.
2. In order to be counted for purposes of achieving the MBE participation goals, the firm must be certified for that specific NAICS ("MBE" for State-funded projects designation after NAICS Code). **WARNING:** If the firm's NAICS Code is in graduated status, such services/products will not be counted for purposes of achieving the MBE participation goals. Graduated status is clearly identified in the MDOT Directory (such graduated codes are designated with the word graduated after the appropriate NAICS Code).
3. Examining the NAICS Code is the first step in determining whether an MBE firm is certified and eligible to receive MBE participation credit for the specific products/services to be supplied or performed under the contract. The second step is to determine whether a firm's Products/Services Description in the MBE Directory includes the products to be supplied and/or services to be performed that are used to achieve the MBE participation goals.
4. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please call MDOT's Office of Minority Business Enterprise at 1-800-544-6056 or send an email to mbe@mdot.state.md.us.
5. The Contractor's subcontractors are considered second-tier subcontractors. Third-tier contracting used to meet an MBE goal is to be considered the exception and not the rule. The following two conditions must be met before MDOT, its Modal Administrations and the Maryland Transportation Authority, may approve a third-tier contracting agreement: (a) the bidder must request in writing approval of each third-tier contract arrangement, and (b) the request must contain specifics as to why a third-tier contracting arrangement should be approved. These documents must be submitted with the proposal in Part 2 of this MBE Participation Schedule.
6. For each MBE firm that is being used as supplier/wholesaler/regular dealer/broker/manufacturer, please follow these instructions for calculating the percentage of the Contract (as provided in price/financial proposal or any best and final offer) for purposes of achieving the MBE participation goal and subgoals (if applicable):
 - A. Is the firm certified as a broker of the products/supplies? If the answer is YES, please continue to Item C. If the answer is NO, please continue to Item B.
 - B. Is the firm certified as a supplier, wholesaler, regular dealer, or manufacturer of such products/supplies? If the answer is YES, continue to Item D. If the answer is NO, continue to Item C only if the MBE firm is certified to perform trucking/hauling services under NAICS Codes 484110, 484121, 484122, 484210, 484220 and 484230. If the answer is NO and the firm is not certified under these NAICS Codes, then no MBE participation credit will be given for the supply of these products.
 - C. For purposes of achieving the MBE participation goal, you may count only the amount of any reasonable fee that the MBE firm will receive for the provision of such products/supplies - not the total subcontract amount or the value (or a percentage thereof) of such products and/or supplies. In Column 4 of the MBE Participation Schedule, please state the amount of any reasonable fee as a percentage of Contract that the MBE firm will receive for the provision of such products/services in Line 4.1.
 - D. Is the firm certified as a manufacturer (refer to the firm's NAICS Code and specific description of products/services) of the products/supplies to be provided? If the answer is NO, please continue to Item E. If the answer is YES, for purposes of achieving the MBE participation goal, you may count the total amount of the subcontract. In Column 4 of the MBE Participation Schedule, please state the total amount of the subcontract in Line 4.1 as a percentage of Contract.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
MBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR MBE PARTICIPATION SCHEDULE

PAGE 2 OF 2

E. Is the firm certified as a supplier, wholesaler and/or regular dealer? If the answer is YES (i) if the MBE firm is furnishing and installing the materials and is certified to perform these services, please include in Line 4.1 the total value of the subcontract amount (including full value of supplies); or (ii) if the firm is only being used as a supplier, wholesaler and/or regular dealer or is not certified to install the supplies/materials, for purposes of achieving the MBE participation goal, you may only count sixty percent (60%) of the value of the subcontract for these supplies/products (60% Rule). In Line, 4.2 of the MBE Participation Schedule, please state amount of the subcontract for these supplies/products only (not installation) and sixty percent (60%) of such value.

7. **WARNING:** Please note that the cumulative MBE participation in Column 4 for all of the MBE firms listed in Part 2 MUST at least equal the MBE participation goal and subgoals (if applicable) as set forth in MDOT MBE Form A – State-Funded Contracts (Proposals Only) for this solicitation. If an offeror is unable to achieve the MBE participation goals and/or any subgoals (if applicable), then the offeror must request a waiver in Form A or it may result in a determination that the proposal is not susceptible of being selected for award.

Worksheet shown below to assist you in calculating the percentages and confirming that you have met the applicable MBE participation goal and subgoals (if any).

WORKSHEET

Total African American Owned Firm Participation Amount	\$	
(Add amounts listed for African American Owned Firms in Column 4 of MBE Participation Schedule)		
Divide by Total Contract Amount	÷	
Percent African American-Owned Participation	=	
		%
Total Women-Owned Firm Participation Amount		
(Add amounts listed for Women-Owned Firms in Column 4 of MBE Participation Schedule)		
Divide by Total Contract Amount	÷	
Percent Women-Owned Firm Participation	=	
		%
Total MBE Firm Participation Amount-	\$	
(Add amounts listed for all MBE Firms in Column 4 of MBE Participation Schedule)		
Divide by Total Contract Amount	÷	
<i>Percent Overall MBE Participation</i>	=	
		%

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
MBE PARTICIPATION SCHEDULE

PART 2 – MBE PARTICIPATION SCHEDULE

PART 2 MUST BE INCLUDED WITH THE PROPOSAL AS DIRECTED IN THE SOLICITATION. THE FAILURE OF AN OFFEROR TO PROPERLY COMPLETE AND SUBMIT PART 2 OF THE MBE PARTICIPATION SCHEDULE SHALL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NOT SUSCEPTIBLE TO BEING SELECTED FOR AWARD.

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR USED TO ACHIEVE THE MBE PARTICIPATION GOAL

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
			Unless the offeror requested a waiver in MDOT MBE Form A – State Funded Contracts (Proposals Only) for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals set forth in Form A.
NAME OF MBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND MBE CLASSIFICATION	NAICS CODE/S NAICS Code/s of the specific products to be supplied or services to be performed by the MBE firm	FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS. State the subcontract amount as a percentage of the total contract of the product/services in Line 4.1 except for those services or products where the MBE Firm is being used as a wholesaler, supplier or regular dealer. For those items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 4.2 using the 60% rule.
<input type="checkbox"/> Please check if MBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: _____ <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other MBE Classification		<p>4.1 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR - PLEASE STATE THIS AMOUNT AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE, (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, AND REGULAR DEALERS – SEE 4.2 BELOW)</p> <p>_____ %</p> <p>4.2 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS).</p> <p>Total value of Supplies/Products _____ %</p> <p>X 60% (60% Rule) = _____ %</p> <p>(amount for purposes of achieving the MBE Participation Goal and Subgoals).</p>

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
MBE PARTICIPATION SCHEDULE
CONTINUATION SHEET

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR USED TO ACHIEVE THE MBE PARTICIPATION GOAL

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4 Unless the offeror requested a waiver in MDOT MBE Form A – State Funded Contracts (Proposals Only) for this solicitation, the cumulative MBE participation for all MBE firms listed herein must equal at least the MBE participation goal <u>and</u> subgoals set forth in Form A.
NAME OF MBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND MBE CLASSIFICATION	NAICS CODE/S NAICS Code/s of the specific products to be supplied or services to be performed by the MBE firm	FOR PURPOSES OF ACHIEVING THE MBE PARTICIPATION GOAL AND SUBGOALS. State the subcontract amount as a percentage of the total contract of the product/services in Line 4.1 except for those services or products where the MBE Firm is being used as a wholesaler, supplier or regular dealer. For those items of work where the MBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 4.2 using the 60% rule.
<input type="checkbox"/> Please check if MBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other MBE Classification		<p>4.1 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR (PLEASE STATE THIS AMOUNT AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE - EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, AND REGULAR DEALERS)</p> <p>_____ %</p> <p>4.2 TOTAL AMOUNT TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE MBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS).</p> <p>Total value of Supplies/Products _____ %</p> <p>X 60% (60% Rule) = _____ %</p> <p>(amount for purposes of achieving the MBE Participation Goal and Subgoals).</p>

Please check if Continuation Sheets are attached.

MDOT MBE FORM B
STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
MBE PARTICIPATION SCHEDULE

PART 3 – CERTIFICATION FOR MBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE PROPOSAL AS DIRECTED IN THE SOLICITATION.

I hereby affirm that I have reviewed the Products and Services Description (specific product that a firm is certified to provide or areas of work that a firm is certified to perform) set forth in the MDOT MBE Directory for each of the MBE firms listed in Part 2 of this MBE Form B for purposes of achieving the MBE participation goals and subgoals that were identified in the MBE Form A that I submitted with this solicitation, and that the MBE firms listed are only performing those products/services/areas of work for which they are certified. I also hereby affirm that I have read and understand the form instructions set forth in Part 1 of this MBE Form B.

I solemnly affirm under the penalties of perjury that the contents of Parts 2 and 3 of MDOT MBE Form B are true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT MBE FORM C

STATE-FUNDED CONTRACTS (PROPOSALS ONLY) OUTREACH EFFORTS COMPLIANCE STATEMENT

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

1. Offeror took the following efforts to identify subcontracting opportunities in these specific work categories:

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

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

4. **Please Check One:**
 - Offeror assisted MBE firms to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)

This project does not involve bonding requirements.

5. **Please Check One:**
 - Offeror did attend the pre-proposal meeting/conference
 - No pre-proposal meeting/conference was held.
 - Offeror did not attend the pre-proposal meeting/conference

Company Name

Signature of Representative

Address

Printed Name and Title

Date

STATE-FUNDED CONTRACTS (PROPOSALS ONLY)
MBE SUBCONTRACTOR PROJECT PARTICIPATION AFFIDAVIT

IF THE OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD. SUBMIT ONE FORM FOR EACH CERTIFIED MBE FIRM LISTED IN THE MBE PARTICIPATION SCHEDULE

Provided that _____ (Prime Contractor's Name) is awarded the State contract in conjunction with Solicitation No. _____, such Prime Contractor will enter into a contract with _____ (Subcontractor's Name) committing to participation by the MBE firm _____ (MBE Name) with MDOT Certification Number _____ (if subcontractor previously listed is also the MBE firm, please restate name and provide MBE Certification Number) will receive for at least _____% (Total Subcontract Amount – as a percentage of total Contract value) for performing the following products/services for the Contract:

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

I solemnly affirm under the penalties of perjury that the information provided in this MBE Subcontractor Project Participation Affidavit is true to the best of my knowledge, information and belief. I 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.

PRIME CONTRACTOR	SUBCONTRACTOR (SECOND-TIER)	SUBCONTRACTOR (THIRD-TIER)
Signature of Representative: _____	Signature of Representative: _____	Signature of Representative: _____
Printed Name and Title: _____	Printed Name and Title: _____	Printed Name and Title: _____
Firm's Name: _____	Firm's Name: _____	Firm's Name: _____
Address: _____	Federal Identification Number: _____	Federal Identification Number: _____
Address: _____	Address: _____	Address: _____
Telephone: _____	Telephone: _____	Telephone: _____
Date: _____	Date: _____	Date: _____

IF MBE FIRM IS A THIRD-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE EXECUTED BY THE SECOND-TIER SUBCONTRACTOR THAT HAS THE SUBCONTRACT AGREEMENT WITH THE MBE FIRM.

PLEASE COMPLETE AND RETURN TO THE ABOVE ADDRESS;

It is hereby certified that:

(Name of Prime Contractor)

(Number) (Street) (City) (State) (Zip code)

On _____ contacted the Disadvantage/Minority Business Enterprise:
(Date)

(Name of Sub-contractor)

(Number) (Street) (City) (State) (Zip code)

Seeking to obtain a Bid for work/service in relation to project/contract number: _____

List the type of work/service requested:

Indicate the form of Bid sought:

Reason given by Sub-contractor for lack of participation:

Certification:

To the best of my knowledge and belief, said subcontractor is unavailable or unable to participate due to the above reason. Signature of Prime Contractor:

(Name) (Date)

The above statement is a true and accurate account of why my Firm is unable to participate. Signature of Sub-contractor:

(Name) (Date)

GOOD FAITH EFFORTS WAIVER CHECKLIST

PRIME CONTRACTORS'
GOOD FAITH EFFORTS/WAIVER CHECKLIST

Prime Contractors who put Good Faith into action will:

- ✓ Use direct solicitation, minority/women community organizations, contractors' groups, and local, state, and federal minority/women-owned business assistance offices to reach MBE's;
- ✓ Identify and assist firms that may need bonding, lines of credits, insurance, equipment, and other related issues; or assist firms that are not certified but could possibly serve on a contract and satisfy DBE/MBE goals by becoming certified;
- ✓ Identify clear sub-contractible work that will enable MBE's to compete;
- ✓ Provide the MBEs with proper information regarding the job; to include plans, specifications, and anticipated time schedule for portions of the work to be performed;
- ✓ Coordinate pre-bid meetings to inform MBEs of contracting and subcontracting opportunities;
- ✓ Advertise in general circulation, trade associations, and minority focused media concerning the subcontracting opportunities;
- ✓ Provide written notice to all certified MBEs who are certified in the work areas and have capabilities of the contract for which their participation is solicited (Contractor must allow a minimum of 10 days for the MBEs to respond to the written solicitation.); and
- ✓ Follow up on initial solicitations of interest by contacting MBEs to determine if the MBEs are interested (Contractor must detail the efforts showing names, addresses, dates, and telephone numbers of the certified MBEs contacted along with a description of information provided.)

Prime Contractors who have done the above and are submitting a waiver will:

- ✓ Document everything listed above;
- ✓ As required by regulations provide a written request for a waiver;
- ✓ Provide detailed statements of efforts to achieve the goal; to include the name, address and telephone number of all DBE/MBEs contacted, as well as the date of contact;
- ✓ Provide a list of unavailable MBEs, including a Minority Contractor Unavailability Certification Form (Form D-005) signed by an owner or officer of each unavailable DBE/MBE (If the DBE/MBE refused to sign D-005, the contractor will /should submit a statement regarding this refusal.);
- ✓ If the contractor deems a DBE/MBE to be unqualified and rejects the DBE/MBE, the contractor will provide written explanation of this decision (Contractor's reasoning must be based on a thorough investigation of MBE capabilities.);
- ✓ Provide evidence that the contractor tried to negotiate in good faith with interested MBEs;
- ✓ Demonstrate that certified MBE participation was unable to be obtained at a reasonable price or that public interest is best served by a waiver;
- ✓ Demonstrate a reasonable effort to meet the overall MBE goal with other MBE classifications if the request for a waiver is for a certain MBE classification within an overall MBE goal; and
- ✓ Provide evidence from prior projects showing that the contractor has previously successfully met or exceeded assigned MBE goals.

**MDOT
MINORITY/DISADVANTAGE
BUSINESS ENTERPRISE
GOOD FAITH EFFORTS POLICY
STATEMENT**

MARYLAND DEPARTMENT OF TRANSPORTATION

POLICY STATEMENT – GOOD FAITH EFFORTS

April 22, 2004

MINORITY/DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the Maryland Department of Transportation (MDOT) that businesses owned by socially and economically disadvantaged person(s) shall have the maximum feasible opportunity to participate in the performance of contracts awarded by MDOT. The MDOT requires its contractors and subcontractors not to discriminate on the basis of race, color, religion, national origin, sex or disability in the award or performance of contracts. In support of this commitment, the MDOT has adopted the following Good Faith Efforts (GFE) Policy, which shall be applicable to all contracts awarded by the MDOT or its modal administrations.

In accordance with 49 CFR, Part 26, 53 and Md. Code Ann., State Fin. & Proc. Art., 14-302, the MDOT shall award a contract only to a bidder/offeror that makes GFE to meet the Minority Business Enterprise (MBE) or Disadvantaged Business Enterprise (DBE) contract goal. A determination that a bidder/offeror has made GFE shall only be made upon a determination by the MDOT that the bidder/offeror has shown that it:

- Has obtained enough MBE or DBE participation to meet the contract goal; or
- Has taken all necessary and reasonable steps to achieve the goal, which by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE/DBE participation, even if they were ultimately unsuccessful.

The MDOT will make a fair and reasonable judgment whether a bidder/offeror who did not meet the goal made adequate GFEs. This policy expands the definition of GFE to allow greater flexibility to ensure DBE/MBE participation is obtained.

At a minimum, a statement of GFE submitted by the bidder/offeror shall include:

1. The name, address, and telephone number of all DBE/MBEs contacted, as well as the date of contact;
2. A description of the information provided to the contacted DBE/MBEs regarding the plans, specifications and anticipated time schedule for portions of the work to be performed;
3. As appropriate, a detailed statement of the reasons why a DBE/MBE quotation was considered unacceptable; and
4. As appropriate, a list of DBE/MBE contractors found to be unavailable. For DBE/MBE contractors that are unavailable, the bidder/offeror shall provide a Minority Contractor Unavailability Certificate Form (Form D-005) signed by an owner or officer of the DBE/MBE. If

a DBE/MBE refuses to sign the unavailability certificate, the bidder/offeror shall submit a statement indicating as such.

To aid in the determination of whether the bidder/offeror has shown GFE, the MDOT may also look at the percentage of DBE/MBE participation obtained by other bidders/offerors on the procurement.

In addition to the requirements above, the following is a list of outreach efforts that MDOT will consider as part of the bidder/offeror's GFE to obtain DBE/MBE participation. Bidders/offerors shall be encouraged to offer innovative GFE initiatives to demonstrate GFE. MDOT administrations have the flexibility to approve such innovative initiatives. The following list is illustrative only and not intended to be exhaustive.

In a GFE determination, MDOT administrations may consider any information provided by a bidder/offeror concerning the following outreach efforts:

1. The bidder/offeror's efforts to solicit through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of certified DBEs/MBEs that may have the capability to perform the work of the contract. The bidder/offeror should present evidence that it solicited this interest within adequate time to allow the DBEs/MBEs to respond to the solicitation. The bidder/offeror should also provide evidence that it took appropriate steps to follow up initial solicitations.
2. The bidder/offeror's selection of the work to be performed by DBEs/MBEs in order to increase the likelihood that the DBE/MBE contract goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE/MBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
3. The bidder/offeror's actions to provide interested DBEs/MBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
4. The bidder/offeror's negotiations with DBE/MBEs
 - a. Negotiating in good faith with interested DBEs/MBEs. It is the bidder/offeror's responsibility to make a portion of the work available to DBE/MBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE/MBE subcontractors and suppliers. Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBEs/MBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and information as to why additional agreements could not be reached for DBEs/MBEs to perform the work.
 - b. A bidder/offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE/MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs/MBEs is not in itself sufficient reason for a bidder/offeror's failure to meet the contract DBE/MBE goal, as

long as such costs are reasonable. Also, the ability or desire of a bidder/offeror to perform the work of a contract with its own organization does not relieve that bidder/offeror of the responsibility to make GFE to meet the contract goal. This policy does not require a prime contractor to accept a higher quote from a DBE/MBE if the price is excessive or unreasonable.

5. The bidder/offeror must provide sound reasons for rejecting a DBE/MBE as unqualified. Any rejection of a DBE/MBE as unqualified shall be based on a thorough investigation of its capabilities. The DBE/MBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employees status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
6. The bidder/offeror's efforts to assist interested DBEs/MBEs in obtaining bonding, lines of credit, or insurance as required by the owner or contract.
7. The bidder/offeror's efforts, with prior written approval of the MDOT agency, to assist interested DBEs/MBEs to obtain necessary equipment, supplies, materials, or related assistance or services.
8. The bidder/offeror's effective use of the services of available minority/women community organizations; minority/women contractors' groups; local, state and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE/MBE.
9. The bidder/offeror's efforts to identify and assist firms that are not certified but could possibly service on a contract and satisfy DBE/MBE goals if the firm were to be certified by the MDOT.
10. Evidence of the bidder/offeror's record of meeting or exceeding DBE/MBE participation goals on prior projects.

This policy applies to all MDOT contracts that contain a DBE/MBE participation goal. All MDOT personnel are responsible for implementing and adhering to this policy.

**MDOT
STRUCTURAL STEEL
POLICY STATEMENT**

MARYLAND DEPARTMENT OF TRANSPORTATION

POLICY STATEMENT – STRUCTURAL STEEL/LARGE SUPPLY ITEMS

(Revised May 13, 2003)

MINORITY/DISADVANTAGED BUSINESS ENTERPRISES

The policy supercedes the Maryland Department of Transportation (MDOT) Structural Steel/Large Supply Items policy dated September 22, 1994.

MDOT and the Maryland Transportation Authority (MdTA) are committed to providing the maximum amount of contracting opportunities to certified Disadvantaged Business Enterprises (DBEs) and Minority Business Enterprises (MBEs). This policy statement affirms MDOT's efforts to maximize DBE/MBE participation on contracts to the greatest extent possible and applies to all contracts that contain a DBE/MBE goal.

The previous policy excluded Structural Steel as a sub-contractible item available for DBE/MBE participation since there were no structural steel manufacturers certified by MDOT. This exemption is no longer applicable since firms have now been certified under this category.

Structural steel as an item of supply may be included as a sub-contractible item for the setting of DBE/MBE goals on contracts.

In addition, structural steel as an item of supply may be used to obtain or count minority business participation credit under the DBE/MBE Program. The installation or erection of structural steel can be included as a sub-contractible item for goal setting, and as an item available for DBE/MBE participation.

The definition to be used for this policy is as follows:

The term structural steel refers to the steel elements of the structural steel frame that are essential to the support of the design loads for buildings and bridges, as well as the steel elements in tunnel linings.

Beyond this policy on structural steel, it is vitally important for each MDOT agency and MdTA to apply the provisions of the DBE/MBE program for furnishings and installing large supply items. This policy emphasizes that it is necessary for the DBE/MBE to have a necessary and useful role in the complete business transaction, and a role that is visible outside of the context of the DBE/MBE Program. The role of the firm cannot be a superfluous step to obtain credit for a DBE/MBE goal.

In order for a prime contractor to receive full credit for a large supply item being furnished by a DBE/MBE subcontractor as a "furnish and install" item of work, the DBE/MBE regulations require that the DBE/MBE firm must:

1. Initiate and negotiate the purchase of the steel and/or any large supply item;
2. Be invoiced directly for the cost; and
3. Assume complete responsibility and liability for the item.

To further assist the MDOT agencies in making determinations in this area, the following guidelines are put forth:

1. Count expenditures with DBE/MBEs for materials or supplies toward the goals as provided in the following:
 - a. If the materials or supplies are obtained from a DBE/MBE manufacturer, count 100 percent of the cost of the materials or supplies toward MBE goals.
 - b. For purposes of this policy, a manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
 - c. If the materials or supplies are purchased from a DBE/MBE regular dealer, count 60 percent of the cost of the materials or supplies toward MBE goals.
2. For purposes of this policy and in accordance with 49CFR25.55(e) and the Program Manual, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are brought, kept in stock, and regularly sold or leased to the public in the usual course of business.
3. To be a regular dealer, the first must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

A person may be a regular dealer in bulk items such as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided above if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad-hoc or contract-by-contract basis.

The Department's Contract Compliance Monitoring Procedures provide the necessary guidance on determining DBE/MBE credit on large supply items. There are several compliance questions, which need to be answered prior to a prime contractor receiving full credit for a DBE/MBE furnish and install item. These questions should include:

1. Who was responsible for setting the dollar amount allotted for supplies on the forms detailing the subcontracted work?
2. How was the cost of supplies derived? Who negotiated the price?
3. Who is responsible for taking delivery of the materials?
4. Who issues the check to pay for the materials?
5. Who assumes contractual and legal responsibility for the materials?
6. Are the materials properly accounted for in the financial records of the subcontractor and not in the records of the prime contractor?

It should be made clear at the beginning of a contract that obtaining participation through the counting of large supply items must comply with the Department's regulations. This also extends to the amount of credit given for the supply items on each contract.

The burden rests on each administration to assess each individual contract prior to the approval of the DBE/MBE package and to monitor the contract closely for compliance. We must continually work to make sure this program brings real benefits to the minority business community.

**USING THE MDOT
MBE/DBE
DIRECTORY
(EXAMPLE)**



Terms of Use

The Minority Business Enterprise Directory is intended to be used as a guide for selecting certified Minority Business Enterprises to utilize on State and/or USDOT assisted contracts. Information in the directory should be verified with the Maryland Department of Transportation's Office of Minority Business Enterprise.

This web site and the information it contains are provided as a public service by the Maryland Department of Transportation (MDOT). The MDOT maintains this Minority Business Enterprise/Disadvantaged Business Enterprise (MBE/DBE) Directory for the purpose of providing a reference source of the firms certified by the MDOT as MBE/DBEs.

The MBE/DBE Directory lists certified firms in alphabetical order and also contains information on the specific products and/or services the firm is certified to provide. The MDOT makes no claims, promises, or guarantees regarding a certified MBE/DBE's competence or capability to perform. It is the responsibility of the user of the information provided here to make his/her own determination regarding the capability, competence, and/or limitations of a certified MBE/DBE firm.

The MDOT makes no claims, promises, or guarantees about the accuracy, completeness, or adequacy of the contents of this web site and expressly disclaims liability for errors and omissions in the contents of this web site. No warranty of any kind is given with respect to the contents of this web site or any links to other web sites it may contain. Reference in this web site to any specific commercial product, process, or service, or the use of any trade or business name is for the information of the public and does not constitute an endorsement or recommendation by the MDOT.

Information presented on this web site is considered public information and may be copied and/or distributed. If there is a question concerning the validity of the information provided in this directory, contact the Maryland Department of Transportation's Office of Minority Business Enterprise. You may contact the office at (410) 865-1269 or (800) 544-6056.

Check this box to bypass this page on future visits and go straight to the directory.

Next -->

EXAMPLE



Using the Directory

Firms are certified per industry using the North American Industry Classification System (NAICS). Each assigned code is accompanied by a certification status designation.

Please be advised of the following definitions:

The "MBE/DBE" designation indicates the firm is qualified for ANY State of Maryland Contract including USDOT assisted contracts of the MDOT; these include contracts let by the Maryland State Highway Administration, the Maryland Aviation Administration, and the Maryland Transit Administration.

The "MBE ONLY" designation indicates the firm is qualified for State-only Funded Contracts and not USDOT assisted contracts of the MDOT.

The "DBE ONLY" designation indicates the firm is qualified to participate only on USDOT assisted contracts of the MDOT.

The "GRADUATED" designation indicates the firm has graduated in that particular NAICS Code for which it has been certified per Federal and State Regulations. The MBE remains certified but may not participate as a certified MBE/DBE on State and USDOT assisted contracts.

PLEASE NOTE: Effective October 1, 2000, the Small Business Administration established the use of the North American Industry Classification System (NAICS) Codes which replaced the Standard Industrial Classification (SIC) Codes. The Maryland Department of Transportation Office of Minority Business Enterprise has converted the SIC Codes to the NAICS Codes. Please contact the Office of Minority Business Enterprise if you have questions regarding any information on any firm listed in this Directory.

[Click here for information regarding small business size standards.](#)

Next -->

EXAMPLE



Searching the Database

The MBE/DBE directory is updated daily. There are currently **4,555** certified firms participating in the program. All search results display in a fixed format and are downloadable as an XLS file on the result page.

****PRINTING TIP**** - Web browser print margins (left and right) must be set no greater than .25" to prevent data from being cut off when printing in portrait mode. Print margins are typically changed in the FILE - PAGE SETUP menu.

Immediate Downloads (XLS files)

Download firms certified during the past calendar year or download the entire directory.

Custom Search

Select single, multiple, or select all fields from the list below. To restart a search begin by clearing all fields. Custom searches require the selection of at least one searchable data field.

Minority Status	<input type="checkbox"/>
Firm Name	<input type="checkbox"/>
County (Maryland firms only)	<input type="checkbox"/>
Certification Number	<input type="checkbox"/>
Product or Service	<input type="checkbox"/>
NAICS Code	<input type="checkbox"/>
City	<input type="checkbox"/>
State	<input type="checkbox"/>
Street Address	<input type="checkbox"/>
Zip Code	<input type="checkbox"/>
Phone Number	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>

Next -->

EXAMPLE



Custom Search

The system will search all 4,555 certified firms in the database. Separate keywords with single spaces.
Fields left empty will not be searched and will have no effect on the result.

Field Name	Search Terms [clear all fields]	Search Context
NAICS code(s): about NAICS codes	237310 - *	<input type="text" value="Find ALL of these codes"/>
	- *	
	- *	
	- *	
	- *	

EXAMPLE

EXAMPLE



MDOT Directory of Certified MBE and/or DBE firms

[BACK](#) | [EXIT](#)

Custom Search

NAICS CODES like "237310"

170 certified firms were found using the above criteria. Download this result set as an [XLS file](#).

Select a firm name to view the individual firm profile or [view all profiles](#) at once.

You can [make a custom list](#) of firms based on this result set.

Firm Details

NAICS - Product and Service Description

A & M CONCRETE CORPORATION 43760 TRADE CENTER PLACE, #160 DULLES, VA 20166 FEMALE 98-083	237310-MBE-ONLY - HIGHWAY, STREET, AND BRIDGE CONSTRUCTION (SPECIFICALLY: CURB AND GUTTER, SIDEWALK, PAVERS, SLABS)
	238110-MBE-ONLY - POURED CONCRETE FOUNDATION AND STRUCTURE CONTRACTORS (SPECIFICALLY: CONCRETE WORK)
	238140-MBE-ONLY - MASONRY CONTRACTORS
A & S ASSOCIATES, INC. 8855 WALKER MILL ROAD CAPITOL HEIGHTS, MD 20743 ASIAN AMERICAN 03-469	236210-MBE/DBE - INDUSTRIAL BUILDING CONSTRUCTION
	236220-MBE/DBE - COMMERCIAL AND INSTITUTIONAL BUILDING CONSTRUCTION
	237310-MBE/DBE - HIGHWAY, STREET, AND BRIDGE CONSTRUCTION (SPECIFICALLY: HIGHWAY AND STREET CONSTRUCTION, EXCEPT ELEVATED HIGHWAYS)
	238140-MBE/DBE - MASONRY CONTRACTORS (SPECIFICALLY: MASONRY, STONE SETTING, AND OTHER STONE WORK)
	238220-MBE/DBE - PLUMBING, HEATING, AND AIR-CONDITIONING CONTRACTORS
A2Z ENVIRONMENTAL GROUP, LLC 311 S. HAVEN STREET BALTIMORE, MD 21224 FEMALE 01-080	237110-MBE/DBE - WATER AND SEWER LINE AND RELATED STRUCTURES CONSTRUCTION (SPECIFICALLY: PLACEMENT OF UNDERDRAINS AND OUTLETS)
	237310-MBE/DBE - HIGHWAY, STREET, AND BRIDGE CONSTRUCTION (SPECIFICALLY: PAVEMENT LINE STRIPING REMOVAL)
	237990-MBE/DBE - OTHER HEAVY AND CIVIL ENGINEERING CONSTRUCTION

(SPECIFICALLY: INSTALLATION/MAINTENANCE OF EROSION CONTROL DEVICES, SILT/SUPER SILT FENCE, ORANGE CONSTRUCTION FENCE, SEDIMENT EXCAVATION/CLEANOUT/EARTH DIKES, DIVERSION/SUPER DIVERSION FENCE, TYPE B & C MATTING)

238910-MBE/DBE - SITE PREPARATION CONTRACTORS

(SPECIFICALLY: EXCAVATION CONTRACTOR, GRUBBING/CLEARING; BRIDGE DEMOLITION/REMOVAL OF BRIDGE DECK, REMOVAL OF MANHOLES, TRAFFIC BARRIERS AND PIPES, INTERIOR AND EXTERIOR DEMOLITION, AND PLACEMENT OF TOPSOIL)

423320-MBE/DBE - BRICK, STONE, AND RELATED CONSTRUCTION MATERIAL MERCHANT WHOLESALERS

(SPECIFICALLY: CONCRETE CRUSHING AND/OR TIRE SHREDDING FOR RESALE)

484220-MBE/DBE - SPECIALIZED FREIGHT (EXCEPT USED GOODS) TRUCKING, LOCAL (STONE, MILLING DEBRIS, TOP SOIL, SPECIALTY HAULING)

561730-MBE/DBE - LANDSCAPING SERVICES

(SPECIFICALLY: SEEDING/MULCHING REFERTILIZATION, LIMESTONE APPLICATION, RESEEDING/SOD, WATERING, TOPSOIL PLACEMENT)

562111-MBE/DBE - SOLID WASTE COLLECTION

562112-MBE/DBE - HAZARDOUS WASTE COLLECTION

562910-MBE/DBE - REMEDIATION SERVICES

(ENVIRONMENTAL CLEANUP, UNDERGROUND TANK TESTING AND REMOVAL)

562998-MBE/DBE - ALL OTHER MISCELLANEOUS WASTE MANAGEMENT SERVICES

(CLEANING OF EXISTING PIPES AND INLETS AND SCOPING OF DRAINS, AND SEPTIC TANK CLEANING)

AB CONSTRUCTION, INC.
9450 ANNAPOLIS ROAD
LANHAM, MD 20706
ASIAN AMERICAN
04-313

236115-MBE-ONLY - NEW SINGLE-FAMILY HOUSING CONSTRUCTION (EXCEPT OPERATIVE BUILDERS)

236116-MBE-ONLY - NEW MULTIFAMILY HOUSING CONSTRUCTION (EXCEPT OPERATIVE BUILDERS)

236210-MBE-ONLY - INDUSTRIAL BUILDING CONSTRUCTION

236220-MBE-ONLY - COMMERCIAL AND INSTITUTIONAL BUILDING CONSTRUCTION

237110-MBE-ONLY - WATER AND SEWER LINE AND RELATED STRUCTURES CONSTRUCTION

237210-MBE/DBE - LAND SUBDIVISION

237310-MBE/DBE - HIGHWAY, STREET, AND BRIDGE CONSTRUCTION

237990-MBE/DBE - OTHER HEAVY AND CIVIL ENGINEERING CONSTRUCTION

(SPECIFICALLY: HIGHWAY, STREET, AND BRIDGE CONSTRUCTION MANAGEMENT)

238110-MBE-ONLY - POURED CONCRETE FOUNDATION AND STRUCTURE CONTRACTORS

238120-MBE-ONLY - STRUCTURAL STEEL AND PRECAST CONCRETE CONTRACTORS

238140-MBE-ONLY - MASONRY CONTRACTORS

238910-MBE-ONLY - SITE PREPARATION CONTRACTORS

(SPECIFICALLY: SOIL REMEDIATION SERVICES, DEMOLITION, CLEARING, GRADING, DRAINAGE, AND DEMOLITION)

541380-MBE-ONLY - TESTING LABORATORIES

AB CONSULTANTS, INC.
9450 ANNAPOLIS ROAD
LANHAM, MD 20706
ASIAN AMERICAN
94-165

236115-MBE/DBE, 236116-MBE/DBE, 236210-MBE/DBE, 236220-MBE/DBE,
237110-MBE/DBE, 237310-MBE/DBE, 238110-MBE/DBE, 238120-MBE/DBE,
238140-MBE/DBE, 541330-MBE-ONLY, 541370-MBE-ONLY, 541380-MBE/DBE,
561210-MBE/DBE

ENGINEERING SERVICES: CIVIL, GEO-TECHNICAL, STRUCTURAL, AND DESIGN - ENGINEERING SERVICE PROFESSIONAL; ENVIRONMENTAL ENGINEERING/REMEDATION (PHASE I-III), SURVEYING SERVICES, MULTIFAMILY HOUSING CONSTRUCTION, MANUFACTURING AND INDUSTRIAL BUILDING CONSTRUCTION, SINGLE FAMILY HOUSING CONSTRUCTION, COMMERCIAL AND INSTITUTIONAL BUILDING CONSTRUCTION, HIGHWAY AND STREET CONSTRUCTION, BRIDGE, WATER, SEWER, AND PIPELINE CONSTRUCTION, CONCRETE WORK, MASONRY WORK, STRUCTURAL STEEL, CONSTRUCTION MANAGEMENT, TESTING LABORATORIES

ABSOLUTELY STRAIGHT LLC
10015 OLD COLUMBIA ROAD,
SUITE B-215
COLUMBIA, MD 21046
FEMALE
07-231

237310-MBE/DBE - HIGHWAY, STREET, AND BRIDGE CONSTRUCTION
(SPECIFICALLY: PARKING LOT STRIPING)

238390-MBE/DBE - OTHER BUILDING FINISHING CONTRACTORS
(SPECIFICALLY: PARKING LOT SEAL COATING AND OTHER PARKING LOT MAINTENANCE)

ACORN BUILDING SERVICES CORP.
P.O. BOX 97
SPENCERVILLE, MD 20867-0097
AFRICAN AMERICAN
05-404

237310-MBE/DBE - HIGHWAY, STREET, AND BRIDGE CONSTRUCTION
(SPECIFICALLY: CONCRETE PAVING, PUBLIC SIDEWALKS, CURBS AND STREET CUTTERS, SIDEWALK, PUBLIC CONSTRUCTION)

238320-MBE/DBE - PAINTING AND WALL COVERING CONTRACTORS
(SPECIFICALLY: INTERIOR PAINTING)

238350-MBE/DBE - FINISH CARPENTRY CONTRACTORS

(SPECIFICALLY: ALUMINUM DOOR AND WINDOW RESIDENTIAL TYPE INSTALLATION, DECK CONSTRUCTION RESIDENTIAL-TYPE, DOOR, FOLDING INSTALLATION, PREFABRICATED SASH AND DOOR INSTALLATION, WINDOW AND DOOR (RESIDENTIAL TYPE) OF ANY MATERIAL PREFABRICATED, INSTALLATION, WINDOW INSTALLATION, WINDOW, METAL-FRAME RESIDENTIAL-TYPE INSTALLATION, WINDOW, WOOD, INSTALLATION)

238990-MBE/DBE - ALL OTHER SPECIALTY TRADE CONTRACTORS

(SPECIFICALLY: CLEANING BUILDING INTERIORS DURING AND IMMEDIATELY AFTER CONSTRUCTION, CLEANING NEW BUILDING INTERIORS IMMEDIATELY AFTER CONSTRUCTION; CONCRETE PATIO CONSTRUCTION, SLAB, CONCRETE PAVING RESIDENTIAL, DRIVEWAY, CURB & GUTTER RESIDENTIAL AND COMMERCIAL DRIVEWAY AND PARKING AREA, CONCRETE, CONCRETE SAWING AND DRILLING, PATIO CONSTRUCTION, PAVERS, BRICK, PATIO INSTALLATION, SIDEWALK CONSTRUCTION RESIDENTIAL AND COMMERCIAL)

561720-MBE/DBE - JANITORIAL SERVICES

(SPECIFICALLY: CARPENTRY WORK, CONSTRUCTION CLEAN UP)

AFRAM, INC.
5450 REISTERSTOWN ROAD,
SUITE 101
BALTIMORE, MD 21215
AFRICAN AMERICAN
92-090

237310-MBE/DBE, 238110-MBE/DBE, 238310-MBE/DBE, 238320-MBE/DBE

CONCRETE WORK, PAVING, HIGHWAY AND STREET CONSTRUCTION, PAINTING, PLASTERING,
DRYWALL, ACOUSTICAL, AND INSULATION WORK.

**AGGREGATE PLACEMENT
CORP.**
4420 HAWTHORNE ROAD
INDIAN HEAD, MD 20640
FEMALE
05-429

237310-MBE/DBE, 238110-MBE/DBE, 238990-MBE/DBE

CONCRETE WORK-SIDEWALKS; PAVING TO INCLUDE: PARKING LOTS, SLAB, CURB AND GUTTERS;
CONCRETE CONSTRUCTION TO INCLUDE: WALLS, DECKS, STORM WATER MANAGEMENT, AND WASTE
WATER TREATMENT PLANTS.

**AJO CONCRETE
CONSTRUCTION, INC.**
8820 HILDER AVENUE
ANNAPOLIS
JUNCTION, MD 20701
HISPANIC AMERICAN
01-148

237310-MBE/DBE - HIGHWAY, STREET, AND BRIDGE CONSTRUCTION
(SPECIFICALLY: HIGHWAY AND ROAD MILLING GRINDING SERVICES)

238110-MBE/DBE - POURED CONCRETE FOUNDATION AND STRUCTURE CONTRACTORS
(SPECIFICALLY: SIDEWALKS, CURB, SLAB & PAD, WALLS, DRIVEWAYS, ASPHALT PATCHING &
DRIVEWAYS)

327320-MBE/DBE - READY-MIX CONCRETE MANUFACTURING

**423320-MBE/DBE - BRICK, STONE, AND RELATED CONSTRUCTION MATERIAL MERCHANT
WHOLESALERS**
(SPECIFICALLY: READY-MIX CONCRETE MANUFACTURING THE DISTRIBUTION, BRICK, STONE AND
RELATED CONSTRUCTION MATERIAL MERCHANT WHOLESALERS (CONCRETE MIX))

488490-MBE/DBE - OTHER SUPPORT ACTIVITIES FOR ROAD TRANSPORTATION
(SPECIFICALLY: SNOW CLEARING, HIGHWAYS AND BRIDGES)

EXAMPLE

**FREQUENTLY ASKED COMMON TERMS
AS DEFINED IN THE MDOT MBE
MANUAL**

Common Terms as defined in the MDOT MBE Manual

Third Tier Contracting – 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.

Supplier – a regular dealer, who owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of a contract are placed, kept in stock, and regularly sold to the public in the usual course of business.

The supplier must perform a commercially useful function consistent with normal industry practices. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and the sale of the products in question.

A supplier of bulk goods (Cement, gravel, stone, and petroleum products) may qualify as a regular dealer if it either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment (A fleet of trucks), the term “operates” is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in which the firm simply provides drivers for trucks owned or leased by another party, (such as a prime contractor) or leases such a party’s trucks on an ad-hoc basis for a specific job.

Regular Dealer – A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.

To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as cement, gravel, stone and petroleum need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section.

A regular dealer must be engaged in selling the product in question to the public. This is important in distinguishing a Regular Dealer, which has a regular trade with a variety of customers, from a firm which performs supply-like functions on an ad-hoc basis or for only one or two contractors with whom it has a special relationship.

A business that simply transfer title of a product from manufacturer to ultimate purchaser (e.g. broker or sales representative who re-invoices a product from the producing company to the recipient or contractor) or a firm that puts a product in a container for deliver would not be considered a Regular Dealer.

A supplier of bulk goods may qualify as a regular dealer if it either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment (e.g. a fleet of trucks), the term “operates” is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in the firm simply provides drivers for trucks owned or leased by another party, (e.g., a prime contractor) or leases such as party’s trucks on an ad-hoc basis for a specific job.

Manufacturer – A firm that produces a product from raw materials or substantially alters a previously manufactured product by operating or maintaining a factory or establishment that produces or alters on the premises.

Manufacturer Representative – A business that transfers title of a product from a manufacturer to an ultimate purchaser (e.g., a sales representative who invoices a product from the producing company to the contractors).

Broker – An agent of a buyer who sells stocks, bonds, commodities, or services, usually on a commission basis.

Commercially Useful Function – Work performed by a DBE/MBE in a particular transaction can be counted towards goals only if the Administration determines that it involves a commercially useful function. A certified business is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of the work of a contract and carries out its responsibility by actually performing, managing and supervising the work involved. That is, in light of industry practices and other relevant considerations, the DBE/MBE must have a necessary and useful role in the transaction of a kind for which there is a superfluous step added in an attempt to obtain credit goals.

ADDITIONAL INFORMATION FOR CONTRACTORS

Maryland Transportation Authority
Minority Business Program
ADDITIONAL INFORMATION FOR PRIME CONTRACTORS

UTILIZATION REPORTS

Monthly reports of Payments and invoices to MBEs should be sent to the MBE office by the 10th of the month. Double payee checks are prohibited except for purchase of supplies and materials.

USE OF MBE BANKS

It is the policy of MDOT to encourage its contractors to utilize certified DBE/MBE banks. The prime shall consider utilizing the services of minority owned banks. Most minority banks are full service corporations that can provide an array of financial services.

RECORDS RETENTION

In accordance with COMAR 21.06.05.03, "The contractor or subcontractor shall maintain books and records that relate to the cost or pricing data for 3 years from the date of final payment under the contract, unless a longer period is otherwise specified in the contract." MBE records must be retained for a period of three years following completion of the contract work.

SUBSTITUTION OF MBE SUBCONTRACTORS

Any proposed changes to the approved MBE Plan must be submitted in writing to the Authority for approval prior to commencement of the work. Substitution or modification of it can only be accomplished with the approval of the Authority.

ADMINISTRATIVE PROCEDURES FOR ENFORCEMENT

Whenever the Authority believes the prime or any subcontractor may not be operating in compliance with the terms of the program provision, an investigation will be conducted and if it is determined that there is non-compliance, notification will be made of the steps, which will, in the judgment of the Authority, bring the contractor into compliance. If the contractor fails or refuses to take corrective action, a final report of non-compliance will be made and sanctions from suspension of work up to referral to the Attorney General's Office for review may be made.

PROFESSIONAL ASSISTANCE

This is a referral service provided by MDOT for certified minority businesses that may need business assistance. Any of the MBEs on the project can call 1-800-544-6056 to talk to a representative.

FRAUD PROVISIONS

Contractors are advised that State Finance and Procurement Article 14-308 covers prohibited acts and penalties for offenses.

PROMPT PAYMENT TO SUBCONTRACTORS

It is the policy of the State that a contractor shall promptly pay a subcontractor any undisputed amount that a subcontractor is entitled to under the contract for construction. This payment shall be made within ten (10) days of receiving a progress payment or final payment from the State. Undisputed amounts include the retainage on a contract.

Maryland Transportation Authority
Minority Business Enterprise Program
ADDITIONAL INFORMATION FOR MBE SUBCONTRACTORS

MBE REPORT OF PAYMENTS RECEIVED

By the 15th of each month the MBE should submit this document to the Authority's MBE Office. It should be submitted even if there are no payments for the month.

PROMPT PAYMENT TO SUBCONTRACTORS

It is the policy of the State that a contractor shall promptly pay a subcontractor any undisputed amount that a subcontractor is entitled to under the contract for construction. This payment shall be made within ten (10) days of receiving a progress payment or final payment from the State. Undisputed amounts include the retainage on a contract.

RECORDS RETENTION

Title 21 of the State Procurement Regulations, Subtitle 06 Contract Formation and Award, Chapter 5 Plant Inspection, Audit and Retention of Records, .03 Records Retention contains the following regulation: The contractor or subcontractor shall maintain books and records that relate to the cost or pricing data for 3 years from the date of final payment under the contract, unless a longer period is otherwise specified in the contract.

FRAUD PROVISIONS

Contractors are advised that State Finance and Procurement Article 14-308 covers prohibited acts and penalties for felony and misdemeanor offenses.

STATE OF MARYLAND GOVERNOR'S OFFICE OF MINORITY AFFAIRS (GOMA)

GOMA is the state's principal advocates for minority businesses. They provide assistance to minority business owners who are seeking state certification and state procurement opportunities. They also help minority business owners who believe they have been treated unfairly by a state agency or other entity.

This office provide referrals to agencies and other entities that have programs to assist minority business owners in getting the services they need to start, develop and grow. For more information regarding GOMA log on to www.mdminoritybusiness.com, or by calling 410-767-8232.

ENTERPRENEUAL DEVELOPMENT INSTITUTE (EDI)

EDI helps meet the education needs of small and minority businesses in construction and related business fields. The Maryland State Highway Administration's Equal Opportunity Office provides the services of the EDI. Centered at the University of Maryland Eastern Shore (UMES), EDI classes are held on weekends. A nominal fee of \$50.00 is charged for the classes and hotel accommodations. For schedule and registration information, contact the EDI Coordinator at (410) 651-6476.

MSBDFA BONDING AND CONTRACT FINANCING PROGRAM

The Maryland Small Business Development Financing Authority (MSBDFA) offers program through four programs: Contract Financing, Long Term Guaranty Program, Surety Bond Guaranty Program and Equity Participation Investment Program. They provide contract financing and surety bonding assistance to eligible firms to begin, continue and complete work on MDOT contracts. Firms bidding on MDOT contracts needing a bid, performance or payment bond or working capital can contact the office at (410) 333-4270.

PROFESSIONAL ASSISTANCE

An MBE firm certified by MDOT may request referral assistance in any area of business by calling the MBE Information Line, 1-800-544-6056 in the Office of Minority Business Enterprise.

THE STATE OF MARYLAND SMALL BUSINESS RESERVE PROGRAM

The State of Maryland Small Business Reserve Program is committed to the growth and success of small businesses. For the first time, small businesses will be able to bid for State contracts without competing with larger, more established companies.

Beginning October 1, 2004, designated agencies will be required to award a minimum of 10 percent of their units' total dollar value of goods, supplies, services, maintenance, construction, construction related, architectural service and engineering service contracts to small businesses. For more information regarding the Small Business Reserve Program log on to www.smallbusinessreserve.maryland.gov , or by calling 410-767-4270.

**PROMPT PAYMENT
TO
SUBCONTRACTORS**

A. **MARYLAND DEPARTMENT OF TRANSPORTATION**
POLICY STATEMENT
PROMPT PAYMENT OF SUBCONTRACTORS
DISADVANTAGED/MINORITY BUSINESS ENTERPRISES

This policy is in accordance with Maryland State Law, codified at Md. Code Ann., State Finance and Procurement Article, §15-226, and 49 CFR, Part 26, 26.29(b)1-3.

It is the policy of the State that a contractor shall promptly pay a subcontractor any undisputed amount that a subcontractor is entitled to under a State procurement contract for construction. This payment shall be made within ten (10) days of receiving a progress payment or final payment from the State. "Undisputed amount" includes the retainage on a contract.

If a contractor withholds payment, the contractor shall:

1. Notify the subcontractor, in writing within the same ten (10) day time period, stating the reasons for payment being withheld,
2. Provide a copy of the notice to the procurement officer.

If a subcontractor does not receive payment within the required time period, the subcontractor may give written notice of non-payment to the procurement officer. The notice shall include:

1. The name of the contractor, the project under which the dispute exists and the amount in dispute,
2. Provide an itemized description on which the amount is based and
3. If known, provide an explanation for any payment dispute.

Within two (2) business days of receipt of written notice from a subcontractor, a MDOT Agency Representative shall verbally contact the contractor to determine if the amount is undisputed.

If the MOOT Agency Representative determines that all or some of the amount is undisputed, the representative shall instruct the contractor to pay the subcontractor the undisputed amount within three (3) business days. The MDOT Agency Representative shall verbally inform the subcontractor the results of discussions with the contractor. If the payment is not made, the subcontractor may report the non-payment to the procurement officer. As a result, the MDOT Agency Representative shall schedule a meeting of the agency project manager, the subcontractor and the contractor, as follows:

1. The time and location shall be selected by the agency representative,
2. The meeting shall be no later than ten (10) days after receiving notice from the subcontractor,
3. The meeting purpose is to establish the reasons for non-payment,
4. The agency representative shall require the parties to provide information necessary to evaluate the dispute,
5. If the agency representative determines the contractor is delinquent, further progress payments to the contractor may be withheld until the subcontractor is paid.

If the payment to the subcontractor is not made within seven (7) days after the agency representative determines that the contractor is delinquent, the agency representative shall schedule a second meeting on the dispute as follows:

1. The time and location shall be selected by the agency representative,
2. The meeting shall be no later than five (5) days after the close of the seven (7) day period.

After this second meeting, if the agency representative determines the contractor continues to be delinquent in subcontractor payments, he/she:

1. Shall order further payments to the contractor not be processed until payment is made to and verified with the subcontractor,
2. May order work under the contract be suspended based on the contractor's failure to meet contractual obligations under the contract,

3. May require the contractor to pay a penalty to the subcontractor, not to exceed \$ 100 per day, from the date that the payment was required, not to include any period that the agency representative determines that the subcontractor was not diligent in reporting non-payment to the procurement officer. The contractor or subcontractor may appeal the decision after the second meeting, noted above to the procurement officer. The contractor shall comply with the procurement officer's decision.

An act, failure to act or decision of the procurement officer or agency representative may not:

1. Affect the rights of the contracting parties under other provision of law, be used as evidence on the merits of a dispute between the agency and the contractor or the contractor and the subcontractor in any other proceeding or
2. Result in liability against or prejudice the rights of the agencies of the Maryland Department of Transportation.

A decision of a procurement officer or an agency representative designated by the procurement officer under this law is not subject to judicial review or the provision for bid protests and contract claims before the Board of Contract Appeals. This law shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any State procurement contract awarded before the effective date of this law, October 1, 1999.



GUIDE TO PROMPT PAYMENT FOR NON-CONSTRUCTION SUBCONTRACTORS

August 2008

Prompt payment requirements already exist on State-funded construction contracts. Recently, prompt payment requirements became effective on all State-funded non-construction contracts in excess of \$25,000 by agencies that are members of the Governor's Cabinet.

What are my rights as a subcontractor?

Subcontractors on contracts greater than \$25,000 can expect to receive payment for any undisputed amounts after the prime contractor has received a progress payment. Otherwise, a subcontractor can expect to receive written notice from the contractor as to why payment is being withheld.

What are my rights as a Minority Business Enterprise (MBE) or Small Business Reserve (SBR) subcontractor?

MBE and SBR subcontractors have the same rights as those described above. In addition, agencies must notify the Governor's Office of Minority Affairs (GOMA) of any complaint of non-payment of subcontractors with MBE or SBR status.

What are the responsibilities of the prime contractor?

The prime contractor has the responsibility to:

- Pay a subcontractor an undisputed amount to which the subcontractor is entitled; OR
- Notify the subcontractor in writing and state the reason why payment is being withheld.
- If payment is withheld, the prime contractor must provide a copy of the notice to the procurement officer.

What should I do if I am not being paid by the prime contractor?

The subcontractor must notify the procurement officer. GOMA recommends that notice be given in writing. The notice will include:

- The name of the prime contractor from which payment has not been received;
- The project under which the dispute exists;
- The amount in dispute;
- An itemized description on which the amount is based; and
- If known, an explanation for any dispute concerning the payment not received.

Who should I contact at the agency?

Subcontractors who have not received payment of any undisputed amount should contact the agency's chief procurement officer. Contact information for the Cabinet agencies' chief procurement officers can be found at the end of this document.

I've sent my written notice of non-payment to the procurement officer. What happens now?

The procurement officer, or another agency representative, must contact the prime contractor to ascertain whether the amount withheld is an undisputed amount. If it is determined that part or the entire amount withheld is undisputed, the agency representative will instruct the prime contractor to pay the subcontractor the undisputed amount. The agency representative is to communicate to the subcontractor the results of the discussions with the prime contractor.

Are there any penalties to the prime contractor for failure to pay subcontractors undisputed amounts?

Yes. The State agency that issued the contract may;

- Withhold further payments to the prime contractor until payment to the subcontractor is verified;
- Suspend all or some of the contract work;
- Pay or otherwise cause payment of the undisputed amount to the subcontractor;
- Place a payment for an undisputed amount in an interest-bearing escrow account; or
- Take other or further actions as appropriate to resolve the withheld payment.

What is an “undisputed amount”?

An “undisputed amount” means an amount owed by a contractor to a subcontractor for which there is no good faith dispute. This includes any retainage withheld, and any amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

What agencies are members of the Governor’s Cabinet? The 22 member agencies of the Governor’s Cabinet and their chief procurement officers are:

Agency	Procurement Officer	Email
Aging	Ivey Gilliam	ilg@ooa.state.md.us
Agriculture	Joe Harrington	harrinjm@mda.state.md.us
Budget and Management	Joel Lieberknight	jleberkn@dbm.state.md.us
Business and Economic Development	Debi Chronister	dchronister@dbed.state.md.us
Disabilities	John Brennan	jbrennan@mdod.state.md.us
Education	Albert Annan	aannan@mdse.state.md.us
Environment	Mike Gallagher	mgallagher@mde.state.md.us
Executive Department	Jeremy Rosendale	jrosendale@gov.state.md.us
General Services	Michael Haifley	michael.haifley@dgs.state.md.us
Health and Mental Hygiene	Gary Goldberg	ggoldberg@dnhmh.state.md.us
Housing and Community Development	Eleanor Kennedy	kennedy@mdhousing.org
Human Resources	Jane Bailey	jbailey@dhr.state.md.us
Information Technology	Sue Howells	Sue.Howells@doit.state.md.us
Juvenile Services	Marcus Filson	filsonm@djs.state.md.us
Labor, Licensing, and Regulation	Latesa Thomas	lthomas@dllr.state.md.us
Military	Nancy Fabula Hevey	hevey@mdmildep.org
Natural Resources	Diane Russell	drussell@dnr.state.md.us
Planning	Samer Atiya	satiya@mdp.state.md.us
Public Safety and Correctional Services	Behira J. Said-Pompey	BSaid-Pompey@dpscs.state.md.us
State Police	Jonathan Beam	jbeam@mdsp.org
Transportation	Carmina Perez-Fowler	Cperez-fowler@mdot.state.md.us
Veterans Affairs	John Kearns	jkearns@mdva.state.md.us

MBE COMPLIANCE CONTRACTOR NOTIFICATION

**Maryland Transportation Authority
Procurement and Statutory Program Compliance
Minority Business Enterprise Program
Contractor Notification**

Prime/General contractors participating on Maryland Transportation Authority (MdTA) contracts must notify the MBE office of any changes to the approved MBE plan that was submitted. This includes all EWAs that increase or decrease the MBE goal approved for the contract. The notification must be in writing and include an updated MBE Plan to be submitted for review and the approval/denial process. The following is the minimum information that must be included:

- A. Increase of the MBE over-all goal and/or sub-goal
 - 1. MdTA Contract name and number
 - 2. Name of Prime/General contractor
 - 3. Reason for increase
 - 4. MBE contractors name, address and contact information
 - 5. Contract work items effected
 - 6. Dollar value of the work items
 - 7. New contract value
 - 8. New MBE over-all goal and sub-goals

- B. Decrease of the MBE over-all goal and/or sub-goal
 - 1. MdTA Contract name and number
 - 2. Name of Prime/General contractor
 - 3. Reason for decrease
 - 4. MBE contractors name, address and contact information
 - 5. Contract work items effected
 - 6. Dollar value of the work items
 - 7. New contract value
 - 8. New MBE over-all goal and sub-goals
 - 9. Good Faith Effort (GFE) packet

Correspondence concerning the above will be sent directly to the Procurement Officer, who will ensure that the MBE Office receives the information for processing.

Two (2) complete copies of certified payrolls are to be delivered to the MdTA Project Inspector at the field office for all contractors employed on the project. One (1) complete copy is to be sent to the Commissioner of Labor & Industry. **No certified payable are to be mailed or delivered to the FSK Bridge.**

Maryland Transportation Authority Points of Contact

Dave Ferrara
Director of Construction
Maryland Transportation Authority
304 Authority Drive
Baltimore, Maryland 21222
dferrara@mdta.state.md.us

Phone: (410) 537-7882

Fax: (410) 537-7802

Beverly Hill, Director
Procurement and Statutory Program Compliance
2310 Broening Highway, Suit 150
Baltimore, Maryland 21224
bhill@mdta.state.md.us

Phone: (410) 537-1086

Fax: (410) 537-1044

All other questions concerning MBE Compliance
can be directed to the following compliance
team.

Orlando Price
MBE Field Compliance Officer
410-537-1052
oprice@mdta.state.md.us

Shirley Stivers
Contract Close-out Officer
410-1055
[sstivers@mdta.state.md.us](mailto:ssstivers@mdta.state.md.us)

**MONTHLY MINORITY BUSINESS
UTILIZATION REPORT FORMS FOR
PRIMES AND SUBCONTRACTORS**



PLEASE COMPLETE AND RETURN BY 15TH OF THE MONTH FOLLOWING THE REPORTING PERIOD, SUBMIT COPIES OF INVOICES WITH THIS DOCUMENT.

FOR THE PERIOD ENDING _____ (MONTH/YEAR)

SUBCONTRACTOR: _____

MDOT CERTIFICATION #: _____ **FEDERAL ID #:** _____

PRIME CONTRACTOR: _____

PROJECT NUMBER/TITLE: _____

PROJECT LOCATION: _____

SERVICES/SUPPLIES PROVIDED: _____

TOTAL SUBCONTRACT AMOUNT: _____

STATUS OF PAYMENTS:

INVOICE DATE	INVOICE NUMBER	AMOUNT OF INVOICE	AMOUNT PAID	AMOUNT DUE

DISCUSS ANY PROBLEMS YOU ARE EXPERIENCING WITH THE PRIME CONTRACTOR AND/OR THE PROJECT. _____

I CERTIFY THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

 PRINT NAME OF COMPANY OFFICIAL

 TITLE

 SIGNATURE

 DATE

 TELEPHONE #

 EMAIL ADDRESS

1/11/2008

