

## ATTACHMENT J- MINORITY BUSINESS ENTERPRISE PARTICIPATION

### STATE OF MARYLAND

### DEPARTMENT OF BUDGET AND MANAGEMENT

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

### DEFINITIONS

As used in this Attachment, the following words have the meanings indicated.

- ◆ “Certification” means a determination made by the Maryland Department of Transportation that a legal entity is a minority business enterprise.
- ◆ “MBE Liaison” is the employee designated to administer this Department’s MBE program.
- ◆ “Minority Business Enterprise” or “MBE” means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is:
  - (1) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged; and
  - (2) managed by, and the daily business operations of which are controlled by, one or more of the socially and economically disadvantaged individuals who own it.

*Note:* A minority business enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals. An MBE **must** be certified by the Maryland Department of Transportation (MDOT) in order to have its contract participation counted under the Department’s MBE program.

# **MINORITY BUSINESS ENTERPRISE INSTRUCTIONS AND FORMS**

## **MBE PARTICIPATION GOALS AND SUB-GOALS**

The Contractor shall achieve the MBE subcontracting goal and any sub-goals established for this contract, by subcontracting to one or more MDOT-certified Minority Business Enterprises a sufficient portion of the contract's scope of work that results in total MBE payments that meet or exceed the MBE participation goal.

If awarded the Contract:

- A prime contractor – including an MBE or certified Small Business Reserve (SBR) prime contractor – must accomplish an amount of work not less than the MBE participation goal with certified MBE subcontractors.
- A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE participation goal with certified MBE subcontractors.

## **SOLITATION AND CONTRACT FORMATION**

### **Reporting Instructions for Submission of Bid:**

1. The bidder or offeror must **include the following reports with its bid:**
  - a. A completed Certified MBE Utilization and Fair Solicitation Affidavit (Attachment J-1) whereby the bidder or offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
  - b. A completed MBE Participation Schedule (Attachment J-2) whereby the bidder or offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified Minority Business Enterprises at the time of submission. The bidder or offeror shall specify the specific percentage (not range) or dollar amount of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule. **Attachment J-2 shall become part of the final contract, therefore, any changes (additions and/or deletions) must be submitted to the Procurement Officer in writing for approval.**

**The failure of a bidder to complete and submit the MBE Utilization Affidavit and the MBE Participation Schedule shall result in a determination that the bid is not responsive.**

2. **Within 10 working days from notification** that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

- (1) Outreach Efforts Compliance Statement (**Attachment J-3**)
- (2) Subcontractor Project Participation Statement (**Attachment J-4**)
- (3) If the apparent awardee has requested a waiver (in whole or in part) of the overall MBE goal or of any sub-goal as part of the previously submitted Attachment J-1, it must submit documentation supporting the waiver request that complies with COMAR 21.11.03.11.
- (4) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

**CONTRACT ADMINISTRATION REQUIREMENTS:**

**Prime Contractor shall:**

1. **Attachment J-5:** Submit monthly to the Department/Agency a report listing all unpaid invoices over 30 days old received from a certified MBE subcontractor working under the PORFP Agreement, the amount of each invoice and the reason payment has not been made. For informational purposes only, a sample prime contractor unpaid invoice report is attached.
2. **Attachment J-6:** Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department/Agency a report that identifies the prime contract and lists all payments received from the Master Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. For informational purposes only, a sample MBE Subcontractor Paid/Unpaid Invoice report is attached.
3. Provide written explanation to the MBE Liaison Officer for all MBE subcontractor unpaid invoices that are 30 days old or older.

4. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.

5. Immediately notify the Procurement Officer in writing of any changes (additions/deletions) to the MBE Participation Schedule for review and approval

6. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Prime Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.

7. At the option of the procurement agency, upon completion of the Contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

### **MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS**

#### **Must be submitted with Technical Response to the IFB:**

*ATTACHMENT J-1 – Certified MBE Utilization and Fair Solicitation Affidavit*

*ATTACHMENT J-2 - MBE Participation Schedule*

#### **Must be submitted within 10 days after notification of apparent contract award:**

*ATTACHMENT J-3 - Outreach Efforts Compliance Statement*

*ATTACHMENT J-4 - Subcontractor Project Participation Statement*

#### **Must be submitted on a monthly (by the 15<sup>th</sup>) basis after award of contract:**

*ATTACHMENT J-5 - Prime Contractor Unpaid MBE Invoice Report*

*ATTACHMENT J-6 - Subcontractor Paid/Unpaid MBE Invoice Report*

## ATTACHMENT J-1

### CERTIFIED MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT

**This document shall be included with the submission of the bid or offer. If the bidder or offeror fails to submit this form with the bid or offer, the Procurement Officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.**

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, I affirm the following:

1. Commitment to MBE Participation Goal or Request for Waiver (check applicable box):

I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_ percent and, if specified in the solicitation, sub-goals of \_\_\_\_ percent for MBEs classified as African American-owned and \_\_\_\_ percent for MBEs classified as women-owned. I have made a good faith effort to achieve this goal.

OR

I acknowledge the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_\_percent, and specified sub goals, however, I intend to exceed the overall goal by achieving an MBE participation goal of \_\_\_\_\_percent and exceed the sub-goals of \_\_\_\_ percent for MBEs classified as African American-owned and \_\_\_\_ percent for MBEs classified as women-owned. I have made a good faith effort to achieve this goal.

OR

After having made a good faith effort to achieve the MBE participation goal, I conclude I am unable to achieve it. Instead, I intend to achieve an MBE goal of \_\_\_\_\_% and request a waiver of the remainder of the goal. If I submit the apparent low bid or am selected as the apparent awardee (competitive sealed proposals), I will submit written waiver documentation that complies with COMAR 21.11.03.11 within 10 business days of receiving notification that our firm is the apparent low bidder or the apparent awardee.

2. I have identified the **specific commitment** (to include percentage of total contract) of each certified Minority Business Enterprise by completing and submitting the **MBE Participation Schedule (Attachment J-2)** with the bid.
3. I acknowledge that the MBE subcontractors/suppliers listed on the MBE Participation Schedule will be used to accomplish the percentage of MBE participation that I intend to achieve.
4. I understand that if I am notified that I am the apparent awardee, I must submit the following documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.

- (a) Outreach Efforts Compliance Statement (**Attachment J-3**)
- (b) Subcontractor Project Participation Statement (**Attachment J-4**)
- (c) MBE Waiver Request per COMAR 21.11.03.11 (if applicable)
- (d) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

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

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

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

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

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

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

\_\_\_\_\_  
Date

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

**Attachment J-2**

**MBE PARTICIPATION SCHEDULE**

*(must be submitted with the technical response to the bid)*

**This document shall be included with the submittal of the bid or offer. If the bidder or offeror fails to submit this form with the bid or offer, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.**

Prime Contractor (Firm Name, Address, Phone)	Project Description
Project Number	
List Specific Information For Each Certified MBE Subcontractor On This Project	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	

**USE ATTACHMENT J-2 CONTINUATION PAGE AS NEEDED**

**SUMMARY**

**TOTAL MBE PARTICIPATION:** \_\_\_\_\_ %  
**TOTAL WOMAN-OWNED MBE PARTICIPATION:** \_\_\_\_\_ %  
**TOTAL AFRICAN AMERICAN-OWNED MBE PARTICIPATION:** \_\_\_\_\_ %

Document Prepared By: (please print or type)

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

**ATTACHMENT J-2**  
**MBE Participation Schedule (continued)**

List Information For Each Certified MBE Subcontractor On This Project	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Specific Work To Be Performed/NAICS	
Specific Percentage of Total Contract	



**ATTACHMENT J-3**

**OUTREACH EFFORTS COMPLIANCE STATEMENT**

*(for submission within 10 days after notification of apparent award)*

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, I state the following:

1. Bidder/ 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 MBEs for these subcontract opportunities.
  
3. Bidder/Offeror made the following attempts to contact personally the solicited MBEs:
  
4.  Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)
  
- This project does not involve bonding requirements.
  
5.  Bidder/Offeror did/did not attend the pre-bid/proposal conference  
 No pre-bid/proposal conference was held.

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

By:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTACHMENT J-4**

**Subcontractor Project Participation Statement**  
(for submission within 10 days after notification of apparent contract award)

**SUBMIT ONE FORM FOR EACH MBE**  
**LISTED ON THE MBE PARTICIPATION SCHEDULE**

Provided that \_\_\_\_\_ is awarded the State contract in  
(Prime Contractor Name)

conjunction with Solicitation No. \_\_\_\_\_, it and

\_\_\_\_\_, MDOT Certification No. \_\_\_\_\_, **intend to enter into a**  
(Subcontractor Name)

**contract by which subcontractor shall:** (This is not a subcontract agreement. A written copy of subcontractor agreement(s) shall be made available to Procurement Officer upon request)

(Describe specific work) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- No bonds are required of Subcontractor
- The following amount and type of bonds are required of Subcontractor:

By: \_\_\_\_\_  
Prime Contractor Signature

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

This form is to be completed monthly by the prime contractor.

**ATTACHMENT J-5**  
**Maryland Department of Budget and Management**  
**MINORITY BUSINESS ENTERPRISE PARTICIPATION**  
**Prime Contractor Paid/Unpaid MBE Invoice Report**

Report #: _____ Reporting Period (Month/Year): _____ <b>Report is due by the 15<sup>th</sup> of the month following the month the services were provided.</b>	Contract #: Contracting Unit: Contract Amount: MBE Subcontract Amt: Project Begin Date: Project End Date: Services Provided:
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Prime Contractor:		Contact Person:																															
Address:																																	
City:		State:	ZIP:																														
Phone:	FAX:	Email:																															
Subcontractor Name:		Contact Person:																															
Phone:	FAX:																																
Subcontractor Services Provided:																																	
<b>List all payments made to MBE subcontractor named above during this reporting period:</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice#</u></th> <th style="width: 55%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Paid: \$</b></td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			<b>Total Dollars Paid: \$</b>		_____	<b>List dates and amounts of any outstanding invoices:</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice #</u></th> <th style="width: 55%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr> <td colspan="2"><b>Total Dollars Unpaid: \$</b></td> <td>_____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			<b>Total Dollars Unpaid: \$</b>		_____
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\*\*If more than one MBE subcontractor is used for this contract, you must use separate J-5 forms.

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

MBE Liaison Officer  
 Department of Budget and Management  
 Procurement Unit  
 45 Calvert Street, 1<sup>st</sup> Floor  
 Annapolis, MD 21401  
[MBEOfficer@dbm.state.md.us](mailto:MBEOfficer@dbm.state.md.us)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Required) (Required)

**ATTACHMENT J-6**  
**Minority Business Enterprise Participation**  
**Subcontractor Paid/Unpaid MBE Invoice Report**

Report#: _____ Reporting Period (Month/Year): _____ <b>Report is due by the 15<sup>th</sup> of the month following the month the services were performed.</b>	Contract # _____ Contracting Unit: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
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MBE Subcontractor Name: _____																																									
MDOT Certification #: _____																																									
Contact Person: _____																																									
Address: _____																																									
City: _____	State: Maryland	ZIP: _____																																							
Phone: _____	FAX: _____	Email: _____																																							
<b>Subcontractor Services Provided:</b>																																									
<b>List all payments received from Prime Contractor during reporting period indicated above.</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: center;"><u>Invoice Amt</u></th> <th style="text-align: center;"><u>Invoice #</u></th> <th style="text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td><td></td></tr> <tr> <td><b>Total Dollars Paid: \$</b></td> <td colspan="2">_____</td> <td></td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Invoice #</u>	<u>Date</u>	1.				2.				3.				<b>Total Dollars Paid: \$</b>	_____			<b>List dates and amounts of any unpaid invoices over 30 days old.</b> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"></th> <th style="text-align: center;"><u>Invoice Amt</u></th> <th style="text-align: center;"><u>Invoice #</u></th> <th style="text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td><td></td></tr> <tr> <td><b>Total Dollars Unpaid: \$</b></td> <td colspan="2">_____</td> <td></td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Invoice #</u>	<u>Date</u>	1.				2.				3.				<b>Total Dollars Unpaid: \$</b>	_____		
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MBE Liaison Officer Department of Budget and Management Procurement Unit 45 Calvert Street, 1 <sup>st</sup> Floor Annapolis, MD 21401 <a href="mailto:MBEOfficer@dbm.state.md.us">MBEOfficer@dbm.state.md.us</a>
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Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Required) (Required)