

ATTACHMENT G – MINORITY BUSINESS ENTERPRISE PARTICIPATION

State of Maryland DEPARTMENT OF BUDGET & MANAGEMENT

PURPOSE

The Master Contractor shall structure its procedures for the performance of the work required in this Master Contract to attempt to achieve the Minority Business Enterprise (MBE) goal stated in the Request for Proposals (RFP) for Functional Area IV. MBE performance must be in accordance with this Attachment, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. The Master Contractor agrees to exercise all good faith efforts to carry out the MBE participation commitments 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 FOR FUNCTIONAL AREA IV

The Master Contractor shall achieve the MBE subcontracting goal and any sub-goals established for each individual PORFP Agreement, by subcontracting to one or more MDOT-certified MBEs a sufficient portion of the PORFP Agreement scope of work that results in total MBE payments that meet or exceed the MBE participation goal.

If awarded a Master Contract:

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

SOLICITATION AND CONTRACT FORMATION

MASTER CONTRACT

- ◆ An Offeror that includes in its proposal a response to provide Functional Area IV services must complete, sign and submit Attachment G-1A (Offeror Acknowledgement of MBE Participation Commitment) with its Technical Proposal submission. By signing Attachment G-1A, the Offeror affirms that if it is awarded a Master Contract it will comply with all MBE requirements associated with any PORFP Agreement, including submission of waiver documentation where applicable.
- ◆ **Failure of a Functional Area IV Offeror to submit Attachment G-1A with its technical proposal will result in the Offeror's proposal being deemed not reasonably susceptible for award, and the Offeror being eliminated from consideration for a Master Contract award for Functional Area IV.**

◆ An Offeror receiving notification from the State that it is a Master Contract awardee will not be required to submit additional MBE program documentation prior to final Master Contract execution.

PORFPS WITH AN MBE PARTICIPATION GOAL

◆ All PORFPs issued with an MBE participation goal will contain certain documents that the Master Contractor must submit at the time of its PORFP submission. MBE affidavits, schedules, statements, and reports that will be used at the PORFP Agreement level are included herein as Attachment G-1 Master Contractor (Certified MBE Utilization and Fair Solicitation Affidavit), G-2 (MBE Participation Schedule), G-3 (Outreach Efforts Compliance Statement) and G-4 (Subcontractor Project Participation Statement). Attachments G-5 and G-6 are sample MBE reporting forms (See “Contract Administration Requirements” below).

◆ **Attachments G-1 and G-2** must be completed, signed and submitted by the Master Contractor together with the PORFP Proposal. If a Master Contractor believes that a waiver of some or all of the MBE participation goal and/or sub-goals is necessary, the waiver request must be clearly indicated on Attachment G-1. **If a Master Contractor does not submit completed and signed Attachments G-1 and G-2 with its PORFP proposal, the Contractor’s PORFP Proposal will be eliminated from consideration for award.**

◆ **Attachments G-3 and G-4 and waiver documentation**, if applicable, shall be submitted by the apparent PORFP awardee within 10 working days of notification of award. If the apparent PORFP awardee fails to return the requested documentation within the required time, the contract offer may be withdrawn.

CONTRACT ADMINISTRATION REQUIREMENTS

For each PORFP Agreement, the Master Contractor shall:

1. **Attachment G-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 G-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. 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.

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

5. At the option of the procurement agency, upon completion of the Master Contract or PORFP 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 proposal for Functional Area IV in response to the RFP:

ATTACHMENT G-1A-OFFEROR – *Offeror Acknowledgement of PORFP MBE Participation Commitment*

Must be submitted in response to the PORFP:

ATTACHMENT G-1 – MASTER CONTRACTOR - *Certified MBE Utilization and Fair Solicitation Affidavit*

ATTACHMENT G-2 - *MBE Participation Schedule*

Must be submitted within 10 days after notification of apparent award of PORFP:

ATTACHMENT G-3 - *Outreach Efforts Compliance Statement*

ATTACHMENT G-4 - *Subcontractor Project Participation Statement*

Must be submitted on a monthly basis after award of PORFP:

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

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

ATTACHMENT G-1A-OFFEROR

Offeror Acknowledgement of PORFP MBE Participation Commitment

This completed ATTACHMENT G-1A-OFFEROR shall be included with the submittal of the Offeror’s technical response to the RFP for Functional Area IV. If the Offeror fails to submit this form with its response to the RFP, the Procurement Officer shall determine that the Offeror’s response to the RFP is not reasonably susceptible of being selected for award for Functional Area IV.

In conjunction with technical response that I submit in response to Solicitation No. 050B7800023, I affirm that if I am awarded a Master Contract under the solicitation noted above, and I respond to a PORFP that contains an MBE participation commitment, I commit to make a good faith effort to achieve the MBE goal established in the PORFP.

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.

_____	_____
Offeror Name	Signature of Affiant
_____	_____
	Printed Name, Title

	Address

	Date

ATTACHMENT G-1 – MASTER CONTRACTOR

Certified MBE Utilization and Fair Solicitation Affidavit

This document shall be included with the submittal of the Master Contractor’s PORFP Proposal. If the Master Contractor fails to submit this form with its PORFP Proposal, the Procurement Officer shall determine that the Master Contractor’s PORFP Proposal is not reasonably susceptible of being selected for award.

In conjunction with the proposal submitted in response to PORFP 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 25% for Functional Area IV – Installation and Training Services, and 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 ___% for Functional Area IV – Installation and Training Services, and I request a waiver of the remainder of the goal. If I submit the apparent low bid or am selected as the apparent PORFP awardee, 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 of certified Minority Business Enterprises by completing and submitting a MBE Participation Schedule (Attachment G-2) with the PORFP Proposal.

3. I acknowledge that the MBE subcontractors/suppliers listed in 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 PORFP 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 G-3)
- (b) Subcontractor Project Participation Statement (Attachment G-4)
- (c) MBE Waiver Documentation 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 PORFP 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 PORFP award. If the PORFP has already been awarded, the award is voidable.

5. In the solicitation of subcontract proposals 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.

Offeror Name

Signature of Affiant

Address

Printed Name, Title

Date

SUBMIT WITH PORFP

Attachment G-2

MBE Participation Schedule
(for submission with PORFP))

This document shall be included with the submittal of the Master Contractor’s PORFP Proposal. If the Master Contractor fails to submit this form with its PORFP Proposal, the Procurement Officer shall determine that the Master Contractor’s PORFP Proposal is not reasonably susceptible of being selected for award.

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

USE ATTACHMENT G-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 G-2
MBE Participation Schedule (continued)**

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

ATTACHMENT G-3

Outreach Efforts Compliance Statement
(for submission within 10 days after notification of apparent award of PORFP)

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

1. Have identified opportunities to subcontract 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. Made the following attempts to contact personally the solicited MBEs:

4. Assisted MBEs to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)

This project does not involve bonding requirements.

_____ By _____
Master Contractor Name Name

_____ _____
Address Title

_____ Date

ATTACHMENT G-4
Subcontractor Project Participation Statement
(for submission within 10 days after notification of apparent award of PORFP)

SUBMIT ONE FORM FOR EACH CERTIFIED MBE LISTED IN THE MBE PARTICIPATION SCHEDULE

Provided that _____ is awarded the PORFP Agreement in
(Master Contractor Name)
conjunction with PORFP Agreement No. _____, it and _____,
(Subcontractor Name)
MDOT Certification No. _____, intend to enter into a contract by which the subcontractor shall:

(Describe work to be performed by MBE):

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

By: By:

Master Contractor Signature	Subcontractor Signature
<hr/>	
Name	Name
<hr/>	
Title	Title
<hr/>	
Date	Date

ATTACHMENT G-5
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report

This form is to be completed monthly by the prime contractor

Report #: _____ Reporting Period (Month/Year): _____ Report is due by the 15th of the month following the month the services were provided.	Contract #: Contracting Unit: Contract Amount: MBE Subcontract Amt: Project Begin Date: Project End Date: Services Provided:
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Master Contractor :		Contact Person:																									
Address:																											
City:		State:	ZIP:																								
Phone:	FAX:																										
Subcontractor Name:		Contact Person:																									
Phone:	FAX:																										
Subcontractor Services Provided:																											
List all payments made to MBE subcontractor named above during this reporting period: <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> </tbody> </table> Total Dollars Paid: \$ _____			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			List dates and amounts of any outstanding invoices: <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> </tbody> </table> Total Dollars Unpaid: \$ _____			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.		
	<u>Invoice#</u>	<u>Amount</u>																									
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2.																											
3.																											
	<u>Invoice #</u>	<u>Amount</u>																									
1.																											
2.																											
3.																											

**If more than one MBE subcontractor is used for this contract, you must use separate G-5 forms.

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

MBE Officer Department Address City/State/Zip E-mail:

Signature: _____ Date: _____

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

Report#: _____	Contract #
Reporting Period (Month/Year): _____	Contracting Unit:
Report is due by the 15th of the month following the month the services were performed.	MBE Subcontract Amount:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:		
MDOT Certification #:		
Contact Person:		
Address:		
City:	State: Maryland	ZIP:
Phone:	FAX:	

Subcontractor Services Provided:					
List all payments received from Master Contractor during reporting period indicated above.			List dates and amounts of any unpaid invoices over 30 days old.		
	<u>Invoice Amt</u>	<u>Date</u>		<u>Invoice Amt</u>	<u>Date</u>
1.			1.		
2.			2.		
3.			3.		
Total Dollars Paid: \$ _____			Total Dollars Unpaid: \$ _____		

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

MBE Officer Department of Address City/State/Zip E-mail: _____
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Signature: _____ Date: _____