

## Attachment D. Minority Business Enterprise (MBE) Forms

### D-1A MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT & MBE PARTICIPATION SCHEDULE

#### **PART 1 - INSTRUCTIONS**

***PLEASE READ BEFORE COMPLETING THIS DOCUMENT***

**This form includes Instructions and the MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule which must be submitted with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award unless the inaccuracy is determined to be the result of a minor irregularity that is waived or cured in accordance with COMAR 21.06.02.04.**

1. Contractor shall structure its procedures for the performance of the work required in this Contract to attempt to achieve the minority business enterprise (MBE) subcontractor participation goal stated in the Invitation for Bids or Request for Proposals. Contractor agrees to exercise good faith efforts to carry out the requirements set forth in these Instructions, as authorized by the Code of Maryland Regulations (COMAR) 21.11.03.
2. MBE Goals and Subgoals: Please review the solicitation for information regarding the Contract's MBE overall participation goals and subgoals. After satisfying the requirements for any established subgoals, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from the various MBE classifications to meet the remainder of the overall MBE participation goal.
3. MBE means a minority business enterprise that is certified by the Maryland Department of Transportation ("MDOT"). Only MBEs certified by MDOT may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including a MBE prime, must be MDOT-certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule. A firm whose MBE certification application is pending may not be counted.
4. Please refer to the MDOT MBE Directory at <https://mbe.mdot.maryland.gov/directory/> to determine if a firm is certified with 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 codes, please visit <https://www.census.gov/eos/www/naics/>. 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. **CAUTION:** If the firm's NAICS Code is in graduated status, such services/products may not be counted for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term "Graduated" follows the Code in the MDOT MBE Directory.
5. **Guidelines Regarding MBE Prime Self-Performance.** Please note that when a certified MBE firm participates as a prime contractor on a Contract, a procurement agency may count the distinct, clearly defined portion of the work of the Contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the overall

MBE participation goal, including up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the Contract.

- ✓ In order to receive credit for self-performance, an MBE prime must be certified in the appropriate NAICS code to do the work and must list its firm in the MBE Participation Schedule, including the certification category under which the MBE prime is self-performing and include information regarding the work it will self-perform.
  - ✓ For the remaining portion of the overall goal and the remaining subgoals, the MBE prime must also identify on the MBE Participation Schedule the other certified MBE subcontractors used to meet those goals or request a waiver.
  - ✓ These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime's ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.
  - ✓ Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the contract has subgoals, regardless of MBE Prime's ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to use other MBEs for each of any remaining subgoals or request a waiver. As set forth in Attachment 1-B Waiver Guidance, the MBE Prime's ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining subgoal or the balance of the overall goal.
  - ✓ In certain instances where the percentages allocated to MBE participation subgoals add up to more than 50% of the overall goal, the portion of self-performed work that an MBE Prime may count toward the overall goal may be limited to less than 50%. Please refer to the Governor's Office of Small Minority & Women Business Affairs' website for the MBE Prime Regulations Q&A for illustrative examples.  
[http://www.goMDsmallbiz.maryland.gov/Documents/MBE\\_Toolkit/MBEPrimeRegulation\\_QA.pdf](http://www.goMDsmallbiz.maryland.gov/Documents/MBE_Toolkit/MBEPrimeRegulation_QA.pdf)
6. Subject to items 1 through 5 above, when a certified MBE performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the Contract equal to the distinct, clearly-defined portion of the work of the Contract that the certified MBE performs with its own forces toward fulfilling the Contract goal, and not more than one of the Contract subgoals, if any.
7. The work performed by a certified MBE firm, including an MBE prime, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.
8. **Materials and Supplies: New Guidelines Regarding MBE Participation.**
- ✓ Regular Dealer (generally identified as a wholesaler or supplier in the MDOT Directory): Up to 60% of the costs of materials and supplies provided by a certified MBE may be counted towards the MBE participation goal(s) if such MBE is a Regular Dealer of such materials and supplies. Regular Dealer is defined as a firm that owns, operates, or maintains a store, a warehouse, or any other establishment in which the materials, supplies, articles, or equipment are of the general character described by the specifications required under the contract and are bought, kept in stock, or regularly sold or leased to the

public in the usual course of business; and does not include a packager, a broker, a manufacturer's representative, or any other person that arranges or expedites transactions.

*Example for illustrative purposes of applying the 60% rule:*

*Overall contract value: \$2,000,000*

*Total value of supplies: \$100,000*

*Calculate Percentage of Supplies to overall contract value: \$100,000 divided by \$2,000,000 = 5%*

***Apply 60% Rule - Total percentage of Supplies/Products 5% x 60% = 3%***

***3% would be counted towards achieving the MBE Participation Goal and Subgoal, if any, for the MBE supplier in this example.***

- ✓ **Manufacturer:** A certified MBE firm's participation may be counted in full if the MBE is certified in the appropriate NAICS code(s) to provide products and services as a manufacturer.
- ✓ **Broker:** With respect to materials or supplies purchased from a certified MBE that is neither a manufacturer nor a regular dealer, a unit may apply the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, fees, or transportation charges for the delivery of materials and supplies required on a procurement toward the MBE contract goals, provided a unit determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. A unit may not apply any portion of the costs of the materials and supplies toward MBE goals.
- ✓ **Furnish and Install and other Services:** The participation of a certified MBE supplier, wholesaler, and/or regular dealer certified in the proper NAICS code(s) to furnish and install materials necessary for successful contract completion may be counted in full. Includes the participation of other MBE service providers in the proper NAICS code(s) may be counted in full.

**9. Dually certified firms. An MBE that is certified in more than one subgroup category may only be counted toward goal fulfillment of ONE of those categories with regard to a particular contract.**

*Example: A woman-owned Hispanic American (dually certified) firm may be used to fulfill the women-owned OR Hispanic American subgoal, but not both on the same contract.*

10. CAUTION: The percentage of MBE participation, computed using the percentage amounts determined for all of the MBE firms listed in PART 3, MUST meet or exceed the MBE participation goal and subgoals (if applicable) as set forth in PART 2- for this solicitation. If a bidder/offeror is unable to meet the MBE participation goal or any subgoals (if applicable), then the bidder/offeror must request a waiver in PART 2 or the bid will be deemed not responsive, or the proposal not reasonably susceptible of being selected for award. You may wish to use the attached Goal/Subgoal Worksheet to assist in calculating the percentages and confirming that your commitment meets or exceeds the applicable MBE participation goal and subgoals (if any).

11. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please contact MDOT's Office of Minority Business Enterprise at 1-

800-544-6056 or via email to [mbe@mdot.state.md.us](mailto:mbe@mdot.state.md.us) sufficiently prior to the submission due date.

**Subgoals (if applicable)**

Total African American MBE Participation:	_____	%
Total Asian American MBE Participation:	_____	%
Total Hispanic American MBE Participation:	_____	%
Total Women-Owned MBE Participation:	_____	%

**Overall Goal**

Total MBE Participation (include all categories):	_____	%
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**PART 2 - MBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT &  
MBE PARTICIPATION SCHEDULE**

**This MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule must be completed in its entirety and included with the bid/proposal. If the bidder/offeror fails to accurately complete and submit this Affidavit and Schedule with the bid or proposal as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the proposal is not reasonably susceptible of being selected for award.**

In connection with the bid/proposal submitted in response to Solicitation No. \_\_\_\_\_, I affirm the following:

1. **MBE Participation (PLEASE CHECK ONLY ONE)**

I acknowledge and intend to meet IN FULL both the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_\_ percent and all of the following subgoals:

- \_\_\_\_\_ percent for African American-owned MBE firms
- \_\_\_\_\_ percent for Hispanic American-owned MBE firms
- \_\_\_\_\_ percent for Asian American-owned MBE firms
- \_\_\_\_\_ percent for Women-owned MBE firms

Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by checking the above box and agreeing to meet the stated goal and subgoal(s), if any, I **must** complete PART 3 - MBE Participation Schedule and Part 4 Signature Page in order to be considered for award.

**OR**

After making good faith outreach efforts prior to making this submission, I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals I acknowledge that by checking this box and requesting a partial waiver of the stated goal and/or one or more of the stated subgoal(s) if any, I **must** complete Part 3, the MBE Participation Schedule and Part 4 Signature Page for the portion of the goal and/or subgoal(s) if any, for which I am not seeking a waiver, in order to be considered for award. I acknowledge that by checking this box and requesting a full waiver of the stated goal and the stated subgoal(s) if any, I **must** complete Part 4 Signature Page in order to be considered for award.

### **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 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) Good Faith Efforts Documentation to Support Waiver Request (Attachment D-1C)
- (b) Outreach Efforts Compliance Statement (Attachment D-2);
- (c) MBE Subcontractor/MBE Prime Project Participation Statement (Attachments D-3A and 3B);
- (d) Any other documentation, including additional waiver documentation if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal and subgoals, if any.

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

### **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.

## PART 3 - MBE PARTICIPATION SCHEDULE

SET FORTH BELOW ARE THE (I) CERTIFIED MBEs I INTEND TO USE, (II) THE PERCENTAGE OF THE TOTAL CONTRACT VALUE ALLOCATED TO EACH MBE FOR THIS PROJECT AND, (III) THE ITEMS OF WORK EACH MBE WILL PROVIDE UNDER THE CONTRACT. I HAVE CONFIRMED WITH THE MDOT DATABASE THAT THE MBE FIRMS IDENTIFIED BELOW (INCLUDING ANY SELF-PERFORMING MBE PRIME FIRMS) ARE PERFORMING WORK ACTIVITIES FOR WHICH THEY ARE MDOT-CERTIFIED.

Prime Contractor	Project Description	Project/Contract Number

LIST INFORMATION FOR EACH CERTIFIED MBE FIRM YOU AGREE TO USE TO ACHIEVE THE MBE PARTICIPATION GOAL AND SUBGOALS, IF ANY. **MBE PRIMES:** PLEASE COMPLETE BOTH SECTIONS A AND B BELOW.

### SECTION A: For MBE Prime Contractors ONLY (including MBE Primes in a Joint Venture)

<p>MBE Prime Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned  <input type="checkbox"/> Hispanic American- Owned  <input type="checkbox"/> Asian American-Owned  <input type="checkbox"/> Women-Owned  <input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p>Percentage of total Contract Value to be performed with own forces and counted towards the MBE <b>overall participation goal</b> (up to 50% of the overall goal): _____% <b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p>Percentage of total Contract Value to be performed with own forces and counted towards the <b>subgoal</b>, if any, for my MBE classification (up to 100% of not more than one subgoal): _____%</p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)  <input type="checkbox"/> Manufacturer (count 100%)  <input type="checkbox"/> Broker (count reasonable fee/commission only)  <input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work your firm is self-performing to calculate amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage amount of subcontract where the MBE Prime firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products / services from suppliers, wholesalers, regular dealers and brokers) ___%</p> <p><b>B. Percentage amount for items of work where the MBE Prime firm is being used as supplier, wholesaler, and/or regular dealer</b> (60% Rule).  Total percentage of Supplies/Products ___% x 60% = ___%</p> <p><b>C. Percentage amount of fee where the MBE Prime firm is being used as broker</b> (count reasonable fee/commission only) ___%</p> <p>Description of the work to be performed with MBE prime's own forces:  _____  _____</p>
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**SECTION B: For all Contractors (including MBE Primes and MBE Primes in a Joint Venture)**

<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that the MBE firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ___%</p> <p><b>B. Percentage of total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule).</b> Total percentage of Supplies/Products ___% X 60% = ___%</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> (count reasonable fee/commission only) ___%</p> <p>Description of the work to be performed: _____ _____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that the MBE Firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ___%</p> <p><b>B. Percentage of total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule).</b> Total percentage of Supplies/Products ___% X 60% = ___%</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> (count reasonable fee/commission only) ___%</p> <p>Description of the work to be performed: _____ _____</p>



<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that for the MBE firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ___%</p> <p><b>B. Percentage of the total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule).</b> Total percentage of Supplies/Products ___% X 60% = ___%</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> (count reasonable fee/commission only) ___%</p> <p>Description of the work to be performed: _____ _____</p>
<p>MBE Firm Name: _____</p> <p>MBE Certification Number: _____</p> <p>(If dually certified, check only one box.)</p> <p><input type="checkbox"/> African American-Owned</p> <p><input type="checkbox"/> Hispanic American- Owned</p> <p><input type="checkbox"/> Asian American-Owned</p> <p><input type="checkbox"/> Women-Owned</p> <p><input type="checkbox"/> Other MBE Classification</p> <p>NAICS code: _____</p>	<p><b>Please refer to Item #8 in Part 1- Instructions of this document for new MBE participation guidelines regarding materials and supplies.</b></p> <p><input type="checkbox"/> Supplier, wholesaler and/or regular dealer (count 60%)</p> <p><input type="checkbox"/> Manufacturer (count 100%)</p> <p><input type="checkbox"/> Broker (count reasonable fee/commission only)</p> <p><input type="checkbox"/> Furnish and Install and other Services (count 100%)</p> <p><b>Complete the applicable prompt (select only one) from prompts A-C below that applies to the type of work that the MBE firm named to the left will be performing to calculate the amount to be counted towards achieving the MBE Participation Goal and Subgoal, if any.</b></p> <p><b>A. Percentage of total contract amount where the MBE firm is being used for manufacturer, furnish and install, and/or services</b> (excluding products/services from suppliers, wholesalers, regular dealers and brokers) ___%</p> <p><b>B. Percentage of total contract amount for items of work where the MBE firm is being used as supplier, wholesaler, and/or regular dealer (60% Rule).</b> Total percentage of Supplies/Products ___% X 60% = ___%</p> <p><b>C. Percentage amount of fee where the MBE firm is being used as broker</b> ___%</p> <p>Description of the work to be performed: _____ _____</p>

CONTINUE ON SEPARATE PAGE IF NEEDED

**PART 4 – SIGNATURE PAGE**

**To complete Affidavit committing to MBE(s) or requesting waiver,  
Bidder/Offeror must sign below:**

**I solemnly affirm under the penalties of perjury that: (i) I have reviewed the instructions for the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule, and (ii) the information contained in the MBE Utilization & Fair Solicitation Affidavit and MBE Schedule is true to the best of my knowledge, information and belief.**

\_\_\_\_\_  
Bidder/Offeror Name  
*(PLEASE PRINT OR TYPE)*

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
City, State and Zip Code

\_\_\_\_\_  
Date

**SUBMIT THIS AFFIDAVIT WITH BID/PROPOSAL**

## D-1B WAIVER GUIDANCE

### GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET MBE PARTICIPATION GOALS

In order to show that it has made good faith efforts to meet the Minority Business Enterprise (MBE) participation goal (including any MBE subgoals) on a contract, the Offeror must either (1) meet the MBE Goal(s) and document its commitments for participation of MBE Firms, or (2) when it does not meet the MBE Goal(s), document its Good Faith Efforts to meet the goal(s).

#### I. Definitions

**MBE Goal(s)** – “MBE Goal(s)” refers to the MBE participation goal and MBE participation subgoal(s).

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the MBE Goal(s), which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient MBE participation, even if those steps were not fully successful. Whether the Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Offeror has made. The efforts employed by the Offeror should be those that one could reasonably expect the Offeror to take if the Offeror were actively and aggressively trying to obtain MBE participation sufficient to meet the MBE contract goal and subgoals. Mere *pro forma* efforts are not good faith efforts to meet the MBE contract requirements. The determination concerning the sufficiency of the Offeror's good faith efforts is a judgment call; meeting quantitative formulas is not required.

**Identified Firms** – “Identified Firms” means a list of the MBEs identified by the procuring agency during the goal setting process and listed in the procurement as available to perform the Identified Items of Work. It also may include additional MBEs identified by the Offeror as available to perform the Identified Items of Work, such as MBEs certified or granted an expansion of services after the procurement was issued. If the procurement does not include a list of Identified Firms, this term refers to all of the MBE Firms (if State-funded) the Offeror identified as available to perform the Identified Items of Work and should include all appropriately certified firms that are reasonably identifiable.

**Identified Items of Work** – “Identified Items of Work” means the Proposal items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by MBE Firms. It also may include additional portions of items of work the Offeror identified for performance by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all of the items of work the Offeror identified as possible items of work for performance by MBE Firms and should include all reasonably identifiable work opportunities.

**MBE Firms** – “MBE Firms” refers to firms certified by the Maryland Department of Transportation (“MDOT”) under COMAR 21.11.03. Only MDOT-certified MBE Firms can participate in the State's MBE Program.

#### II. Types of Actions Agency will Consider

The Offeror is responsible for making relevant portions of the work available to MBE subcontractors and suppliers and select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. The following is a list of types of actions the procuring agency will consider as part of the Offeror's Good Faith Efforts when the Offeror fails to meet the MBE Goal(s). This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

##### A. Identify Proposal Items as Work for MBE Firms

###### 1. Identified Items of Work in Procurements

- (a) Certain procurements will include a list of Proposal items identified during the goal setting process as possible work for performance by MBE Firms. If the procurement provides a list of Identified Items of Work, the Offeror shall make all reasonable efforts to solicit quotes from MBE Firms to perform that work.
- (b) Offerors may, and are encouraged to, select additional items of work to be performed by MBE Firms to increase the likelihood that the MBE Goal(s) will be achieved.

###### 2. Identified Items of Work by Offerors

- (a) When the procurement does not include a list of Identified Items of Work or for additional Identified Items of Work, Offerors should reasonably identify sufficient items of work to be performed by MBE Firms.

- (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate MBE participation, rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts.

## **B. Identify MBE Firms to Solicit**

### 1. MBE Firms Identified in Procurements

- (a) Certain procurements will include a list of the MBE Firms identified during the goal setting process as available to perform the items of work. If the procurement provides a list of Identified MBE Firms, the Offeror shall make all reasonable efforts to solicit those MBE firms.
- (b) Offerors may, and are encouraged to, search the MBE Directory to identify additional MBEs who may be available to perform the items of work, such as MBEs certified or granted an expansion of services after the solicitation was issued.

### 2. MBE Firms Identified by Offerors

- (a) When the procurement does not include a list of Identified MBE Firms, Offerors should reasonably identify the MBE Firms that are available to perform the Identified Items of Work.
- (b) Any MBE Firms identified as available by the Offeror should be certified to perform the Identified Items of Work.

## **C. Solicit MBEs**

### 1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The Offeror should:

- (a) provide the written solicitation at least 10 days prior to Proposal opening to allow sufficient time for the MBE Firms to respond;
- (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; and
- (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the MBE, and other requirements of the contract to assist MBE Firms in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

### 2. “All” Identified Firms includes the MBEs listed in the procurement and any MBE Firms you identify as potentially available to perform the Identified Items of Work, but it does not include MBE Firms who are no longer certified to perform the work as of the date the Offeror provides written solicitations.

### 3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested MBE cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested MBE.

### 4. Follow up on initial written solicitations by contacting MBEs to determine if they are interested. The follow up contact may be made:

- (a) by telephone using the contact information in the MBE Directory, unless the Offeror has a valid basis for using different contact information; or
- (b) in writing *via* a method that differs from the method used for the initial written solicitation.

### 5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, use all other reasonable and available means to solicit the interest of MBE Firms certified to perform the work of the contract. Examples of other means include:

- (a) attending any pre-Proposal meetings at which MBE Firms could be informed of contracting and subcontracting opportunities; and
- (b) if recommended by the procurement, advertising with or effectively using the services of at least two minority focused entities or media, including trade associations, minority/women community organizations, minority/women contractors' groups, and local, state, and federal minority/women business assistance offices listed on the MDOT Office of Minority Business Enterprise website.

#### **D. Negotiate with Interested MBE Firms**

Offerors must negotiate in good faith with interested MBE Firms.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of MBE Firms that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and
  - (c) evidence as to why additional agreements could not be reached for MBE Firms to perform the work.
2. The Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration.
3. The fact that there may be some additional costs involved in finding and using MBE Firms is not in itself sufficient reason for the Offeror's failure to meet the contract MBE goal(s), as long as such costs are reasonable. Factors to take into consideration when determining whether an MBE Firm's quote is excessive or unreasonable include, without limitation, the following:
  - (a) dollar difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Offeror;
  - (b) percentage difference between the MBE subcontractor's quote and the average of the other subcontractors' quotes received by the Offeror;
  - (c) percentage that the MBE subcontractor's quote represents of the overall contract amount;
  - (d) number of MBE firms that the Offeror solicited for that portion of the work;
  - (e) whether the work described in the MBE and Non-MBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
  - (f) number of quotes received by the Offeror for that portion of the work.
4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
5. The Offeror may not use its price for self-performing work as a basis for rejecting an MBE Firm's quote as excessive or unreasonable.
6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an MBE and one quote from a Non-MBE.
7. The Offeror shall not reject an MBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified MBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement listing the reasons for this conclusion. The Offeror also must document the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
  - (a) The factors to take into consideration when assessing the capabilities of an MBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
  - (b) The MBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the project goal.

#### **E. Assisting Interested MBE Firms**

When appropriate under the circumstances, the decision-maker will consider whether the Offeror made reasonable efforts to assist interested MBE Firms in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

### III. Other Considerations

In making a determination of Good Faith Efforts the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified MBE Firms in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between certified MBE and Non-MBE costs of participation, and their impact on the overall cost of the contract to the State and any other relevant factors.

The decision-maker may take into account whether the Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Offerors in meeting the contract. For example, when the apparent successful Offeror fails to meet the contract goal, but others meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the goal. If the apparent successful Offeror fails to meet the goal, but meets or exceeds the average MBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

### IV. Documenting Good Faith Efforts

At a minimum, the Offeror seeking a waiver of the MBE Goal(s) or a portion thereof must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.03.11, within 10 Business Days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

#### A. Items of Work (Complete Good Faith Efforts Documentation Attachment D-1C, Part 1)

A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE Firms in order to increase the likelihood of achieving the stated MBE Goal(s).

#### B. Outreach/Solicitation/Negotiation

1. The record of the Offeror's compliance with the outreach efforts prescribed by COMAR 21.11.03.09C(2)(a). **(Complete Outreach Efforts Compliance Statement - D-2).**
2. A detailed statement of the efforts made to contact and negotiate with MBE Firms including:
  - (a) the names, addresses, and telephone numbers of the MBE Firms who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) **(Complete Good Faith Efforts Attachment D-1C- Part 2, and submit letters, fax cover sheets, e-mails, etc. documenting solicitations);** and
  - (b) a description of the information provided to MBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

#### C. Rejected MBE Firms (Complete Good Faith Efforts Attachment D-1C, Part 3)

1. For each MBE Firm that the Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Offeror's conclusion, including the steps taken to verify the capabilities of the MBE and Non-MBE Firms quoting similar work.
2. For each certified MBE Firm that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all MBE and Non-MBE firms proposing on the same or comparable work. **(Include copies of all quotes received.)**
3. A list of MBE Firms contacted but found to be unavailable. This list should be accompanied by an MBE Unavailability Certificate (see **D-1B - Exhibit A** to this Part 1) signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the MBE Unavailability Certificate.

#### D. Other Documentation

1. Submit any other documentation requested by the Procurement Officer to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.

**D-1B - Exhibit A**  
**MBE Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of Minority firm)

located at \_\_\_\_\_  
(Number) (Street)

\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_

in \_\_\_\_\_ County by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_ (Minority Firm), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\*\*\*\*\*

\_\_\_\_\_  
(Signature of Minority Firm's MBE Representative) (Title) (Date)

\_\_\_\_\_  
(MDOT Certification #) (Telephone #)

\*\*\*\*\*

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
(Signature of Prime Contractor) (Title) (Date)



**D-1C**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT</b>
Offeror Company Name, Street Address, Phone		<b>Solicitation #:</b>

Parts 1, 2, and 3 must be included with this certificate along with all documents supporting your waiver request.

I affirm that I have reviewed **Attachment D-1B**, Waiver Guidance. I further affirm under penalties of perjury that the contents of Parts 1, 2, and 3 of this **Attachment D-1C** Good Faith Efforts Documentation Form are true to the best of my knowledge, information, and belief.

Company:

\_\_\_\_\_  
Company Name (please print or type)

By:

\_\_\_\_\_  
Signature of Authorized Representative

Printed Name:

\_\_\_\_\_  
Printed Name

Title:

\_\_\_\_\_  
Title

Date:

\_\_\_\_\_  
Date

Address:

\_\_\_\_\_  
Company Address



**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**  
**PART 1 – IDENTIFIED ITEMS OF WORK OFFEROR MADE AVAILABLE TO MBE FIRMS**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT</b>
Offeror Company Name, Street Address, Phone		<b>Solicitation #:</b>

Identify those items of work that the Offeror made available to MBE Firms. This includes, where appropriate, those items the Offeror identified and determined to subdivide into economically feasible units to facilitate the MBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Offeror’s responsibility to demonstrate that sufficient work to meet the goal was made available to MBE Firms, and the total percentage of the items of work identified for MBE participation equals or exceeds the percentage MBE goal set for the procurement. Note: If the procurement includes a list of Proposal items identified during the goal setting process as possible items of work for performance by MBE Firms, the Offeror should make all of those items of work available to MBE Firms or explain why that item was not made available. If the Offeror selects additional items of work to make available to MBE Firms, those additional items should also be included below.

<b>Identified Items of Work</b>	<b>Was this work listed in the procurement?</b>	<b>Does Offeror normally self-perform this work?</b>	<b>Was this work made available to MBE Firms? If no, explain why not.</b>
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST**

**PART 2 – IDENTIFIED MBE FIRMS AND RECORD OF SOLICITATIONS**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT</b>
<i>Offeror Company Name, Street Address, Phone</i>		<b>Solicitation #:</b>

Identify the MBE Firms solicited to provide quotes for the Identified Items of Work made available for MBE participation. Include the name of the MBE Firm solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the MBE provided a quote, and whether the MBE is being used to meet the MBE participation goal. MBE Firms used to meet the participation goal must be included on the MBE Participation Schedule. Note: If the procurement includes a list of the MBE Firms identified during the goal setting process as potentially available to perform the items of work, the Offeror should solicit all of those MBE Firms or explain why a specific MBE was not solicited. If the Offeror identifies additional MBE Firms who may be available to perform Identified Items of Work, those additional MBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to MBE Firms must be attached to this form. This list should be accompanied by a Minority Contractor Unavailability Certificate signed by the MBE contractor or a statement from the Offeror that the MBE contractor refused to sign the Minority Contractor Unavailability Certificate (**Attachment D-1B - Exhibit A**). If the Offeror used a Non-MBE or is self-performing the identified items of work, Part 4 must be completed.

<b>Name of Identified MBE Firm &amp; MBE Classification</b>	<b>Describe Item of Work Solicited</b>	<b>Initial Solicitation Date &amp; Method</b>	<b>Follow-up Solicitation Date &amp; Method</b>	<b>Details for Follow-up Calls</b>	<b>Quote Rec'd</b>	<b>Quote Used</b>	<b>Reason Quote Rejected</b>
Firm Name: MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Time of Call: Spoke with: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing
Firm Name: MBE Classification (Check only if requesting waiver of MBE subgoal.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other MBE Classification		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail	Time of Call: Spoke with: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other MBE <input type="checkbox"/> Used Non-MBE <input type="checkbox"/> Self-performing

Please check if Additional Sheets are attached.

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST  
PART 3 – ADDITIONAL INFORMATION REGARDING REJECTED MBE QUOTES**

PAGE \_\_ OF \_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>PROJECT/CONTRACT NUMBER:</b>
<i>Offeror Company Name, Street Address, Phone</i>		<b>Solicitation #:</b>

This form must be completed if Part 1 indicates that an MBE quote was rejected because the Offeror is using a Non-MBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a Non-MBE, and if applicable, state the name of the Non-MBE. Also include the names of all MBE and Non-MBE Firms that provided a quote and the amount of each quote.

<b>Describe Identified Items of Work Not Being Performed by MBE (Include spec/ section number from Proposal)</b>	<b>Self-performing or Using Non-MBE (Provide name)</b>	<b>Amount of Non-MBE Quote</b>	<b>Name of Other Firms who Provided Quotes &amp; Whether MBE or Non-MBE</b>	<b>Amount Quoted</b>	<b>Indicate Reason Why MBE Quote Rejected &amp; Briefly Explain</b>
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using Non-MBE	\$ _____	_____ <input type="checkbox"/> MBE <input type="checkbox"/> Non-MBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

Please check if Additional Sheets are attached.

**D- 2**  
**OUTREACH EFFORTS COMPLIANCE STATEMENT**

Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

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

1. Offeror identified subcontracting opportunities in these specific work categories:

---

---

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

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

---

---

---

4. **Please Check One:**

- This project does not involve bonding requirements.
- Offeror assisted MDOT-certified MBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS):

---

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---

5. **Please Check One:**

- Offeror did attend the pre-Proposal conference.
- No pre -Proposal meeting/conference was held.
- Offeror did not attend the pre-Proposal conference.

PLEASE PRINT OR TYPE

Company:

---

Company Name (please print or type)

By:

---

Signature of Authorized Representative

Printed Name:

---

Printed Name

Title:

---

Title

Date:

---

Date

Address:

---

Company Address

**D-3A**  
**CERTIFIED MBE SUBCONTRACTOR PARTICIPATION CERTIFICATION**

**INSTRUCTIONS:**

**PRIME CONTRACTOR:** After completing SECTIONS A, B, and D, provide this form to *each* certified Minority Business Enterprise subcontractor (MBE) listed on the MBE Participation Schedule (Attachment D-1A) allowing sufficient time for the MBE to respond within the required timeframe.

**CERTIFIED MBE SUBCONTRACTOR:** Complete SECTION C to acknowledge and certify the information in SECTION A. Return the completed form directly to the Procurement Officer identified in SECTION D within 10 days after notice from the Prime Contractor of the State’s intent to award the Contract. Provide a copy to the Prime Contractor.

***IF THIS FORM IS NOT RETURNED WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE PRIME CONTRACTOR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD.***

**SECTION A**

Provided that (Prime Contractor) \_\_\_\_\_ is awarded the State contract in conjunction with Solicitation Number \_\_\_\_\_, (Prime Contractor) \_\_\_\_\_ intends to enter into a subcontract with (Certified MBE Subcontractor) \_\_\_\_\_ with MDOT Certification Number \_\_\_\_\_ committing to participation by (Certified MBE Subcontractor) \_\_\_\_\_ of at least \$ \_\_\_\_\_ which equals \_\_\_\_\_% of the Total Contract Value for the following products/services:

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

The Contractor and certified MBE each 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. The Contractor and certified MBE each solemnly affirms under the penalties of perjury that: (i) the information provided in this Certified MBE Subcontractor Participation Certification is true to the best of its knowledge, information and belief, and (ii) it has fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a Contractor may not identify a certified MBE in a Bid/Proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the MBE to identify the MBE in its Bid/Proposal;
- (2) fail to notify the MBE before execution of the Contract of its inclusion of the Bid/Proposal;
- (3) fail to use the MBE in the performance of the Contract; or
- (4) pay the MBE solely for the use of its name in the Bid/Proposal.

**SECTION B – Prime Contractor**

Signature of Representative:

\_\_\_\_\_

Printed Name and Title:

\_\_\_\_\_

Prime Firm's Name: \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_

Street Address, City, State, Zip Code:

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

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

**SECTION C – Certified MBE Subcontractor**

Signature of Representative:

\_\_\_\_\_

Printed Name and Title:

\_\_\_\_\_

MBE Firm's Name: \_\_\_\_\_

Federal Identification Number: \_\_\_\_\_

Street Address, City, State, Zip Code:

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

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

**SECTION D**

*This completed form is due to the Procurement Officer on or before:* \_\_\_\_\_

Solicitation #: \_\_\_\_\_ Solicitation Title: \_\_\_\_\_

Agency/Dept.: \_\_\_\_\_ Procurement Officer: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Street Address, City, State, Zip Code:

\_\_\_\_\_

\_\_\_\_\_

**D-3B**  
**MBE PRIME PROJECT PARTICIPATION CERTIFICATION**

**Please complete and submit this form to attest to each specific item of work that your MBE firm has listed on the MBE Participation Schedule (Attachment D-1A) for purposes of meeting the MBE participation goals. This form must be submitted within 10 Business Days of notification of apparent award. If the Offeror fails to return this affidavit within the required time, the Procurement Officer may determine that Proposal is not susceptible of being selected for Contract award.**

Provided that \_\_\_\_\_ (Prime Contractor’s Name) with Certification Number \_\_\_\_\_ is awarded the State contract in conjunction with Solicitation No. \_\_\_\_\_, such MBE Prime Contractor intends to perform with its own forces at least \$ \_\_\_\_\_ which equals to \_\_\_ % of the Total Contract Amount for performing the following goods and services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE) For Construction Projects, General Conditions must be listed separately	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES	VALUE OF THE WORK

**MBE Prime Contractor**

Company: \_\_\_\_\_

*Company Name (please print or type)*

FEIN: \_\_\_\_\_

*Federal Identification Number*

Company Address: \_\_\_\_\_

Phone: \_\_\_\_\_

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

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

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

*Signature of Authorized Representative*

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



**D-4A**  
**Minority Business Enterprise Participation**  
**Prime Contractor Paid/Unpaid Invoice Report**

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
<b>Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided.</b> <b>Note: Please number reports in sequence</b>	Contract Amount:
	MBE Subcontract Amt:
	Project Begin Date:
	Project End Date:
	Services Provided:

Prime Contractor:		Contact Person:	
Address:			
City:		State:	ZIP:
Phone:	FAX:	E-mail:	
MBE Subcontractor Name:		Contact Person:	
Phone:	FAX:	E-mail:	
Subcontractor Services Provided:			
<b>List all payments made to MBE subcontractor named above during this reporting period:</b>		<b>List dates and amounts of any outstanding invoices:</b>	
	<b>Invoice #</b>	<b>Amount</b>	
	<b>Invoice #</b>	<b>Amount</b>	
1.			1.
2.			2.
3.			3.
4.			4.
<b>Total Dollars Paid: \$</b>		<b>Total Dollars Unpaid: \$</b>	

- If more than one MBE subcontractor is used for this contract, you must use separate **Attachment D-4A** forms. Information regarding payments that the MBE prime will use for purposes of meeting the MBE participation goals must be reported separately in **Attachment D-4B**.
- **Return one copy (hard or electronic) of this form to the following addresses (electronic copy with signature and date is preferred):**

---

Contract Monitor Name

---

Address

---

Email

---

Signature (Required)

---



---

Contracting Unit

---

City, State Zip

---

Phone Number

---

Date

---

**D-4B**  
**Minority Business Enterprise Participation**  
**MBE Prime Contractor Report**

MBE Prime Contractor:	Contract #:
Certification Number:	Contracting Unit:
Report #:	Contract Amount:
Reporting Period (Month/Year):	Total Value of the Work to the Self-Performed for purposes of Meeting the MBE participation goal/subgoals:
<b>MBE Prime Contractor: Report is due to the MBE Liaison by the 10th of the month following the month the services were provided.</b> <b>Note: Please number reports in sequence</b>	Project Begin Date:
	Project End Date:

Contact Person:			
Address:			
City:		State:	
Phone:		FAX:	E-mail:

Invoice Number	Value of the Work	NAICS Code	Description of Specific Products and/or Services

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

Contract Monitor Name	Contracting Unit
Address	City, State Zip
Email	Phone Number
Signature (Required)	Date

**D-5**  
**Minority Business Enterprise Participation**  
**MBE Subcontractor Paid/Unpaid Invoice Report**

Report #:	Contract #:
Reporting Period (Month/Year):	Contracting Unit:
<b>Report is due by the 10th of the month following the month the services were performed.</b>	MBE Subcontract Amt:
	Project Begin Date:
	Project End Date:
	Services Provided:

MBE Subcontractor Name:					
MDOT Certification #:					
Contact Person:					
Address:					
City:			State:		ZIP:
Phone:		FAX:		E-mail:	
<b>Subcontractor Services Provided:</b>					
<b>List all payments received from Prime Contractor during reporting period indicated above.</b>			<b>List dates and amounts of any unpaid invoices over 30 days old.</b>		
	<b>Invoice Amount</b>	<b>Date</b>		<b>Invoice Amount</b>	<b>Date</b>
1.			1.		
2.			2.		
3.			3.		
4.			4.		
<b>Total Dollars Paid: \$</b>			<b>Total Dollars Unpaid: \$</b>		
Prime Contractor:			Contract Person:		

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

_____	_____
Contract Monitor Name	Contracting Unit
_____	_____
Address	City, State Zip
_____	_____
Email	Phone Number
_____	_____
Signature (Required)	Date

## Attachment E. Veteran-Owned Small Business Enterprise (VSBE) Forms

### E-1 VSBE UTILIZATION AFFIDAVIT AND PRIME/SUBCONTRACTOR PARTICIPATION SCHEDULE

#### (Submit with Bid/Proposal)

This document **MUST BE** included with the Bid/Proposal. If the Bidder/Offeror fails to complete and submit this form with the Bid/Proposal, the procurement officer may determine that the Bid/Proposal is not responsive/not reasonably susceptible of being selected for award.

In conjunction with the Bid/Proposal submitted in response to Solicitation No. \_\_\_\_\_, I affirm the following:

#### 1. VSBE Participation (PLEASE CHECK ONLY ONE)

I acknowledge and intend to meet IN FULL the overall verified VSBE participation goal of \_\_\_%. Therefore, I will not be seeking a waiver.

#### **OR**

After making good faith outreach efforts prior to making this submission, I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 Business Days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.14.09. If this request is for a partial waiver, I acknowledge that I must complete Attachment E-1A (VSBE Subcontractor Participation Schedule) and Attachment E-1B (Signature Page) for the portion of the VSBE goal that I intend to meet. I acknowledge that by checking this box and requesting a full waiver of the stated goal, I must complete Attachment E-1B (Signature Page) in order to be considered for award.

#### **Additional VSBE Documentation**

I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 days of receiving notice of the apparent award or from the date of conditional award (in accordance with COMAR 21.11.14.08), whichever is earlier.

- (a) VSBE Waiver Request Affirmation and Good Faith Efforts Documentation to Support Waiver Request (Attachment E-1E)
- (b) VSBE Outreach Efforts Compliance Statement (Attachment E-2); and
- (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain Bidder/Offeror responsibility in connection with the VSBE participation goal.

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

#### **Information Provided to VSBE firms**

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

**E-1A  
VSBE SUBCONTRACTOR PARTICIPATION SCHEDULE**

Set forth below are the (i) verified VSBEs I intend to use, (ii) the percentage of the total contract amount allocated to each VSBE Firm for this project; and (iii) a description of the work each VSBE will provide under the contract.

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>Project/Contract Number:</b>
--------------------------	-----------------------------	---------------------------------

List information for each certified VSBE Prime Contractor or Subcontractor on this project.

<b>Name of VSBE Prime Contractor:</b>  Percentage of Total Contract:	<b>VSBE Certification #:</b> Description of work to be performed:
<b>Name of VSBE Subcontractor:</b>  Percentage of Total Contract:	<b>VSBE Certification #:</b> Description of work to be performed:
<b>Name of VSBE Subcontractor:</b>  Percentage of Total Contract:	<b>VSBE Certification #:</b> Description of work to be performed:
<b>Name of VSBE Subcontractor:</b>  Percentage of Total Contract:	<b>VSBE Certification #:</b> Description of work to be performed:

**Please check if additional sheets are attached.**

**SUMMARY**

**Total VSBE Participation:** \_\_\_\_\_%

**E-1B  
SIGNATURE PAGE**

To complete Affidavit committing to VSBE(s) or requesting waiver,  
Bidder/Offeror must sign below:

I solemnly affirm under the penalties of perjury that: (i) I have reviewed the instructions for the VSBE Utilization Affidavit and VSBE Subcontractor Participation Schedule; and (ii) the information contained in the VSBE Utilization Affidavit and VSBE Subcontractor Participation Schedule are true to the best of my knowledge, information, and belief.

**PLEASE PRINT OR TYPE**

Company Name:

Company Address:

Name of Authorized Representative:

Title:

Signature of Authorized Representative:

Date:

**E-1C**  
**WAIVER GUIDANCE**  
*Guidance for Documenting Good Faith Efforts to Meet VSBE  
Participation Goal*

In order to show that it has made good faith efforts to meet the established VSBE participation goal on a contract, the Bidder/Offeror must either (1) meet the VSBE Goal and document its commitments for participation of VSBE Firms, or (2) when it does not meet the VSBE Goal, document its Good Faith Efforts to meet the goal.

## **I. Definitions**

**Electronic Means** – “Electronic Means” includes, for example, information provided via a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested VSBE cannot access the information provided by electronic means, the Bidder/Offeror must make the information available in a manner that is accessible to the interested VSBE Firm.

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Bidder/Offeror must demonstrate that it took all necessary and reasonable steps to achieve the VSBE Goal, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient VSBE participation, even if those steps were not fully successful. Whether the Bidder/Offeror that requests a waiver made adequate good faith efforts will be determined by considering the quality, quantity, and intensity of the different kinds of efforts that the Bidder/Offeror has made. The efforts employed by the Bidder/Offeror should be those that one could reasonably expect the Bidder/Offeror to take if the Bidder/Offeror were actively and aggressively trying to obtain VSBE participation sufficient to meet the VSBE contract goal and subgoals. Mere pro forma efforts are not good faith efforts to meet the VSBE contract requirements. The determination concerning the sufficiency of the Bidder/Offeror's good faith efforts is a judgment call; meeting quantitative formulas is not required.

**Identified Firms** – “Identified Firms” means a list of the VSBEs identified by the procuring agency during the goal setting process as available to perform the Identified Items of Work. It also may include additional VSBEs identified by the Bidder/Offeror as available to perform the Identified Items of Work.

**Identified Items of Work** – “Identified Items of Work” means the items identified by the procuring agency during the goal setting process and listed in the procurement as possible items of work for performance by VSBE Firms. It may also include additional portions of items of work the Bidder/Offer identified by performance by VSBE Firms to increase the likelihood that the VSBE Goal will be achieved. If the procurement does not include a list of Identified Items of Work, this term refers to all the items of work the Bidder/Offeror has identified as possible items of work for performance by VSBE Firms and should include all reasonably identifiable work opportunities.

**VSBE Certification Number** – The “VSBE Certification Number” is found in the eMaryland Marketplace Advantage (eMMA) vendor portal and must include an approved “VSBE Application Status” and a valid “VSBE Expiration Date.”

**VSBE Firm** – “VSBE Firm” refers to veteran-owned firms that are verified through the process under 21.11.14.02 and certified to participate in Maryland’s VSBE Program. Only the work of certified VSBEs can be counted toward an established VSBE contract goal.

**VSBE Goal** – “VSBE Goal” refers to the established VSBE contract participation goal.

## **II. Types of Actions Agency Will Consider**

The Bidder/Offeror is responsible for making relevant portions of the work available to VSBE subcontractors and suppliers and selecting those portions of the work or material needs consistent with the available VSBE subcontractors and suppliers to facilitate VSBE participation. The following is a list of types of actions the procuring agency will consider as part of the Bidder/Offeror's Good Faith Efforts when the Bidder/Offeror fails to meet the VSBE Goal. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases

### **A. Identify Bid/Proposal Items as Work for VSBE Firms**

#### 1. Identified Items of Work in Procurements

- (a) Certain procurements will include a list of Bid/Proposal items identified during the goal setting process as possible work for performance by VSBE Firms. If the procurement provides a list of identified Items of Work, the Bidder/Offeror shall make all reasonable efforts to solicit quotes from VSBE Firms to perform that work.
- (b) Bidders/Offerors may, and are encouraged to, select additional items of work to be performed by VSBE Firms to increase the likelihood that the VSBE Goal will be achieved.

#### 2. Identified Items of Work by Bidders/Offerors

- (a) Bidders/Offerors should reasonably identify sufficient items of work to be performed by VSBE Firms.
- (b) Where appropriate, Bidders/Offerors should break out contract work items into economically feasible units to facilitate VSBE participation rather than perform these work items with their own forces. The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Bidder/Offeror of the responsibility to make Good Faith Efforts.

### **B. Identify VSBE Firms to Solicit**

#### 1. VSBE Firms Identified by Bidders/Offerors

- (a) When the procurement does not include a list of Identified VSBE Firms, Bidder/Offerors should reasonably identify the VSBE Firms that are available to perform the Identified Items of Work.

### **C. Solicit VSBEs**

#### 1. Solicit all Identified Firms for all Identified Items of Work by providing written notice. The Bidder/Offer should:

- (a) Provide the written solicitation at least 10 days prior to Bid/Proposal opening to allow sufficient time for the VSBE Firms to respond.
- (b) Send the written solicitation by first-class mail or e-mail, unless the Bidder/Offeror has a valid basis for using different contact information; and
- (c) Provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the VSBE Firm, and other requirements of the contract to assist VSBE Firms in responding. This information may be provided by including hard copies in the written solicitation or by Electronic Means.

#### 2. Follow up on initial written solicitations by contacting VSBEs to determine if they are interested. The follow up contact may be made:

- (a) By telephone using the contact information in the state's vendor database, eMaryland Marketplace Advantage (eMMA), unless the Bidder/Offeror has a valid basis for using different contact information; or



- (b) In writing via a method that differs from the method used for the initial written solicitation.
3. In addition to the written solicitation set forth in C.1 and the follow up required in C.2, use all other reasonable and available means to solicit the interest of VSBE Firms certified to perform the work of the contract.

#### **D. Negotiate with Interested VSBE Firms**

Bidder/Offerors must negotiate in good faith with interested VSBE Firms.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, complete mailing addresses, and telephone numbers of VSBE Firms that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and
  - (c) evidence as to why additional agreements could not be reached for VSBE Firms to perform the work.
2. The Bidder/Offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including VSBE subcontractors, and would take a firm's price and capabilities as well as established VSBE contract goals into consideration.
3. The fact that there may be some additional costs involved in finding and using VSBE Firms is not in itself sufficient reason for the Bidder's/Offeror's failure to meet the contract VSBE goal, as long as such costs are reasonable. Factors to take into consideration when determining whether a VSBE Firm's quote is excessive or unreasonable include, without limitation, the following:
  - (a) Dollar difference between the VSBE subcontractor's quote and the average of the other subcontractors' quotes received by the Bidder/Offeror;
  - (b) Percentage difference between the VSBE subcontractor's quote and the average of the other subcontractors' quotes received by the Bidder/Offeror;
  - (c) Percentage that the VSBE subcontractor's quote represents of the overall contract amount;
  - (d) Number of VSBE firms that the Bidder/Offeror solicited for that portion of the work;
  - (e) Whether the work described in the VSBE and non-VSBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
  - (f) Number of quotes received by the Bidder/Offeror for that portion of the work.
4. The above factors are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
5. The Bidder/Offeror may not use its price for self-performing work as a basis for rejecting a VSBE Firm's quote as excessive or unreasonable.
6. The Bidder/Offeror should attempt to receive quotes from at least three subcontractors, including a minimum of one quote from a VSBE Firm. If needed to determine price reasonableness, the average of all subcontractors' quotes received may be used.
7. The Bidder/Offeror shall not reject a VSBE Firm as unqualified without sound reasons based on a thorough investigation of the firm's capabilities. For each certified VSBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Bidder/Offeror concludes is not acceptable, the Bidder/Offeror must provide a written detailed statement listing the reasons for this conclusion. The Bidder/Offeror also must document the steps taken to verify the capabilities of the VSBE and non-VSBE Firms quoting similar work.
  - (a) The factors to take into consideration when assessing the capabilities of a VSBE Firm, include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct

and performance in previous contracts, and ability to meet reasonable contract requirements.

- (b) The VSBE Firm's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Bids/Proposals in the efforts to meet the established VSBE Goal.

#### **E. Assisting Interested VSBE Firms**

When appropriate under the circumstances, the decision-maker will consider whether the Bidder/Offeror made reasonable efforts to assist interested VSBE Firms in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Bidder/Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

#### **III. Other Considerations**

In making a determination of Good Faith Efforts, the decision-maker may consider engineering estimates, catalogue prices, general market availability and availability of certified VSBE Firms in the area in which the work is to be performed, other Bids/Proposals or offers and subcontract Bids/Proposals, or offers substantiating significant variances between certified VSBE and non-VSBE costs of participation and their impact on the overall cost of the contract to the State, and any other relevant factors.

The decision-maker may take into account whether the Bidder/Offeror decided to self-perform subcontract work with its own forces, especially where the self-performed work is Identified Items of Work in the procurement. The decision-maker also may take into account the performance of other Bidders/Offerors in meeting the VSBE contract goal. For example, when the apparent successful Bidder/Offeror fails to meet the established VSBE contract goal, but other Offers meet it, this reasonably raises the question of whether, with additional reasonable efforts, the apparent successful Bidder/Offeror could have met the goal. If the apparent successful Bidder/Offeror fails to meet the goal but meets or exceeds the average VSBE participation obtained by other Bidders/Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Bidder/Offeror having made Good Faith Efforts.

#### **IV. Documenting Good Faith Efforts**

At a minimum, the Bidder/Offeror seeking a waiver of the established VSBE Goal, or a portion thereof, must provide written documentation of its Good Faith Efforts, in accordance with COMAR 21.11.14.09, within 10 business days after receiving notice that it is the apparent awardee. The written documentation shall include the following:

##### **A. Items of Work (Complete VSBE Waiver Request Affirmation and Good Faith Efforts Documentation to Support Waiver Request Attachment E-1E, Part 1)**

1. A detailed statement of the efforts made to select portions of the work proposed to be performed by certified VSBE Firms in order to increase the likelihood of achieving the stated VSBE Goal(s).

##### **B. Outreach/Solicitation/Negotiation**

1. The record of the Bidder's/Offeror's compliance with the outreach efforts prescribed by COMAR 21.11.14.07C(1). (Complete Outreach Efforts Compliance Statement E-2).
2. A detailed statement of the efforts made to contact and negotiate with VSBE Firms including:
  - (a) the names, addresses, and telephone numbers of the VSBE Firms who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) (Complete VSBE Waiver Request Affirmation and Good Faith Efforts Documentation to Support Waiver Request Attachment E-1E and submit letters, fax cover sheets, e-mails, etc. documenting solicitations); and

(b) a description of the information provided to VSBE Firms regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed and the means used to provide that information.

**C. Rejected VSBE Firms (Complete Good Faith Efforts Documentation)**

1. For each VSBE Firm that the Bidder/Offeror concludes is not acceptable or qualified, a detailed statement of the reasons for the Bidder's/Offeror's conclusion, including the steps taken to verify the capabilities of the VSBE and Non-VSBE Firms quoting similar work.
2. For each certified VSBE Firm that the Bidder/Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Bidder's/Offeror's conclusion, including the quotes received from all VSBE and non-VSBE firms proposing on the same or comparable work. (Include copies of all quotes received.)
3. A list of VSBE Firms contacted but found to be unavailable. This list should be accompanied by a VSBE Unavailability Certificate (E-1D) signed by the VSBE contractor or a statement from the Bidder/Offeror that the VSBE contractor refused to sign the VSBE Unavailability Certificate.

**D. Other Documentation**

1. Submit any other documentation requested by the Procurement Officer to ascertain the Bidder's/Offeror's Good Faith Efforts.
2. Submit any other documentation the Bidder/Offeror believes will help the Procurement Officer ascertain its Good Faith Efforts.



**E-1E**  
**VSBE WAIVER REQUEST AFFIRMATION AND GOOD FAITH EFFORTS**  
**DOCUMENTATION TO SUPPORT WAIVER REQUEST**

PAGE \_\_\_\_\_ OF \_\_\_\_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>Project/Contract</b>
Bidder/Offeror Company Name, Address, Phone, and Email		Solicitation #:

Parts 1, 2, and 3 must be included with this affirmation along with all documents supporting the waiver request.

I affirm that I have reviewed Waiver Guidance (E-1C).

I further affirm, under penalties of perjury, that the contents of Good Faith Efforts Documentation to Support Waiver Request (E-1E, Part 1, 2 & 3) are true to the best of my knowledge, information, and belief.

**PLEASE PRINT OR TYPE**

Company Name:

Company Address:

Name of Authorized Representative:

Title:

Signature of Authorized Representative:

Date:

**Good Faith Efforts Documentation to Support Waiver Request**  
 Part 1 – Identified Items of Work Bidder/Offeror Made Available to VSBE Firms

PAGE \_\_\_\_\_ OF \_\_\_\_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>Project/Contract</b>
Bidder/Offeror Company Name, Address, Phone, and Email		Solicitation #:

Identify those items of work that the Bidder/Offeror made available to VSBE Firms. This includes, where appropriate, those items the Bidder/Offeror identified and determined to subdivide into economically feasible units to facilitate the VSBE participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Bidder/Offeror’s responsibility to demonstrate that sufficient work to meet the goal was made available to VSBE Firms, and the total percentage of the items of work identified for VSBE participation equals or exceeds the percentage VSBE goal set for the procurement. Note: If the procurement includes a list of Bid/Proposal items identified during the goal setting process as possible items of work for performance by VSBE Firms, the Bidder/Offeror should make all those items of work available to VSBE Firms or explain why that item was not made available. If the Bidder/Offeror selects additional items of work to make available to VSBE Firms, those additional items should also be included below.

<b>Identified Items of Work</b>	<b>Was this work listed in the procurement?</b>	<b>Does Bidder/Offer or normally self-perform this work?</b>	<b>Was this work made available to VSBE Firms? If no, explain why not.</b>
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Please check if additional sheets are attached.

**Good Faith Efforts Documentation to Support Waiver Request**  
**Part 2 – Identified VSBE Firms and Record of Solicitations**

PAGE \_\_\_\_\_ OF \_\_\_\_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>Project/Contract</b>
Bidder/Offeror Company Name, Address, Phone, and Email		Solicitation #:

Identify the VSBE Firms solicited to provide quotes for the Identified Items of Work made available for VSBE participation. Include the name of the VSBE Firm solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the VSBE provided a quote, and whether the VSBE is being used to meet the VSBE participation goal. VSBE Firms used to meet the participation goal must be included on the VSBE Participation Schedule. Note: If the procurement includes a list of the VSBE Firms identified during the goal setting process as potentially available to perform the items of work, the Bidder/Offeror should solicit all of those VSBE Firms or explain why a specific VSBE was not solicited. If the Bidder/Offeror identifies additional VSBE Firms who may be available to perform Identified Items of Work, those additional VSBE Firms should also be included below. Copies of all written solicitations and documentation of follow-up calls to VSBE Firms must be attached to this form. This list should be accompanied by a VSBE Subcontractor Unavailability Certificate (E-1D).

<b>Name of VSBE Firm &amp; VSBE Certification #</b>	<b>Describe Item of Work Solicited</b>	<b>Initial Solicitation Date &amp; Method</b>	<b>Follow-up Solicitation Date &amp; Method</b>	<b>Details for Follow-up Calls</b>	<b>Quote Rec'd</b>	<b>Quote Used</b>	<b>Reason Quote Rejected</b>
Firm Name:  VSBE Cert. #		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Time of Call:  Spoke with: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other VSBE <input type="checkbox"/> Used non-VSBE <input type="checkbox"/> Self-performing
Firm Name:  VSBE Cert. #		Date: <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Date: <input type="checkbox"/> Phone <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Email	Time of Call:  Spoke with: <input type="checkbox"/> Left Message	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Used Other VSBE <input type="checkbox"/> Used non-VSBE <input type="checkbox"/> Self-performing

Please check if additional sheets are attached.

**Good Faith Efforts Documentation to Support Waiver Request**  
**Part 3 – Additional Information Regarding Rejected VSBE Quotes**

PAGE \_\_\_\_\_ OF \_\_\_\_\_

<b>Prime Contractor:</b>	<b>Project Description:</b>	<b>Project/ContractNumber:</b>
Bidder/Offeror Company Name, Address, Phone, and Email		Solicitation #

This form must be completed if Part 1 indicates that a VSBE quote was rejected because the Bidder/Offeror is using a non-VSBE or is self-performing the Identified Items of Work. Provide the Identified Items Work, indicate whether the work will be self-performed or performed by a non-VSBE, and if applicable, state the name of the non-VSBE. Also include the names of all VSBE and non-VSBE Firms that provided a quote and the amount of each quote.

<b>Describe Identified Items of Work Not Being Performed by VSBE</b> <i>(IMPORTANT: Include spec/section number from Bid/Proposal)</i>	<b>Self-performing or using non-VSBE</b>	<b>Amount of non-VSBE Quote</b>	<b>Name of Other Firms who Provided Quotes &amp; Whether VSBE or non-VSBE</b>	<b>Amount Quoted</b>	<b>Indicate Reason Why VSBE Quote Rejected &amp; Briefly Explain</b>
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using non-VSBE Name of firm:	\$ _____	Name of firm: <hr/> <input type="checkbox"/> VSBE <input type="checkbox"/> non-VSBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using non-VSBE Name of firm:	\$ _____	Name of firm: <hr/> <input type="checkbox"/> VSBE <input type="checkbox"/> non-VSBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using non-VSBE Name of firm:	\$ _____	Name of firm: <hr/> <input type="checkbox"/> VSBE <input type="checkbox"/> non-VSBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other
	<input type="checkbox"/> Self-performing <input type="checkbox"/> Using non-VSBE Name of firm:	\$ _____	Name of firm: <hr/> <input type="checkbox"/> VSBE <input type="checkbox"/> non-VSBE	\$ _____	<input type="checkbox"/> Price <input type="checkbox"/> Capabilities <input type="checkbox"/> Other

Please check if additional sheets are attached.



**E-2**  
**VSBE OUTREACH EFFORTS COMPLIANCE STATEMENT**

Complete and submit this form within 10 Business Days of notification of apparent award or actual award, whichever is earlier.

In conjunction with the Bid/Proposal submitted in response to Solicitation No. \_\_\_\_\_, I state the following:

1. Bidder/Offeror identified subcontracting opportunities in these specific work categories.
2. Attached to this form are copies of written solicitations (with Bid/Proposal instructions) used to solicit certified VSBE firms for these subcontract opportunities.
3. **Please Check One:**
  - This project does not involve bonding requirements.
  - Bidder/Offeror assisted certified VSBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS):

---

**PLEASE PRINT OR TYPE**

Company Name:

Mailing Address:

Name of Authorize Representative:

Title:

Signature of Authorized Representative

Date:

**E-3**  
**VSBE SUBCONTRACTOR PARTICIPATION STATEMENT**

*Complete and submit one form for each verified VSBE listed on VSBE Utilization Affidavit and Prime/Subcontractor Participation Schedule (E-1) within 10 business days of notification of apparent award.*

\_\_\_\_\_ (Prime Contractor) has entered into a contract  
 \_\_\_\_\_ (Subcontractor) to provide services in connection with  
 the Solicitation described below.

Prime Contractor (Firm Name, Mailing Address, Phone):	Project Description:
Solicitation Number:	Total Contract Amount: \$
Name of VSBE Firm:	VSBE Certification #:
Address:	FEIN:
Work to be Performed:	
Percentage of Total Contract Amount to be Performed by this VSBE:	Total VSBE Subcontract Amount: \$

The undersigned Prime Contractor and VSBE Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise Program law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

**Prime Contractor**

**Subcontractor**

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Printed Title*

\_\_\_\_\_  
*Printed Title*

\_\_\_\_\_  
*Signature of Authorized Representative*

\_\_\_\_\_  
*Signature of Authorized Representative*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

**Please check if additional sheets are attached.**

**E-4**  
**VSBE PARTICIPATION**  
***VSBE Prime Contractor Paid/Unpaid Invoice Report***

Report #:	Solicitation #:
Reporting Period (Month/Year):	Contracting Unit:
<b>Note to Report Preparer:</b> <i>Report is due by the 10th of the month following the month the services were provided. Please number reports in sequence.</i>	Contract Amount:
	VSBE Subcontract Amount:
	Project Start Date:
	Project End Date:
Services Provided:	

Prime Contractor:	Contact Person:				
Address:					
City:	State:	ZIP:			
Phone:	E-mail:				
VSBE Subcontractor:	Contact Person:				
Phone:	E-mail:				
Subcontractor Services Provided:					
List all payments made to VSBE subcontractor named above during this reporting period:		List dates and amounts of any outstanding invoices:			
	Invoice #	Amount		Invoice #	Amount
1.			1.		
2.			2.		
3.			3.		
4.			4.		
<b>Total Dollars Paid: \$</b>			<b>Total Dollars Unpaid: \$</b>		

- If more than one VSBE Subcontractor is used for this contract, you must submit separate forms for each VSBE Subcontractor.
- **Return an electronic signed copy of this/each form to the following e-mail addresses:**

\_\_\_\_\_  
Contract Monitor/Contracting Unit

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Contractor Signature (Required)

\_\_\_\_\_  
VSBE Liaison

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date

**E-5**  
**VSBE PARTICIPATION**  
***VSBE Subcontractor Paid/Unpaid Invoice Report***

Report #:	Solicitation #:
Reporting Period (Month/Year):	Contracting Unit:
<b>Note to Report Preparer:</b>  <i>Report is due by the 10th of the month following the month the services were performed. Please number reports in sequence.</i>	VSBE Subcontract Amt:
	Project Start Date:
	Project End Date:
	Services Provided:

VSBE Subcontractor Name:					
VSBE Certification #:					
Contact Person:					
Address:					
City:		State:		ZIP:	
Phone:			E-mail:		
Subcontractor Services Provided:					
List all payments received from Prime Contractor during reporting period indicated above.			List dates and amounts of any unpaid invoices over 30 days old.		
	Invoice Amount	Date		Invoice Amount	Date
1.			1.		
2.			2.		
3.			3.		
4.			4.		
<b>Total Dollars Paid: \$</b>			<b>Total Dollars Unpaid: \$</b>		
Prime Contractor:			Contract Person:		

- **Return an electronic signed copy of this/each form to the following e-mail addresses:**

\_\_\_\_\_  
Contract Monitor/Contracting Unit

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
Phone Number

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

\_\_\_\_\_  
VSBE Liaison

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Date