

# **BALTIMORE COUNTY PUBLIC SCHOOLS**

Creating a Culture of Deliberate Excellence  
6901 Charles Street, Building E  
Towson, MD 21204

Division of Business Services

Department of Fiscal Services

Office of Purchasing

An Affirmative Action Employer

## **FORM OF PROPOSAL**

# **MBU-516-17**

### **NEW SCHOOL CONSTRUCTION LANSDOWNE ELEMENTARY SCHOOL**

### **DEMOLITION OF LANSDOWNE ELEMENTARY SCHOOL**

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(CONTRACTING COMPANY'S FULL NAME)

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(DATE)

# **PRICE PROPOSAL**

# BALTIMORE COUNTY PUBLIC SCHOOLS

Creating a Culture of Deliberate Excellence  
6901 Charles Street, Building E  
Towson, MD 21204

Division of Business Services

Department of Fiscal Services

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## SECTION 00400 - FORM OF PROPOSAL

### 1 PRICE PROPOSAL / BIDDER AGREEMENT

DATE: \_\_\_\_\_

PROJECT TITLE: **NEW SCHOOL CONSTRUCTION-LANSDOWNE  
ELEMENTARY SCHOOL  
&  
DEMOLITION OF LANSDOWNE  
ELEMENTARY SCHOOL**

BCPS BID NUMBER: **MBU-516-17**

BID SUBMITTED BY: \_\_\_\_\_

REGISTERED MARYLAND CONTRACTOR NO: \_\_\_\_\_

SUBMITTED TO: Baltimore County Public Schools  
Office of Purchasing  
6901 N Charles Street, Building "E", 1<sup>ST</sup> Floor  
Towson, Maryland 21204

The undersigned BIDDER proposes and agrees, if this Bid is accepted, to enter into an Agreement with the OWNER in the form included in the Contract Documents to complete all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the Contract Documents.

BIDDER has examined the site and locality where the WORK is to be performed, the legal requirements (federal, state and local laws, ordinances, rules and regulations) and the conditions affecting cost, progress, or performance of the WORK and has made such independent investigations, as BIDDER deems necessary.

BIDDER hereby agrees to furnish all labor, materials, equipment, and services required to complete the project in strict accordance with the Contract Documents for the following price:

\_\_\_\_\_  
(Signature of Bidder)

\_\_\_\_\_  
(Date)

## 2 COST

### 2.1 COST

The TOTAL BASE BID for Contract Documents, consisting of the cost of hazardous material abatement, demolition, and new construction, including the related architectural, structural, mechanical, electrical, and other requirements incidental to the project, should be listed below.

All bidders shall **INCLUDE** an allowance in their BASE BID 1 PRICE of **\$12,000.00 for Cafeteria Signage**.

#### 2.1.1 TOTAL BASE BID

Lump Sum Item for all work specified on plans and/or specifications consisting of the cost of demolition, and new construction, including the related architectural, structural, electrical, and other requirements incidental to the project, should be listed below.

**PART A LUMP SUM ITEM: \$** \_\_\_\_\_ **(IN DOLLARS)**

**PART A LUMP SUM ITEM:** \_\_\_\_\_ **(IN WRITING)**

Part B consisting of the total cost of the Unit Price Items (see page 6 of 20)

**PART B UNIT PRICE ITEMS: \$** \_\_\_\_\_ **(IN DOLLARS)**

**PART B UNIT PRICE ITEMS:** \_\_\_\_\_ **(IN WRITING)**

**Total for Base Bid: Sum of PART A and PART B**

**BASE BID: \$** \_\_\_\_\_ **(IN DOLLARS)**

**BASE BID:** \_\_\_\_\_ **(IN WRITING)**

If a BASE BID amount contains contradictory terms, handwritten terms prevail over typewritten terms, and words prevail over numbers. The dollar amount expressed in words shall govern.

\_\_\_\_\_  
(Signature of Bidder)

\_\_\_\_\_  
(Date)

## 2.2 Alternates

To be considered for award, bidders shall include a response for ALL ALTERNATES listed below. Failure to provide a response for all Alternates listed in this solicitation shall result in the bidder's entire proposal being deemed non-responsive and ineligible for award. The dollar amount shall be expressed in numbers and words. If an Alternate amount contains contradictory terms, handwritten terms prevail over typewritten terms, and words prevail over numbers. The dollar amount expressed in words shall govern.

The cost of each ALTERNATE shall be valid for the period specified in Part II: Specifications--General Requirements, Section 1.0 General Scope & Services. Any ALTERNATE may be ADDED or DEDUCTED to/from the BASE BID within the award period at the discretion of the Owner. NO COST Alternates, where the bidder agrees to perform the specified Alternate work at no charge to BCPS, shall be recorded by bidder as \$0.00 (zero dollars). Bidders shall be advised that in some instances the proposed Alternate requests a difference in bid price by adding to or deducting from the BASE BID price. Please read alternate descriptions carefully.

The undersigned BIDDER proposes and agrees to ADD or DEDUCT to/from the BASE BID the cost of any of the ALTERNATES.

Alternate No. 1 ADD:

Provide concrete benches at outdoor learning area as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 2 ADD:

Provide fabric wrapped acoustical panels at gymnasium as specified and details on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 3 ADD:

Provide PV panels at green roof terrace and electronic dashboard connected to solar panels as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 4 ADD:

Provide rain barrel with setting block and downspout diverter at green roof terrace as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 5 ADD:

Provide rooftop equipment screens as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 6 ADD:

Provide digital and masonry site sign as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 7 ADD:

Provide concrete sidewalk from paved play to dead end at Zion Road as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 8 ADD:

Provide HDPE storm drain pipe as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder) (Date)

Alternate No. 9 ADD:

Provide masonry piers with PVC coated chain link fencing infill at Kindergarten play area as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder)

\_\_\_\_\_  
(Date)

Alternate No. 10 ADD:

Provide quartz tile as specified and detailed on drawings.

\$ \_\_\_\_\_ (In Dollars)

\_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder)

\_\_\_\_\_  
(Date)

## 2.3 Unit Price Schedule

Bidders shall determine and provide Unit Pricing in the spaces below based on the quantity listed for each allowance. The Bidder's base bid shall include the allowance total for this Bid Package being bid. Unit Prices include all costs associated with the work. Bidder shall insert Unit Price and Item Bid Price at each allowance identified with the Bidder's Bid Package number. Do not leave blank. The Bidder's Unit Prices established on the Bid Form will be used for adding work or establishing a credit for work not performed. Any unused allowance will be credited to the Owner via change order. Unit Prices are considered not to exceed unit prices and shall be used where applicable to adjust the cost of work of this Contract. ALL Unit Prices shall be complete in-place prices and include all costs for overhead, profit, all applicable Federal, State, Municipal or local taxes, bonds, labor, fringes, materials, equipment, insurance, and any other incidentals related to the completion of work and shall remain firm for the period of the contract. Unit Prices listed are applicable to added or deleted work. The undersigned acknowledges the Unit Prices as part of this bid proposal and agrees to add or delete items for the Unit Prices identified below as directed by the Owner. The Owner reserves the right to negotiate Unit Prices depending upon the quantities to which the Unit Prices become applicable. Unit Prices do not include any allowances required as referenced in specification section.

### UNIT PRICE ITEMS TO BE INCLUDED IN BASE BID LUMP SUM PROPOSAL

No.	Unit Price Item	Unit	Quantity	Unit Price	Total Price
1	Furnish and install new curb and gutter	Linear Feet	300		
2	Furnish and install new concrete sidewalk	Square Feet	2,000		
3	Furnish and install Soil cement, 5% by weight, 12 inches deep	Square Yard	5,000		
<u>4</u>	Provide a concrete moisture mitigation system for all concrete slab on grade and concrete slab on deck	Square Feet	97,000		

**Total for PART B: Sum of total prices No. 1 + 2 + 3 + 4 above:**

\$ \_\_\_\_\_ (In Dollars)

**Total for PART B: Sum of total prices No. 1 + 2 + 3 + 4 above:**

\$ \_\_\_\_\_ (In Writing)

\_\_\_\_\_  
(Signature of Bidder)

\_\_\_\_\_  
(Date)



## 2.4 Unit Prices

Unit prices are for both extra Work and credits. This list of unit prices will be submitted with the Bid in duplicate and shall become a part of the Contract upon its award. Unit prices listed below are applicable to all work in this project involving extra materials/services performed by the General Contractor or his subcontractors and/or credits to the Owner for materials/services deleted from the project. Unit price includes all overhead and profit for the Subcontractor. General Contractor mark-up is to be applied per Article 7 of General Conditions. Prices as stated shall remain in effect through the end of the Contract warranty period. The undersigned acknowledges the unit price values as part of this bid proposal and agrees to add or delete items for the unit prices identified when directed to do so by the Owner.

1. Riprap Class 1 -	\$50.00 per Ton
2. Earth Excavation Onsite (machine)	\$3.00 per cubic yard
3. Earth Excavation Offsite (machine)	\$16.00 per cubic yard
4. Earth Excavation Onsite (hand)	\$90.00 per cubic yard
5. Earth Excavation Offsite (hand)	\$100.00 per cubic yard
6. Trench Excavation Onsite	\$9.00 per cubic yard
7. Trench Excavation Offsite	\$20.00 per cubic yard
8. Contaminated Soil (excavate, legally dispose)	\$245.00 per cubic yard
9. MSHA #2 or #57 stone at trench areas	\$37.40 per cubic yard
10. CR-6 or CR-1 at trench areas	\$41.80 per cubic yard
11. MSHA #2 or #57 stone in open areas	\$45.00 per cubic yard
12. CR-6 or CR-1 in open areas	\$54.00 per cubic yard
13. Imported Screened Topsoil	\$30.00 per cubic yard
14. Sodding	\$4.25 per square yard
15. Permanent Seeding and Mulch	\$0.70 per square yard
16. Temporary Seeding and Straw	\$0.35 per square yard
17. Mirafi 500x (furnish and install)	\$1.30 per square yard
18. Stabilization Fabric (furnish and install)	\$1.60 per square yard
19. Stabilization Fabric and Filter Cloth (furnish and install)	\$32.00 per square yard
20. MSHA #2 Stone	\$20.90 per ton
21. Super Silt Fence (furnish, install, maintain, remove)	\$12.00 per linear foot
22. Silt Fence (furnish, install, maintain, remove)	\$4.50 per linear foot
23. Leafgro (furnish and install)	\$30.00 per cubic yard
24. Soil Cement (furnish and install)	\$8.75 per square yard
25. Hydrated Lime (furnish and install)	\$8.25 per square yard
26. Erosion Control Matting (furnish and install)	\$2.00 per square yard
27. A-2 Type dike and incidentals (install and remove)	\$5.45 per linear foot
28. Trench Rock (remove, haul, legally dispose)	\$150.00 per cubic yard
29. Open Rock (remove, haul, legally dispose)	\$75.00 per cubic yard
30. Existing sidewalk and spoil (remove, legally dispose, replace)	\$8.50 per square foot
31. Existing Curb and Gutter (saw cut, legally dispose, replace)	\$23.00 per linear foot
32. CR-6 #2 stone or #57 stone (import, compact)	\$23.00 per ton
33. Saw-cut and remove damaged paving	\$40.00 per square yard
34. Concrete curb and gutter	\$14.18 per linear foot
35. Concrete Slab	\$0.60 per square foot
36. 4" CMU wall	\$10.34 per square foot
37. 6" CMU wall	\$10.77 per square foot
38. 8" CMU wall	\$11.20 per square foot
39. 12" CMU wall	\$11.95 per square foot
40. Tooth single doorframe (furnish and install)	\$800.00 per opening
41. Tooth double doorframe (furnish and install)	\$900.00 per opening
42. Receptacle	\$536.00 per location
43. Fire Alarm Strobe	\$380.00 per location

44. Fire Alarm Horn or Speaker/Strobe Unit	\$464.00 per location
45. Data Outlet	\$255.00 per location
46. Exit Sign	\$418.00 each
47. Light Switch	\$275.00 each
48. Telephone Drop	\$236.00 each
49. Video Drop	\$120.00 each
50. Speaker	\$943.00 each
51. Fire Alarm Pull Station	\$389.00 each
52. Concrete Sidewalk	\$7.00 per square foot
53. Light Duty Bituminous Paving	\$29.00 per square yard
54. Heavy Duty Bituminous Paving	\$42.00 per square yard
55. Aggregate Piers	\$52.00 per linear foot
56. Imported fill material	\$37.00 per cubic yard
57. Removal of unsuitable material	\$26.00 per cubic yard
58. Reinforced concrete footing	\$475.00 per cubic yard
59. Moisture Mitigation System	\$4.00 per square foot

## 2.5 Project Construction Schedule and Liquidated Damages

The undersigned agrees to complete Work in strict accordance with the Contract Documents and be substantially complete by not later than the date specified within Section 00200 of the Instructions to Bidders. The Owner may retain the sums as stated in "Liquidated Damages for Failure to Complete on Time," of Section 00200 instruction to Bidders.

## 2.6 MBE Submittals

The Bidder shall include minority business enterprise material as provided herein **with their proposal**. Bidders failing to submit the minority business enterprise material as provided herein, including the "Attachment A: Certified Minority Business Enterprises Utilization and Fair Solicitation Affidavit" and "Attachment B: MBE Participation Schedule" may result in the bid being determined non-responsive.

## 2.7 Bid Bond

Bidder **must** include Bid Bond in the form specified within the solicitation.

## 2.8 Pre-Qualifications Certificate

Bidders must include a copy of their Pre-Qualifications Certificate as issued by the BCDPW

## 2.9 Addenda

Receipt of Addenda to the Drawings and Specifications shall be acknowledged on the ADDENDA form within this Form of Proposal.

## 2.10 Contract

If the undersigned receives written notice of award of the Contract, at his designated address, within one-hundred twenty (120) calendar days after bid opening (or later if bid has not been withdrawn), the undersigned agrees to execute and deliver a Contract and Bonds in accordance with the bid as accepted, within ten (10) business days from receipt of the Contract, or forfeit the amount of the Bid Bond.

---

(Signature of Bidder)

(Date)

## 2.11 Warranty to the Lump Sum

The undersigned affirms that the above Lump Sum Base Bid and Add Alternates represents the entire cost of the Project in accordance with the Bid Documents and that no claim will be made on account of any indexes or any other rate affecting the construction industry and/or this project.

NOTE: Bidder to select one.

If a corporation, give the state of incorporation using the phrase, "A corporation organized under the laws of \_\_\_\_\_."

If an individual using a trade name, give individual name, using the phrase, "An individual doing business under the firm name of \_\_\_\_\_."

If a partnership, give name of the partners using also the phrase, "Co-partners trading and doing business under the firm name of \_\_\_\_\_."

Respectfully submitted,

\_\_\_\_\_  
(COMPANY NAME OF BIDDER)

By \_\_\_\_\_

\_\_\_\_\_  
(Official title)

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
Contractor's Maryland Registration Number)

\_\_\_\_\_  
(Phone)

3 ACKNOWLEDGEMENT OF ADDENDA

# BALTIMORE COUNTY PUBLIC SCHOOLS

DIVISION OF BUSINESS SERVICES  
6901 CHARLES STREET, BUILDING E  
TOWSON, MARYLAND 21204

DEPARTMENT OF FISCAL SERVICES

OFFICE OF PURCHASING  
TELEPHONE: (410) 887-4334  
FAX: (410) 887-7831

ADDENDA:

(If applicable) Please complete and return with your bid response.

I, the undersigned, acknowledge receipt of the following addenda to this solicitation.

Addendum #1 - Date Received \_\_\_\_\_

Addendum #2 - Date Received \_\_\_\_\_

Addendum #3 - Date Received \_\_\_\_\_

Addendum #4 - Date Received \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Vendor Name

# **CERTIFICATIONS AFFIDAVITS & ACKNOWLEDGEMENTS**

# BALTIMORE COUNTY PUBLIC SCHOOLS

Creating a Culture of Deliberate Excellence  
6901 Charles Street, Building E  
Towson, MD 21204

Division of Business Services

Department of Fiscal Services

Office of Purchasing

An Affirmative Action Employer

## PROPOSAL SHEET

\_\_\_\_\_  
I / We certify that to the best of my/our knowledge, that neither this firm, nor any of its officers, directors to partners nor any of its employees directly involved in obtaining contracts with Federal, State or Local Agencies have been found in violation or attempting to violate procurement articles of the Annotated Code of Maryland (S.F. Section 16.202).

\_\_\_\_\_  
I / We certify that this bid is made without any previous understanding, agreement, or connection with any person, firm or corporation making a bid for the same supplies, materials, and equipment, and (contracted) services, and is in all respects fair and without collusion or fraud.

\_\_\_\_\_  
I / We certify that all material and equipment bid by this firm, to be supplied to the Baltimore County Public Schools meets all safety and health standards as prescribed by the rules and regulations of the Maryland Occupational Safety and Health Act (MOSHA). MOSHA STANDARDS 29 CFR 1910.

\_\_\_\_\_  
I / We certify that all materials delivered to, and/or used or brought on to BCPS property is accompanied by a manufacturer's certification verifying/confirming item(s) to be "**asbestos free.**"

\_\_\_\_\_  
I / We certify that this firm adheres to or follows non-discriminatory practices with respect to the employment or promotion of personnel without regard to color, creed, race, sex, or national origin.

\_\_\_\_\_  
I / We propose to furnish, package, mark, and deliver to the Baltimore County Public Schools, the supplies, materials or equipment as required in the accompanying specifications at the unit prices indicated.

\_\_\_\_\_  
I / We certify that this firm is aware of and adheres to Section 11-722(c) of the Criminal Procedure Article, of the Annotated Code of Maryland

Is your company a certified Minority Business Enterprise with the State of Maryland? \_\_\_\_Yes \_\_\_\_No MDOT # \_\_\_\_\_

Please indicate which group qualifies the business as a Minority Business Enterprise: *(circle all that apply)*  
(African American) (Asian) (Women) (Hispanic) (American Indian) (Alaskan Native) (Physical or Mental Disabled Individual)

Is your company a small business with less than fifty-employees (50),  
that generates annual revenue less than seven (7) million dollars? \_\_\_\_Yes \_\_\_\_No

Is your business located within Baltimore County, Maryland? \_\_\_\_Yes \_\_\_\_No

As the duly authorized representative of the bidder and having the legal authority to make this proposal, I hereby declare that I have carefully examined Part I: Terms and Conditions and Part II: Specifications-General Requirements, forming a part of the agreement and agree to furnish all permits, inspections, labor, equipment, and materials to complete work as specified for the price indicated, in the manner provided within these specifications, and especially on subsequent pages of this Proposal Sheet, for the Baltimore County Public Schools.

COMPANY \_\_\_\_\_ FEDERAL ID# \_\_\_\_\_

ADDRESS \_\_\_\_\_  
(street) (city, state) (zip code)

TYPED NAME/TITLE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

TELEPHONE \_\_\_\_\_ FAX \_\_\_\_\_ DATE \_\_\_\_\_

E-MAIL \_\_\_\_\_

RETURN BID TO Office of Purchasing  
6901 Charles Street, Building E  
Towson, MD 21204  
Include Bid Number

# BALTIMORE COUNTY PUBLIC SCHOOLS

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## **STATE OF MARYLAND ANTI-BRIBERY AFFIDAVIT**

I HEREBY CERTIFY that

1. I am the \_\_\_\_\_ and the duly authorized representative of the firm of \_\_\_\_\_ whose address is \_\_\_\_\_  
\_\_\_\_\_ and that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.
2. Except as described in paragraph 3 below, neither I, nor to the best of my knowledge, the above firm, nor any of its officers, directors, or partners, or any of its employees directly involved in obtaining contracts with the State or any county, bi-county, or multi-county agency, or subdivision of the State have been convicted of, or have pleaded nolo contendere to a charge of, or have during the course of official investigation or other proceeding admitted in writing or under oath acts or omissions committed after July 1, 1997, which constitute bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated code of Maryland or under the laws of any state or federal government.
3. (State "none" or, as appropriate, list any conviction, please, or admission described in paragraph 2 above, with the date; court, official, or administrative body; and the sentence or disposition, if any.)

I acknowledge that this affidavit is to be furnished to the requesting agency, to the Secretary of Budget and Fiscal Planning of Maryland, and, where appropriate, to the Board of Public Works and the Attorney General under 16-202, S.F. of the Annotated Code of Maryland. I acknowledge that if the representations set forth in this affidavit are not true and correct, the State may terminate any contract awarded and take any other appropriate action. I further acknowledge that I am executing this affidavit in compliance with 16-203, S.F. of the Annotated Code of Maryland, which provides that certain persons who have been convicted or have admitted to bribery, attempted bribery, or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

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\_\_\_\_\_  
Date

## **STATE OF MARYLAND TAX CERTIFICATION**

At the time a bid or proposal for a State procurement contract of \$10,000 or more is submitted, the bidder or offeror shall certify to the procurement officer that the bidder or offeror has paid all taxes, unemployment insurance contribution, reimbursement payments, and interest not barred by limitations and payable to the comptroller, the Department of Assessments and Taxation or the Department of Economic and Employment Development or has provided for payment in a manner satisfactory to the unit responsible for collection; and if the bidder or offeror is a vendor of tangible personal property, the bidder or offeror possesses a valid sales and use tax license under Title 11, Subtitle 7 of the Tax - General Article.

I acknowledge that this certificate is to be furnished to the requesting agency, and to the Comptroller of the Treasury, Sales and Use Tax Division under 13-222, S.F. of the Annotated Code of Maryland. I acknowledge that, if the representations set forth in this certificate are not true and correct, the State may terminate any contract awarded and take any other appropriate action.

I do solemnly declare and affirm under the penalties of perjury that the contents of this certificate are true and correct.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name/Title (please type or print)

\_\_\_\_\_  
Name/Title (please type or print)

\_\_\_\_\_  
Date



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## **CERTIFICATION REGARDING U.S. GOVERNMENT**

### **DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR, part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register (pages 19160-19211).

(1) The prospective participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective participant is unable to certify to any of the statement in this certification, such prospective participant shall attach an explanation to this proposal.

---

Name and Title of Authorized Agency/Organization Representative

---

Signature

---

Date

---

Agency/Organization

\*Above certification instituted by the U.S. Department of Education for all grantees and sub grantees as of fiscal year 1990.

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## REFERENCES – SIMILAR/LIKE PROJECTS

### YOU MUST COMPLETE AND RETURN THIS FORM WITH YOUR BID

List at least 3 projects (preferably school systems) -- one may be with BCPS, completed by your organization in the last eighteen (18) months. References--should include projects of similar scope and size for which your firm has provided similar service. Make additional copies of this page if necessary.

PROJECT #1

Date Project Completed \_\_\_\_\_

Organization's/Company's Name for Public Project [indicate project/contract number]

Brief Project Description and Bid/Solicitation Number

\_\_\_\_\_  
Representative's Name      (\_\_\_\_\_)\_\_\_\_\_  
Representative's Phone #      (\_\_\_\_\_)\_\_\_\_\_  
Representative's Fax #      Representative's Email Address

PROJECT #2

Date Project Completed \_\_\_\_\_

Organization's/Company's Name for Public Project [indicate project/contract number]

Brief Project Description and Bid/Solicitation Number

\_\_\_\_\_  
Representative's Name      (\_\_\_\_\_)\_\_\_\_\_  
Representative's Phone #      (\_\_\_\_\_)\_\_\_\_\_  
Representative's Fax #      Representative's Email Address

PROJECT #3

Date Project Completed \_\_\_\_\_

Organization's/Company's Name for Public Project [indicate project/contract number]

Brief Project Description and Bid/Solicitation Number

\_\_\_\_\_  
Representative's Name      (\_\_\_\_\_)\_\_\_\_\_  
Representative's Phone #      (\_\_\_\_\_)\_\_\_\_\_  
Representative's Fax #      Representative's Email Address

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## **BOARD OF DIRECTORS - DIVERSITY AFFIDAVIT**

This documentation is required by the statutory regulation, Bids, §5-112, Annotated Code of Maryland. Education enacted July 1, 2000. All bidders interested in submitting proposals on school construction projects shall provide information that identifies the diversity of its Board of Directors. Said diversity shall be identified by completion of this form. Failure to provide said documentation may be cause for rejection of the bidder's proposal as non-responsive.

\_\_\_\_\_  
Name of Corporation/Business

\_\_\_\_\_  
BCPS Bid No.

### **List of Board of Directors**

Name of Individual	Title	Diversity (See Legend)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Diversity Legend: (1) African American, (2) American Indians, (3) Asian, (4) Caucasian, (5) Hispanic, (6) Alaskan Native (7) Physically or (8) Mentally Disabled Individuals, (9) Women. [Note: It is understood that an Individual may qualify for more than one designation. Multiple designations shall be so noted on the form] Internal Distribution: Copy with the Bidder's Proposal; Copy to BCPS-MBE Officer.

**CERTIFIED MINORITY BUSINESS ENTERPRISE  
UTILIZATION AND FAIR SOLICITATION AFFIDAVIT**

***NOTE: You must include this document with your bid or offer. If you do not submit the form with your bid or offer, the procurement officer shall deem your bid non-responsive or your offer not reasonably susceptible of being selected for award.***

\* \* \* \* \*

**Part I.**

I acknowledge the:

- Overall certified MBE subcontract participation goal of 29% and
- The subgoals, if applicable, of:
  - 7% for certified African American-owned businesses and
  - 4% for certified Asian American-owned businesses.

I have made a good-faith effort to achieve this goal. If awarded the contract, I will continue to attempt to increase MBE participation during the project.

**Part II.**

Check ONE Box

**NOTE: FAILURE TO CHECK ONE OF BOXES 1, 2, or 3 BELOW WILL RENDER A BID NON-RESPONSIVE OR AN OFFER NOT REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD**

**NOTE: INCONSISTENCY BETWEEN THE ASSERTIONS ON THIS FORM AND THE INFORMATION PROVIDED ON THE *MBE PARTICIPATION SCHEDULE* (ATTACHMENT B) MAY RENDER A BID NON-RESPONSIVE OR AN OFFER NOT REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD**

- 1 ☐ I have met the overall MBE goal and MBE subgoals for this project. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B], which details how I will reach that goal.
- or**
- 2 ☐ After having made a good-faith effort to achieve the overall MBE goal and MBE subgoals for this project, I can achieve partial success only. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B], which details the MBE participation I have achieved.

I request a partial waiver as follows:

- Waiver of overall MBE subcontract participation goal: \_\_\_\_ %
- Waiver of MBE subcontract participation subgoals, if applicable:
  - \_\_\_\_ % for certified African American-owned businesses and
  - \_\_\_\_ % for certified Asian American-owned businesses.

Within 10 days of being informed that I am the apparent awardee, I will submit *MBE Waiver Documentation* [Attachment F] (with supporting documentation).

**Attachment A (Page 2 of 2)**

**or**

- 3 ☐ After having made a good faith effort to achieve the overall MBE goal and MBE subgoals for this project, I am unable to achieve any portion of the goal or subgoals. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B].

I request a full waiver.

Within 10 days of being informed that I am the apparent awardee, I will submit *MBE Waiver Documentation* [Attachment F] (with supporting documentation).

**Part III.**

I understand that if I am the apparent awardee or conditional awardee, I must submit **within 10 working days** after receiving notice of the potential award or within 10 days after the date of conditional award – whichever is earlier – the:

- *Outreach Efforts Compliance Statement* (Attachment C)
- *Subcontractor Project Participation Statement* (Attachment D)
- *Minority Subcontractors Unavailability Certificate* (Attachment E) (if applicable)
- Any other documentation the Procurement Officer requires to ascertain my responsibility in connection with the MBE participation goal and subgoals

I acknowledge that if I fail to timely return complete documents, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has been awarded, the award is voidable.

I acknowledge that the MBE subcontractors/suppliers listed in the *MBE Participation Schedule* and any additional MBE subcontractor/suppliers identified in the *Subcontractor Project Participation Statement* will be used to accomplish the percentage of MBE participation that I intend to achieve.

In the solicitation of subcontract quotations or offers, MBE subcontractors were provided the same information and amount of time to respond as were non-MBE subcontractors.

The solicitation process was conducted in such a manner so as to not place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors.

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

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

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Address (continued)

\_\_\_\_\_  
Date

September 2008

## Attachment B

### MBE PARTICIPATION SCHEDULE

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

1. Prime Contractor's Name	2. Prime Contractor's Address and Telephone Number
3. Project/School Name	4. Project/School Location
5. LEA Baltimore County Public Schools PSC No. _____	6. Base Bid Amount: \$ _____
7a. Minority Firm Name	Minority Firm Address
Minority Firm Telephone Number _____ Minority Firm Fax Number _____ MDOT Certification Number _____	Minority Group Type <input type="checkbox"/> (African American ) <input type="checkbox"/> (Women ) <input type="checkbox"/> (Asian ) <input type="checkbox"/> (Hispanic) <input type="checkbox"/> (American Indian) <input type="checkbox"/> (Disabled)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
7b. Minority Firm Name	Minority Firm Address
Minority Firm Telephone Number _____ Minority Firm Fax Number _____ MDOT Certification Number _____	Minority Group Type <input type="checkbox"/> (African American ) <input type="checkbox"/> (Women ) <input type="checkbox"/> (Asian ) <input type="checkbox"/> (Hispanic) <input type="checkbox"/> (American Indian) <input type="checkbox"/> (Disabled)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
7c. Minority Firm Name	Minority Firm Address
Minority Firm Telephone Number _____ Minority Firm Fax Number _____ MDOT Certification Number _____	Minority Group Type <input type="checkbox"/> (African American ) <input type="checkbox"/> (Women ) <input type="checkbox"/> (Asian ) <input type="checkbox"/> (Hispanic) <input type="checkbox"/> (American Indian) <input type="checkbox"/> (Disabled)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
8. MBE Total Dollar Amount	9. Total MBE Percent of Entire Contract
10. Form Prepared by: Name: _____ Title: _____ Date: _____	11. Reviewed and Accepted by Board of Education MBE Liaison Name: _____ Title: _____ Date: _____

Total MBE Participation:	_____ %	\$ _____
Total African-American MBE Participation:	_____ %	\$ _____
Total Asian-American MBE Participation:	_____ %	\$ _____
Total Other Participation:	_____ %	\$ _____

## **NO BID SHEET**

PLEASE CHECK THE APPROPRIATE ITEM/S

\_\_\_\_ 1. We wish to submit a NO BID at this time. The reason for submitting a NO BID is:

\_\_\_\_\_

\_\_\_\_\_\*Failure to complete the above and return this form to the Purchasing Office may result in your removal from the Baltimore County Public School approved vendor list for this bid.

\_\_\_\_ 2. Please include our name to RECEIVE FUTURE BIDS for the FOLLOWING GOODS/SERVICES:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_ 3. Please DELETE our name from future bids for this commodity.

\_\_\_\_ 4. Please COMPLETE the following:

Is your company a certified Minority Business Enterprise with State of Maryland? \_\_\_\_Yes\_\_\_\_No MDOT# \_\_\_\_\_

Please indicate which group qualifies the business as a Minority Business Enterprise.

African American Asian Women Hispanic American Indian Physically or Mentally disabled individual

Is your company a small business with less than fifty (50) employees that generates annual revenue less than ten (10) million dollars? \_\_\_\_Yes \_\_\_\_No

Is your business located within Baltimore County, Maryland? \_\_\_\_Yes \_\_\_\_No

COMPANY

\_\_\_\_\_

AUTHORIZED SIGNATURE

\_\_\_\_\_

TYPED NAME/TITLE

\_\_\_\_\_

ADDRESS

\_\_\_\_\_

CITY/STATE/ZIP

\_\_\_\_\_

PHONE

\_\_\_\_\_

FAX

\_\_\_\_\_

EMAIL

\_\_\_\_\_

Return to:

**Baltimore County Public Schools  
Purchasing  
6901 Charles Street, Building E  
Towson, MD 21204**

**MINORITY BUSINESS ENTERPRISE PROCEDURES  
FOR  
STATE FUNDED  
PUBLIC SCHOOL CONSTRUCTION PROJECTS**  
Revised JUNE 2008

**Approved by the Baltimore County Board of Education on  
October 1, 2008.**

**These procedures supersede the latest procedures which were previously approved  
June 1, 2005.**

**DATE OF ORIGINAL APPROVAL: June 10, 1982  
DATE OF REVISION: October 1, 2008**

These procedures were approved by the Interagency Committee on School Construction on June 26, 2008 and shall be utilized by each public school system in Maryland as a condition for the receipt of State funds through the Public School Construction Program.

The effective date for implementation for projects in Baltimore County is October 1, 2008.



# MINORITY BUSINESS ENTERPRISE PROCEDURES FOR STATE FUNDED PUBLIC SCHOOL CONSTRUCTION PROJECTS

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# MINORITY BUSINESS ENTERPRISE PROCEDURES FOR STATE FUNDED PUBLIC SCHOOL CONSTRUCTION PROJECTS

## BACKGROUND

In 1978, the Maryland General Assembly passed legislation, which was signed into law to establish the State's Minority Business Enterprise Program. This new law set as a goal that at least 10 percent of each unit of State government's total dollar value of procurement contracts for purchases and/or contracts be awarded to minority business enterprises. This law was subsequently modified and the goal was increased to 14 percent. More recently, in 2001, the goal was increased to 25 percent with subcontracting sub-goals of 7 percent for certified African American-owned businesses and 10 percent for certified women-owned businesses.

In 1979, the Rules, Regulations, and Procedures for the Administration of the School Construction Program were revised by the Board of Public Works to require each local board of education to adopt procedures to attempt to include minority business enterprises in State funded school construction projects. The State law was revised and now states: "The Interagency Committee on School Construction (IAC) shall require each local board of education to adopt procedures consistent with this chapter before obtaining funds for public school construction projects".

In May 2007, the Rules, Regulations, and Procedures were replaced by regulations. The regulations concerning project procurement (COMAR 23.03.03) indicate that the State's minority business enterprise goals and procedures apply to all State funded projects, irrespective of procurement method.

## OVERVIEW

This Minority Business Enterprise (MBE) procedure document was originally developed in response to a requirement set forth in the Rules, Regulations, and Procedures for the Administration of the School Construction Program. The MBE requirement was originally established under HB 64, which was passed in the 1978 session of the Maryland General Assembly and signed into law as Chapter 575 of the Acts of 1978.

Since the Board adopted its original Minority Business Enterprise Procedures, there have been changes in State statutes, regulations adopted by the Board of Public Works, procedural requirements, project eligibility requirements and the level of State participation in school construction projects. This revised procedure is consistent with current legislation and the changes to the Code of Maryland Regulations (COMAR) requirements, effective November 7, 2005 and May 21, 2007.

### 1.0 PURPOSE

The purpose of the Procedures is to fulfill the intent of the law by setting goals for minority business enterprise participation in every contract that includes State funding through the Public School Construction Program. Local Educational Agencies (LEAs) shall attempt to achieve the result that a minimum of 25 percent of the total dollar value of all construction contracts is made directly or indirectly with certified minority business enterprises when State Public School Construction Program (PSCP) funds are utilized, with a minimum of 7 percent from certified African American-owned businesses, a minimum of 4 percent from certified Asian American-owned businesses, and the balance from any certified minority business enterprises. All general contractors, including certified MBE firms, when bidding as general or prime contractors are required to attempt to achieve the MBE subcontracting goals from certified MBE firms.

## 2.0 EFFECTIVE DATE

These procedures have been adopted for use in Baltimore County and supersede previously utilized MBE procedures, and will take effect on or after October 1, 2008.

## 3.0 DEFINITIONS

1. **Certification** means the determination that a legal entity is a minority business enterprise consistent with the intent of Subtitle 3 of the State Finance and Procurement Article.
2. **Certified Minority Business Enterprise** means a minority business that holds a certification issued by the Maryland State Department of Transportation (MDOT).
3. **Corporation**, as defined by MDOT, is an artificial person or legal entity created by or under the authority of the laws of any state of the United States, the District of Columbia or a territory or commonwealth of the United States and formed for the purpose of transacting business in the widest sense of that term, including not only trade and commerce, but also manufacturing, mining, banking, insurance, transportation and other forms of commercial or industry activity where the purpose of the organization is profit. For eligibility for certification, disadvantaged and/or minority individuals must own at least 51 percent of the voting stock and at least 51 percent of the aggregate of all classes of stock that have been issued by the corporation. (Note: stock held in trust is not considered as stock held by the disadvantaged businesspersons when computing the business person(s) ownership.)
4. **Managerial Control**, as defined by MDOT, means that a disadvantaged or minority owner(s) has the demonstrable ability to make independent and unilateral business decisions needed to guide the future and destiny of a business.

Control may be demonstrated in many ways. For a minority owner to demonstrate control, the following examples are put forth, but are not intended to be all inclusive:

- a. Articles of Incorporation, Corporate Bylaws, Partnership Agreements and other agreements shall be free of restrictive language which would dilute the minority owner's control thereby preventing the minority owner from making those decisions which affect the destiny of a business;
  - b. The minority owner shall be able to show clearly through production of documents the areas of the disadvantaged business owner's control, such as, but not limited to:
    - 1) Authority to sign payroll checks and letters of credit;
    - 2) Authority to negotiate and sign for insurance and/or bonds;
    - 3) Authority to negotiate for banking services, such as establishing lines of credit; and
    - 4) Authority to negotiate and sign for contracts.
  - c. Agreements for support services that do not lessen the minority owner's control of the company are permitted as long as the disadvantaged or minority business owner's authority to manage the company is not restricted or impaired.
5. **Minority Business Enterprise (MBE)** means any legal entity, except a joint venture, that is (a) organized to engage in commercial transactions, and (b) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged including:

African Americans;  
American Indian/Native Americans;  
Asians;

Hispanics;  
Physically or mentally disabled individuals;  
Women; or  
A non-profit entity organized to promote the interests of physically or mentally disabled individuals.

6. **Minority Business Enterprise Liaison** means the employee of the school system designated to administer the Minority Business Enterprise Procedures for State funded public school construction projects.
7. **Operational Control**, as defined by MDOT, means that the disadvantaged or minority owner(s) must possess knowledge necessary to evaluate technical aspects of the business entity. The primary consideration in determining operational control and the extent to which the disadvantaged or minority owner(s) actually operates a business will rest upon the specialties of the industry of which the business is a part. The minority owner should have a working knowledge of the technical requirements needed to operate in his/her industry. Specifically, in the construction industry and especially among small (one to five person firms) contractors, it is reasonable to expect the disadvantaged or minority owner(s) to be knowledgeable of all aspects of the business. Accordingly, in order to clarify the level of operational involvement which a minority owner must have in a business for it to be considered eligible, the following examples are put forth, but are not intended to be all inclusive:
  - a. The minority owner should have experience in the industry for which certification is being sought; and
  - b. The minority owner should demonstrate that basic decisions pertaining to the daily operations of the business are independently made. This does not necessarily preclude the disadvantaged or minority owner(s) from seeking paid or unpaid advice and assistance. It does mean that the minority owner currently must possess the knowledge to weigh all advice given and to make an independent determination.
8. **Ownership**, as defined by MDOT, means that:
  - a. The minority owner(s) of the firm shall not be subject to any formal or informal restrictions, which limit the customary discretion of the owner(s). There shall be no restrictions through, for example, charter requirements, by-law provisions, partnership agreements, franchise or distributor agreements or any other agreements that prevent the minority owner(s), without the cooperation or vote of any non-minority, from making a business decision of the firm.
  - b. This means that the disadvantaged or minority persons, in order to acquire their ownership interests in the firm, have made real and substantial contributions of capital, expertise or other tangible personal assets derived from independently owned holdings without benefit of a transfer of assets, gift or inheritance from non-minority persons. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not minority persons or the mere participation as an employee rather than as a manager. If the ownership interest held by a disadvantaged or minority person is subject to formal or informal restrictions, such as options, security interests, agreements, etc., held by a non-minority person or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the disadvantaged or minority person's ownership interest.
9. **Partnership** means an unincorporated association of two or more persons to carry on as co-owners of a business for profit. For a partnership to be deemed eligible for certification under the MDOT Program, the disadvantaged or minority person's interest must be at least 51 percent of the partnership capital.

10. **Socially and Economically Disadvantaged** means a citizen or lawfully admitted permanent resident of the United States who is socially disadvantaged and economically disadvantaged. The law establishes the level of personal net worth at \$1,500,000, above which an individual may not be found to be socially and economically disadvantaged.
11. **Sole Proprietorship**, as defined by MDOT, is a for-profit business owned and operated by a disadvantaged or minority person in his or her individual capacity. For a sole proprietorship to be deemed eligible for certification under the DBE/MBE Program, the disadvantaged or minority person must be the sole proprietor.

#### 4.0

#### MBE GOAL SETTING PROCEDURES

1. The MBE program requires that all race-neutral measures be considered before making use of race-based measures. Using a combination of race-neutral and race-based measures for each specific school construction project will help ensure that certified MBE firms are afforded the opportunity to submit bids and be utilized to the greatest extent possible.
2. Race-neutral measures include any action taken by the LEA to make it easier for all contractors, including MBEs, to compete successfully for public school construction project contracts.
3. Race-based measures include setting an overall MBE goal and MBE subgoals, if applicable, based upon race, gender, ethnicity, etc., for a specific project.
4. The overall MBE goal and the subgoals, if applicable, should be set for each specific project, considering but not limited to, the following factors:
  - a. The extent to which the work to be performed can reasonably be segmented to allow for MBEs to participate in the project;
  - b. A determination of the number of certified MBEs that potentially could perform the identified work;
  - c. The geographic location of the project in relationship to the identified certified MBEs;
  - d. Information obtained from other State departments/agencies related to establishing a MBE goal and/or subgoals for similar construction projects or work in the jurisdiction;
  - e. Information obtained from other State departments/agencies related to MBE participation in similar construction projects or work in the jurisdiction; and
  - f. Any other activities or information that may be identified as useful and productive.
5. The Superintendent or designee shall establish one or more procurement review groups (PRG). The PRG must include at a minimum the MBE liaison and the Procurement Officer (PO) or a representative from the procurement office. The PRG could also include a capital improvement project manager, the project architect, the cost estimator, the Construction Manager, and/or other individuals selected by the Superintendent or designee.
  - a. The PRG should communicate and/or meet as needed to consider the subcontracting goal and subgoals, if applicable, for individual projects or groups of projects.
  - b. The PRG should consider the factors cited in 4 above when establishing the MBE goal and subgoals, if applicable, for each project or segmented piece of a project that are reasonable and attainable.
  - c. The PRG must complete and submit a written analysis for each state funded school construction project with an estimated cost that is expected to exceed \$200,000.

- i. For state-funded projects that required review of construction documents (CD), the written analysis shall be submitted with the CD documents to the Department of General Services, and will be reviewed by the DGS for submission, appropriate signatures and correspondence between the goal and subgoals, if applicable, indicated in the analysis and those of the procurement documents.
  - ii. For state-funded projects that do not require review of construction documents, the written analysis shall be submitted to the Public Schools Construction Program, and will be reviewed by the PSCP for submission and appropriate signatures.
  - iii. For locally funded projects that are anticipating to be requested for state approval of planning and funding, the written analysis shall be submitted with CD documents to the Maryland State Department of Education, and will be reviewed by MSDE for submission, appropriate signatures, and correspondence between the goal and subgoals, if applicable, indicated in the analysis and those of the procurement documents. Submission of the document is a pre-condition for recommendation for state approval of planning and funding when submitted in an annual CIP.
- d. For projects estimated to cost between \$50,000 and \$200,000 the same analysis form is to be completed and submitted. This could be a responsibility of the PRG, but could be performed by others as well.
  - i. For state-funded projects that require review of construction documents (CD), the written analysis shall be submitted with the CD documents to the Department of General Services, and will be reviewed by CGS for submission, appropriate signatures, and correspondence between the goal and subgoals, if applicable, indicated in the analysis and those of the procurement documents.
  - ii. For state-funded projects that do not require review of construction documents, the written analysis shall be submitted to the Public School Construction Program, and will be reviewed by the PSCP for submission and appropriate signatures.
- e. If the project cost is estimated to exceed \$200,000 then a copy of the written analysis shall also be sent to GOMA at the same time that the written analysis is submitted to the DGS or the PSCP.
- f. The PRG should consult with local counsel for the Board of Education as needed.
- 6. It is recognized that by utilizing the factors cited in 4 above, the MBE goal and/or subgoals, if applicable, for a specific project or portion thereof may be significantly higher than the overall goals of the program (25% overall, with 7% from African American-owned businesses and 4% from Asian American-owned businesses). It is also recognized and possible that there will be MBE goals set that are lower than those stated above or even that no MBE goal and/or subgoals will be set for a specific project or the segmented piece of the project.
- 7. Assistance in reviewing the factors cited in 4 above and setting a goal and/or subgoals, if applicable, for specific projects or a segmented piece of a project can be obtained by contacting the Public School Construction Program and/or the Governor's Office of Minority Affairs.

## **5.0 IMPLEMENTING PROCEDURES - \$50,000 OR LESS**

For construction projects estimated to cost \$50,000 or less, the following procedures will be utilized

1. A MBE goal and/or MBE subgoals are not required to be set for contracts that are anticipated to be for \$50,000 or less.
2. All advertisements, solicitations, and solicitation documents shall include the following statement:
  - a. "Certified Minority Business Enterprises are encouraged to respond to this solicitation."
3. To encourage greater MBE participation the staff of the school system should send out notices of potential projects and a specific project to MBEs to solicit bids or proposals directly from minority business enterprise contractors that are certified.
4. A copy of the solicitation notice, preferably electronically, shall be sent to the Governor's Office of Minority Affairs at the same time the advertisement for the solicitation is released.
5. When a pre-bid or pre-proposal conference or meeting is held, the MBE liaison or designated representative shall explain that all bidders or offerors are encouraged to utilize certified MBEs for this project or segments of the project.
6. Upon request for a specific project, the school system shall provide one set of drawings and specifications (and addenda when issued) to minority business enterprise associations recognized by the Governor's Office of Minority Affairs. They will be available free of charge to be picked up at a location designated by the LEA. A review of the bid or proposal activity submitted by an association's members may be initiated to justify continuation of this service.
7. Minority Business Enterprise forms identified in Section 6.0 of this procedure for projects over \$50,000, are not required to be submitted for these projects (\$50,000 or less).
8. The names of prime contractors obtaining drawings and specifications will be shared with certified MBEs and MBE associations, upon request.
9. At the time of the contract award, the MBE Liaison or a designated person will record any anticipated certified minority business enterprise participation data made available from the successful contractor.
10. A business that presents itself as a minority business may participate in a project but may not be counted toward MBE participation until it is a certified minority business enterprise. If the MBE is not certified at the time of contract award, it may not be counted at that time. Only the funds paid after MDOT certification can be counted as MBE participation in the project. If a certified MBE fails to meet the standards specified in State Finance and Procurement Article 14-301 (G) and (I), Annotated Code of Maryland, the payments made to the MBE can be recorded and counted under a contract entered into when the MBE was eligible and certified. Ineligibility of an MBE to participate in the MBE program may not be the sole cause of the termination of the MBE contractual relationship for the remainder of the term of the contract.
11. The contractor will complete the Standard Monthly Contractor's Requisition for Payment (IAC/PSCP Form 306.4), specifically page 3 of 16, Minority Business Enterprise Participation, with each requisition submitted for payment. If certified MBE firms are known at the time of contract award their names and other appropriate information should be entered on page 3 of the first and all subsequent requisitions for payment. Any MBEs identified during the life of the project should be added as soon as the contractor engages them.

12. Upon completion of the project the contractor will provide a summary of the total of all funds paid to certified MBE firms. This should be within the contractor's final requisition for payment.

## **6.0 IMPLEMENTING PROCEDURES - Over \$50,000**

For construction projects estimated to cost in excess of \$50,000, the following procedures will be utilized:

1. All advertisements, solicitations, and solicitation documents shall include the following statements:
  - a. "Certified Minority Business Enterprises are encouraged to respond to this solicitation notice."
  - b. "The contractor or supplier who provides materials, supplies, equipment and/or services for this construction project shall attempt to achieve the specific overall MBE goal of \_\_ percent established for this project. All prime contractors, including certified MBE firms, when submitting bids or proposals as general or prime contractors, are required to attempt to achieve this goal from certified MBE firms."

Per COMAR 21.11.03.12-1:

When a certified MBE 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 performs with its own forces toward fulfilling up to 50 percent of the MBE participation goal and up to 100 percent of not more than one of the MBE participation subgoals, if any, established for the contract, provided that the certified MBE prime contractor is:

.1 Identified on the MBE participation schedule pursuant to Regulation .09C(3)(b) of this chapter, including the certification category under which the MBE prime is self-performing and the percentage of the contract value attributed to that work; and

.2 Certified by the certification agency to provide the services, materials, or supplies that it has committed itself to self-perform on the MBE participation schedule.

- c. If subgoals have been established for this project then one of the following should be included:
  - 1) "The subgoals established for this project are \_\_ percent from African American-owned businesses and \_\_ percent from Asian American-owned businesses."
  - 2) "The subgoal established for this project is \_\_ percent from African American-owned businesses."
  - 3) "The subgoal established for this project is \_\_ percent from Asian American-owned businesses."
- d. "The bidder or offeror is required to submit with its bid or proposal a completed Attachment A - Certified MBE Utilization and Fair Solicitation Affidavit and Attachment B - MBE Participation Schedule, as described in the solicitation documents.
- e. If there is no overall MBE goal or MBE subgoals established for the project, then only 1.A. above is to be included.



2. Other Advertisement and Outreach Requirements

- a. To encourage greater MBE participation the staff of the school system should send out notices of potential projects to MBEs or solicit bids or proposals directly from minority business enterprise contractors that are certified.
- b. A copy of the solicitation notice, preferably electronically, shall be sent to the Governor's Office of Minority Affairs at the same time the advertisement for the solicitation is released.
- c. Upon request for a specific project, the school system shall provide one set of drawings and specifications (and addenda when issued) to minority business enterprise associations recognized by the Governor's Office of Minority Affairs. They will be available free of charge to be picked up at a location designated by the LEA. A review of the bid or proposal activity by an association's members may be initiated to justify continuation of this service.
- d. When a pre-bid or pre-proposal conference is held, the MBE Liaison or designated representative shall explain the MBE goal and subgoals, if applicable; the MBE provisions of the solicitation; the documentation required at the time of submission; its relationship to the responsiveness of the bidder or offeror; how to complete the required attachments, particularly A, B, and C; and additional information and supporting documentation that may be required after the bid or proposal opening. All contractors who attend the pre-bid or pre-proposal conference should receive a list or information explaining how to obtain a listing of certified MBE firms who could perform the work or have expressed an interest in performing the school construction work required for the specific project in the jurisdiction.
- e. The names of prime contractors obtaining drawings and specifications will be shared with certified MBEs and MBE associations, upon request.
- f. The MBE liaison, in conjunction with the procurement officer or project staff, should respond to all applicable questions and concerns relating to the project's MBE requirements completely and in a timely fashion to ensure that all potential contractors and subcontractors can compete effectively.

3. All Solicitation Documents Shall Include the Following:

- a. "Certified Minority Business Enterprises are encouraged to respond to this solicitation notice".
- b. "The contractor or supplier who provides materials, supplies, equipment and/or services for this construction project shall attempt to achieve the result that a minimum of \_\_\_ percent of the total contract value is with certified Minority Business Enterprises, with a minimum of \_\_\_ percent from certified African American-owned businesses, a minimum of \_\_\_ percent from certified Asian American-owned businesses, and the balance from any certified Minority Business Enterprises. All contractors, including certified MBE firms, when submitting bids or proposals as prime contractors, are required to attempt to achieve the MBE goal and subgoals, if applicable, from certified MBEs".  
Note: see 6.1.C. above for variations that may be required.
- c. Each bid or offer submitted, including a submittal from a certified MBE in response to this solicitation, shall be accompanied by a completed Attachment A - Certified MBE Utilization and Fair Solicitation Affidavit and a completed Attachment B - MBE Participation Schedule. These two attachments must be accurate and consistent with each other.
  - 1) Attachment A and Attachment B shall be submitted with the sealed bid price or proposal at a place, date, and time specified in the solicitation document.

- 2) As an alternative, and at the discretion of the school system, Attachment A could be submitted with the sealed bid price or proposal at a place, date, and time specified in the solicitation document. The sealed bids or proposals received by the time specified could be held, unopened for a maximum of 30 minutes. Within that time (30 minutes) each bidder or offeror must submit Attachment B, in a separate sealed envelope. The sealed price envelopes from each bidder or offeror who submits both the sealed bid or proposal and the envelope with Attachment B will then be opened and reviewed and recorded as a viable submission. Any contractor that fails to submit the second envelope, with Attachment B, prior to the specified time allowed (30 minutes) after the submittal of the sealed bid or proposal will be deemed non-responsive and the sealed bid or proposal will not be opened or considered.
- d. The submittal of a completed and signed Attachment A - Certified MBE Utilization and Fair Solicitation Affidavit and a completed and signed Attachment B - MBE Participation Schedule indicates the bidder's or offeror's recognition and commitment to attempt to achieve the MBE goal and/or MBE subgoals, if applicable, for the specific project.
    - 1) The bidder or offeror recognizes that their efforts made to initiate contact, to solicit, and to include MBE firms in this project will be reviewed carefully and evaluated based upon the actions taken by them prior to and up to 10 days before the bid or proposal opening. Follow-up actions taken by the bidder or offeror within the 10 days prior to the bid opening will also be considered.
    - 2) Based upon this review and evaluation it will be determined, by the MBE liaison, procurement officer, or a designated person, if a good faith effort was made by the apparent low bidder or apparent successful offeror.
  - e. The bidder or offeror must check one of the three boxes on Attachment A, which relates to the level of MBE participation achieved for the project. The bidder's or offeror's signature indicates that in the event that they did not meet the MBE goal or subgoals, if applicable, that:
    - 1) They are therefore requesting a waiver, and
    - 2) Documentation of their good faith efforts will be provided to the school system staff within 10 days of being notified that they are the apparent low bidder or apparent successful offeror.
  - f. The bidder or offeror must submit Attachment B (as and when described above), which lists and provides information related to each certified MBE firm that the bidder or offeror will utilize on this project. A completed and accurate Attachment B is required. All of the work specified to be performed by each MBE firm, the contact information, MDOT certification number, minority code, the dollar values, and percentages must be correct.
  - g. Attachment B should be completed and submitted with all calculations utilizing the base bid or offer only. A revised Attachment B should be submitted by the successful bidder or offeror once a determination is made as to the acceptance and/or rejection of any alternates.
  - h. If a request for a waiver has been made, the appropriate box on Attachment A has been checked and the attachment signed, then the LEA should obtain and review the apparent low bidder's or successful offeror's supporting documentation of the good faith efforts to justify the granting of the waiver, prior to submitting the contract award for approval to the board of education.
  - i. The following documentation shall be considered as part of the contract, and shall be furnished by the apparent low bidder or successful offeror to the MBE Liaison or designated person, within ten (10) working days from notification that the firm is the apparent low bidder or successful offeror:

- 1) A completed Attachment D - Minority Business Enterprise Subcontractor Project Participation Statement shall be completed and signed by the prime contractor and each MBE firm listed on Attachment B - MBE Participation Schedule and Attachment C - Outreach Efforts Compliance Statement shall be signed and completed by the bidder or offeror.
- 2) Notification for purposes of this procedure means the earliest of the following methods of communication: orally in person, orally by telephone, orally by a telephone message, a faxed communication, a letter by date received or an electronic communication.
- 3) The ten (10) working days do not include the day the notification is received, weekends or holidays (State or Federal), but the material submitted must be received by the close of business on the tenth day.
- 4) The requirement to submit the above-listed documentation within the time frame specified will be considered by the IAC in its review of the request for contract award for the project. Failure to submit the required documentation within the time frame specified may result in a delay of the approval of the award of the contract, or the materials being returned without the approval of the award of the contract.

#### 4. Waiver Procedures

- a. If the apparent low bidder or successful offeror has determined that they are unable to meet the overall MBE goal or subgoals, if applicable, for the project at the time of submission of a bid or offer, they must check either of the two boxes on Attachment A. The signature recognizes and acknowledges that a request for a waiver is being made. The apparent low bidder or successful offeror will therefore be required to submit information and substantiating documentation that will be reviewed to justify the granting of a waiver.
- b. If the apparent low bidder or successful offeror is unable to achieve the overall MBE contract goal and/or the MBE subgoals, if applicable, from certified African American-owned businesses and/or from certified Asian American-owned businesses, the apparent low bidder or successful offeror shall submit, within 10 working days from notification that the firm is the apparent low bidder or successful offeror, a completed Attachment C - Outreach Efforts Compliance Statement, Attachment E - Minority Subcontractors Unavailability Certificate, and Attachment F - MBE Waiver Documentation which shall include the following:
  - 1) A detailed statement of the efforts made by the bidder or offeror to identify and select portions of the work proposed to be performed by subcontractors in order to increase the likelihood of achieving the stated goal;
  - 2) A detailed statement of the efforts made by the bidder or offeror prior to and up to at least ten (10) days before the bid or proposal opening to solicit minority business enterprises through written notices that describe the categories of work for which subcontracting is being solicited, the type of work to be performed and specific instructions on how to submit a bid or proposal;
  - 3) Follow-up actions taken by the bidder or offeror within the 10 days prior to the bid or proposal opening will also be considered.
  - 4) A detailed statement of the bidder's or offeror's efforts to make personal contact with MBE firms identified for item (2) above;
  - 5) A record of the name, address, telephone number and dates contacted for each MBE identified under items (2) and (3) above;
  - 6) A description of the information provided to MBEs regarding the drawings, specifications and the anticipated time schedule for portions of the work to be performed;
  - 7) Information on activities to assist minority business enterprises to fulfill bonding requirements or to obtain a waiver of these requirements;
  - 8) Information on activities to publicize contracting opportunities to minority business enterprises, attendance at pre-bid or pre-proposal meetings or other meetings scheduled by the MBE Liaison or designated representative; and

- 9) As to each MBE that placed a subcontract quotation or offer which the apparent low bidder or successful offeror considers not to be acceptable, a detailed statement of reasons for this conclusion.
- c. In addition to any waiver documentation the apparent low bidder or successful offeror shall submit one completed Attachment D - Minority Business Enterprise Subcontractor Project Participation statement for each MBE firm that will participate in the project consistent with the information previously provided at the time of the submission of Attachment B or the revised Attachment B.
- d. A waiver of an MBE contract goal or subgoal, if applicable, may be granted by the school system only upon receipt of Attachment C - Outreach Efforts Compliance Statement, Attachment E - Minority Subcontractors Unavailability Certificate, and Attachment F - MBE Waiver Documentation as described above in items 1) through 9)
  - 1) The MBE Liaison will review and accept or reject the minority business enterprise material that is submitted, and could obtain legal advice or assistance from their attorney.
  - 2) The MBE waiver request may not be considered unless all of the documentation specified above has been submitted in a timely fashion by the apparent low bidder or successful offeror.
  - 3) Assistance in the review of a request for a waiver (the documentation and justifications) may be requested from the Public School Construction Program and/or the Governor's Office of Minority Affairs.
  - 4) If a determination is made that the apparent low bidder or successful offeror did make a good faith effort, based upon a review of the documentation submitted, then the waiver must be granted. The award of contract shall then be made. The material and information submitted, including the LEA's review and analysis notes and conclusion shall be retained in the project file.
  - 5) If a determination is made that the apparent low bidder or successful offeror did not make a good faith effort, based upon a review of the documentation submitted, then the waiver should not be granted. The material and information submitted, including the LEA's review and analysis notes and conclusion, shall be retained in the project file. The award of contract shall then be made to the next lowest bidder or offeror, who meets the contractual requirements, including the MBE requirements.
  - 6) When a waiver is granted, a copy of Attachment F - MBE Waiver Documentation, accepted and signed by a school system representative and with the reasons for the determination, shall be forwarded to the Governor's Office of Minority Affairs and the Public School Construction Program within ten (10) days after approval of the contract award by the board of education. Failure to submit the required documentation within the time frame specified may result in delayed approval of the award of contract by the IAC.
5. All Contracts Shall Include The Following:
  - a. "The contractor shall perform the contract in accordance with the representations made in Attachment A - Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit and a completed Attachment B - MBE Participation Schedule, submitted as part of the bid or proposal".
  - b. "Failure to perform the contract as specified and presented in the bid or proposal submission without prior written consent of the owner shall constitute a violation of a material term of the contract".
    - 1) The contractor shall structure his/her operations for the performance of the contract to attempt to achieve the MBE goals as stated in the solicitation document.
    - 2) The contractor agrees to use his/her best efforts to carry out these requirements consistent with the efficient and effective performance of the contract.

- 3) The contractor must ensure that all certified MBEs shall have the maximum practical opportunity to compete for additional subcontract work under the contract, even after the award of the contract.
- 4) The contractor shall submit monthly to the MBE Liaison or the school system's designated representative a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
- 5) The contractor shall include in its agreements with its certified MBE subcontractors, a requirement that those subcontractors submit monthly to the MBE Liaison or appropriate representative a report that identifies the prime contract and lists all payments received from the contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
- 6) The contractor shall cooperate in any reviews of the contractor's procedures and practices with respect to minority business enterprises, which the MBE Liaison, the Public School Construction Program, and/or the Governor's Office of Minority Affairs may, from time to time, conduct.
- 7) The contractor shall maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the contractor and furnished to the MBE Liaison and or appropriate representative on request.
- 8) All records concerning MBE participation must be retained by the contractor for a period of five years after final completion of the contract, and will be available for inspection by the MBE Liaison, representatives from the Public School Construction Program and/or other designated official entities.
- 9) At the option of the MBE Liaison or appropriate agency representative, upon completion of the contract and before final payment and/or release of retainage, the contractor shall submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.
- 10) If at any time after submission of a bid or proposal and before execution of a contract, the apparent successful bidder or offeror determines that a certified MBE listed on Attachment B - MBE Participation Schedule has become or will become unavailable, then the apparent successful bidder or offeror shall immediately notify the procurement officer and provide such officer with a reason(s) why the change has occurred. Any desired change in Attachment B - MBE Participation Schedule shall be approved in advance by the procurement officer and shall indicate the contractor's efforts to substitute another certified MBE subcontractor to perform the work. Desired changes occurring after the date of contract execution may occur only upon written approval by the LEA.
- 11) A business that presents itself as a minority business may participate in a project but the contract value may not be counted toward the MBE goal or subgoals, if applicable, until the business is certified by MDOT. If it is not certified at the time of contract award it may not be counted toward the goal or subgoals, if applicable, at that time. Only the funds paid after MDOT certification can be counted toward meeting the MBE goal or subgoals, if applicable. If a certified MBE fails to meet the standards specified in State Finance and Procurement Article.14-301, Annotated Code of Maryland, the payments made to the MBE can be recorded and counted under a contract entered into when the MBE was eligible and certified. Ineligibility of an MBE to participate in the MBE program may not be the sole cause of the termination of the MBE contractual relationship for the remainder of the term of the contract.
- 12) Contractors are encouraged to seek additional MBE participation in their contracts during the life of the project. Any additional MBE participation from certified MBEs should be reported to the MBE liaison and should be included in subsequent monthly requisitions for payment.

- 13) The contractor shall complete the Standard Monthly Contractor's Requisition for Payment (IAC/PSCP Form 306.4), specifically page 3 of 16, *Minority Business Enterprise Participation*, with each requisition submitted for payment. This submittal should accurately reflect the payments to be made that month to MBEs, and the cumulative total for the period specified. Any and all MBE firms that are identified on Attachment B - MBE Participation Schedule should be included on page 3 of the first and all subsequent requisitions for payment. Any MBEs identified during the life of the project should be added as soon as the contractor engages them.
- 14) At the completion of the project the contractor shall prepare a written summary of the final certified MBE participation in the contract as compared to the proposed participation at the time of contract award. This should include the name of each certified MBE, the amount that was anticipated to be paid at the time of contract award, the amount actually paid, and an explanation of any differences that have occurred. Special attention should be given to any situations where the final payments to any MBE was below the level of commitment at the time of contract award.

#### 6. Projects Utilizing a Construction Manager Delivery Method

This section of the procedure has been prepared based upon the utilization of Construction Manager Agency method of delivery. If another alternative method of project delivery is being considered, then these procedures would need to be adapted in consultation with the PSCP before proceeding.

- a. For projects that are being designed and solicited utilizing a Construction Manager Agency delivery method with multiple prime contracts, the school system can structure its procedures to attain the overall MBE goal and subgoals, if applicable, for the project as presented below:
- b. The MBE liaison and other school system staff should work with the project's construction manager, cost estimator, and architect, along with any other individuals who could provide assistance, to determine the overall MBE utilization strategy for the work required, appropriate bid packages, and an appropriate overall MBE goal and subgoals, if applicable, for each specific bid or proposal package.
- c. ~~The overall MBE goal and subgoals, if applicable, for the project shall represent the~~ aggregate of the individual goals and subgoals, if applicable, set for each bid or proposal package.
- d. In setting the specific goals and subgoals, if applicable, for each solicitation package consideration should be given to the potential for MBE participation to the maximum extent possible. The information and procedures provided in section 4.0 MBE Goal Setting Procedures should be consulted and followed for these types of projects.
- e. Prior to submitting the construction documents for State review and authorization to solicit bids or proposals, the school system's representative will prepare a complete list of the individual solicitation packages and indicate the MBE goal and subgoals, if applicable, for each solicitation package. This would include the overall MBE goal and subgoals, if applicable, established in the solicitation documents, the estimated cost for each solicitation package, and the estimated MBE dollar amounts for each solicitation package. A copy of this list should be submitted with the construction documents. The list should be retained as a record by the school system for comparison to the actual contracts awarded with MBE participation, and the final actual MBE participation at the completion of the project.
- f. Contractors submitting bids or proposals for solicitation packages that do not include a MBE goal and subgoals, if applicable, would not be required to submit any of the MBE attachments that are otherwise required nor would they be required to indicate that they are requesting a waiver. The school system representative would, however, request information from the contractor at the completion of the project to determine if any certified MBE firms had participated in the contract.

- g. All other submittals of MBE materials and reporting requirements are applicable for the project, including the submittal of attachments a and b as described above in section 6.0. this includes the documentation for a request for a waiver, if applicable and appropriate.
7. Projects Utilizing an Indefinite Delivery/Indefinite Quantity (IDIQ) or Job Order Contracting (JOC) Method of Delivery
- a. The solicitation should be prepared and the overall MBE goal and subgoals, if applicable, established based upon the type of work that is anticipated to be specified or performed under the contract and the availability of certified MBEs. This could include an analysis of the percentages of the different types of work, the estimated dollar value in the entire contract, and the availability of MBEs.
  - b. If an overall goal and subgoals, if applicable, are set the bidders or offerors would be required to submit Attachment A - Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit in which they could indicate their anticipated MBE participation based upon the entire contract amount and the types of work specified. The award of contract can be made based upon their estimate of MBE participation since there is no specific task order or description of work to be performed and subcontractors have not been identified or engaged through any type of commitment or subcontract.
  - c. Since MBE participation is only anticipated in a general sense as an objective and specific contracts to MBEs have not been signed, then the contract award would not be included in any reporting to the PSCP or subsequent reporting to GOMA.
  - d. However, as the contract proceeds and individual task orders and/or purchase orders are issued, the contractor should submit Attachment B - MBE Participation Schedule for any and all projects or work where MBE subcontractors and/or suppliers might reasonably be utilized. Discussions between the contractor or offeror and the LEA as the task orders and/or purchase orders are being developed should address this aspect of the contract requirements.
  - e. Any MBE participation should be recorded by the MBE liaison and reported to the PSCP MBE Liaison as the task orders and/or purchase orders are approved.
  - f. The contractor shall complete the Standard Monthly Contractor's Requisition for Payment (IAC/PSCP FORM 306.4), specifically page 3 of 16, *Minority Business Enterprise Participation*, with each requisition submitted for payment. This submittal should accurately reflect the payments to be made that month to MBE S, and the cumulative total for the period specified. Any and all MBE firms that are identified on Attachment B - MBE Participation Schedule should be included on page 3 of the first and all subsequent requisitions for payment. Any MBEs identified during the life of the project should be added as soon as the contractor engages them.
  - g. At the completion of the contract period or the full utilization of the contract's value a report should be prepared by the LEA MBE Liaison and submitted to the PSCP MBE Liaison summarizing the MBE participation in each and all of the task orders or purchase orders issued under the contract. This should include the anticipated MBE participation prior to the issuance of the solicitation, the MBE participation anticipated at the time of contract award and the actual MBE participation at the completion of the contract.
8. Projects Utilizing the Design/Build Delivery Method
- a. The solicitation is for both A/E services and the actual construction of a public school project. The solicitation should be prepared and the MBE goal and subgoals, if applicable, established for the construction work that is anticipated for the project. The goal setting procedures described in Section 4.0 above should be utilized for these types of projects.

- b. The bidders or offerors should be required to submit Attachment A - Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit on which they would indicate their anticipated MBE participation based upon the construction work anticipated and their understanding of the MBE goal and subgoals, if applicable, the types of work involved, and the availability of certified MBEs for the project. Since there are no detailed plans or designs for the project and there are no contracts or subcontracts for the actual construction work there is no need to submit any other MBE attachments, at this time.
- c. If the bidder or offeror, who is to be awarded this contract has indicated that they do not anticipate achieving the overall MBE participation goal and subgoals, if applicable, for this project on Attachment A, then they are in effect requesting a waiver. They will be required to submit documentation at a later date to justify this request.
- d. As the project proceeds through the design phase and the project is nearing the completion of the construction documents for submission to the State to review, the Design/Build Team (team) in consultation with LEA representatives should discuss the opportunities and potential for certified MBEs to participate in the project.
- e. The team should begin to identify potential contractors and subcontractors, opportunities to segment the project, and MBEs that could participate in the project.
- f. At a point in time that is approximately 30 days prior to the anticipated CD submission to the State, the team should complete and submit Attachment B - MBE Participation Schedule to the LEA for their review and approval.
- g. If the team had indicated on Attachment A that they would meet the goals and the information on Attachment B indicates that they did meet the goals then the team should proceed with the construction of the project.
- h. If the team had indicated on Attachment A that they did not anticipate meeting the overall MBE goal and subgoals, if applicable, or only a portion of the goal and subgoals, if applicable, then Attachment B should be reviewed by the LEA. The team should, at this time, submit their documentation in support of the waiver requested.
- i. The proposed MBE participation should be reviewed and a determination made as to whether the team has made a good faith effort to meet the MBE goals and subgoals, if applicable, established for the project and as stated on Attachment A, previously submitted.
- j. If a request for a waiver is made and approved, Attachment F - MBE Waiver Documentation should be signed by a school system representative and submitted to the PSCP and the Governor's Office of Minority Affairs.
- k. Since there was no MBE participation reported at the time of the award of the Design/Build contract, the LEA would submit the entire package of information, including all of the MBE related attachments to the PSCP within ten (10) days of the team being directed to proceed with the actual construction work.
- l. All other submittals of MBE materials and reporting requirements are applicable for the project, as described above in Section 6.0.



## **7.0**

### **RECORDS AND REPORTS**

1. The MBE Liaison shall maintain such records as are necessary to confirm compliance with its Minority Business Enterprise Procedures and activities. The records shall be maintained until the project is audited by the Public School Construction Program. These records shall include by project:
  - a. The contractor report submitted at the completion of the project;
  - b. The identity of the minority contractors employed on the project;
  - c. The type of work performed;
  - d. The actual dollar value of the work, services, supplies or equipment; and
  - e. The MBE percentage of the total contract.
2. The MBE Liaison will maintain a record of all waivers approved for each project or solicitation package where the prime contractor was unable to achieve the established overall goal or subgoals, if applicable. The MBE Liaison will, however, report to the PSCP all MBE participation by MDOT certified firms who are prime contractors, subcontractors, suppliers, or otherwise making an economically viable contribution to each project. This information shall be reported to PSCP within ten (10) days after approval of the award of the contract by the board of education.
3. The LEA shall submit the “Certified Minority Business Enterprise Participation Standard Monthly Contractor’s Requisition for Payment” (IAC/PSCP Form 306.4 page 3 of 16, located in the Administrative Procedures Guide), which is Attachment G in this procedure, to the PSCP Director of Fiscal Services as part of the regular monthly request for payment for the project.
4. The LEA shall submit the “Close-Out Cost Summary” (IAC/PSCP Form 306.6 located in the Administrative Procedures Guide), which is Attachment H of this procedure, along with the “Certified Minority Business Enterprise Participation Standard Monthly Contractor’s Requisition for Payment” (IAC/PSCP Form 306.4) to the PSCP Director of Fiscal Services within 180 days of completion of the project.
5. Each fiscal year end, PSCP Fiscal Services will create a report “Payments Made To Contractors during The Fiscal Year” and maintain such records as are necessary to confirm compliance with its minority business enterprise procedures and activities.
6. Each fiscal year end, PSCP Fiscal Services will create a report “Projects Completed During the Fiscal Year” and maintain such records as are necessary to confirm compliance with its Minority Business Enterprise Procedures and activities. This report will compare the overall MBE goal and subgoals, if applicable, for each specific project with the MBE participation anticipated at the time of contract award and the actual MBE participation at the completion of the project.

## **8.0**

### **MONITORING**

1. The LEA’s procurement personnel or project staff shall verify that the certified MBE’s listed in the MBE participation schedule are actually performing the work.
2. The LEA’s procurement personnel shall ensure that MBE subcontractors are receiving compensation as set forth in the MBE participation schedule by ensuring that the contractor submits monthly reports, listing any unpaid invoices over 30 days old received from any certified MBE subcontractor, the amount of each invoice, and the reason payment has not been made.

3. The MBE Liaison and/or the Public School Construction Program will conduct reviews as deemed necessary to confirm compliance with the minority business enterprise participation requirements.
4. The MBE Liaison will maintain appropriate records, and shall assist the Public School Construction Program in on-site or post-audit reviews upon request.
5. Auditors from the Public School Construction Program will have access to and the ability to audit MBE participation for specific projects, information retained by the LEA, and/or submitted to the IAC in reports/forms filed by the LEA as referenced above.

## **9.0 MINORITY BUSINESS ENTERPRISE LIAISON**

1. The Superintendent shall designate an individual to be identified as the MBE Liaison for the school system.
2. The MBE Liaison will be the contact person who will work with the Public School Construction Program and the Governor's Office of Minority Affairs to implement the Minority Business Enterprise Program for the school system and the State of Maryland.
3. The Superintendent will immediately notify the Public School Construction Program if there is a change in the MBE Liaison for the school system.

**CERTIFIED MINORITY BUSINESS ENTERPRISE  
UTILIZATION AND FAIR SOLICITATION AFFIDAVIT**

***NOTE: You must include this document with your bid or offer. If you do not submit the form with your bid or offer, the procurement officer shall deem your bid non-responsive or your offer not reasonably susceptible of being selected for award.***

\* \* \* \* \*

**Part I.**

I acknowledge the:

- Overall certified MBE subcontract participation goal of \_\_\_\_ %. and
- The subgoals, if applicable, of:
  - \_\_\_\_ % for certified African American-owned businesses and
  - \_\_\_\_ % for certified Asian American-owned businesses.

I have made a good-faith effort to achieve this goal. If awarded the contract, I will continue to attempt to increase MBE participation during the project.

**Part II.**

Check ONE Box

**NOTE: FAILURE TO CHECK ONE OF BOXES 1, 2, or 3 BELOW WILL RENDER A BID NON-RESPONSIVE OR AN OFFER NOT REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD**

**NOTE: INCONSISTENCY BETWEEN THE ASSERTIONS ON THIS FORM AND THE INFORMATION PROVIDED ON THE *MBE PARTICIPATION SCHEDULE* (ATTACHMENT B) MAY RENDER A BID NON-RESPONSIVE OR AN OFFER NOT REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD**

- 1 ☐ I have met the overall MBE goal and MBE subgoals for this project. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B], which details how I will reach that goal.
- or**
- 2 ☐ After having made a good-faith effort to achieve the overall MBE goal and MBE subgoals for this project, I can achieve partial success only. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B], which details the MBE participation I have achieved.

I request a partial waiver as follows:

- Waiver of overall MBE subcontract participation goal: \_\_\_\_ %
- Waiver of MBE subcontract participation subgoals, if applicable:
  - \_\_\_\_ % for certified African American-owned businesses and
  - \_\_\_\_ % for certified Asian American-owned businesses.

Within 10 days of being informed that I am the apparent awardee, I will submit *MBE Waiver Documentation* [Attachment F] (with supporting documentation).

or

- 3 ☐ After having made a good faith effort to achieve the overall MBE goal and MBE subgoals for this project, I am unable to achieve any portion of the goal or subgoals. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B].

I request a full waiver.

Within 10 days of being informed that I am the apparent awardee, I will submit *MBE Waiver Documentation* [Attachment F] (with supporting documentation).

### Part III.

I understand that if I am the apparent awardee or conditional awardee, I must submit **within 10 working days** after receiving notice of the potential award or within 10 days after the date of conditional award - whichever is earlier - the:

- *Outreach Efforts Compliance Statement* (Attachment C)
- *Subcontractor Project Participation Statement* (Attachment D)
- *Minority Subcontractors Unavailability Certificate* (Attachment E) (if applicable)
- Any other documentation the Procurement Officer requires to ascertain my responsibility in connection with the MBE participation goal and subgoals

I acknowledge that if I fail to timely return complete documents, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has been awarded, the award is voidable.

I acknowledge that the MBE subcontractors/suppliers listed in the *MBE Participation Schedule* and any additional MBE subcontractor/suppliers identified in the *Subcontractor Project Participation Statement* will be used to accomplish the percentage of MBE participation that I intend to achieve.

In the solicitation of subcontract quotations or offers, MBE subcontractors were provided the same information and amount of time to respond as were non-MBE subcontractors.

The solicitation process was conducted in such a manner so as to not place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors.

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

Bidder/Offeror Name

Affiant Signature

Address

Printed Name & Title

Address (continued)

Date

## Attachment B

### MBE PARTICIPATION SCHEDULE

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

1. Prime Contractor's Name	2. Prime Contractor's Address and Telephone Number
3. Project/School Name	4. Project/School Location
5. LEA            Baltimore County Schools  PSC No.	6. Base Bid Amount  \$
7a. Minority Firm Name	Minority Firm Address
Minority Firm Telephone Number    _____ Minority Firm Fax Number            _____ MDOT Certification Number          _____	Minority Group Type Ⓔ (African American )                      Ⓔ (Women ) Ⓔ (Asian )                                      Ⓔ (Hispanic) Ⓔ (American Indian)                      Ⓔ (Disabled)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
7b. Minority Firm Name	Minority Firm Address
Minority Firm Telephone Number    _____ Minority Firm Fax Number            _____ MDOT Certification Number          _____	Minority Group Type Ⓔ (African American )                      Ⓔ (Women ) Ⓔ (Asian)                                      Ⓔ (Hispanic) Ⓔ (American Indian)                      Ⓔ (Disabled)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
7c. Minority Firm Name	Minority Firm Address
Minority Firm Telephone Number    _____ Minority Firm Fax Number            _____ MDOT Certification Number          _____	Minority Group Type Ⓔ (African American )                      Ⓔ (Women ) Ⓔ (Asian)                                      Ⓔ (Hispanic) Ⓔ (American Indian)                      Ⓔ (Disabled)
Work to be Performed and Subcontract Dollar Amount	Percent of Total Contract
8. MBE Total Dollar Amount	9. Total MBE Percent of Entire Contract
10. Form Prepared by : Name                    _____ Title                    _____ Date                    _____	11. Reviewed and Accepted by Board of Education MBE Liaison Name                    _____ Title                    _____ Date                    _____

Total MBE Participation: (See Boxes 8 & 9)	_____ %	\$	_____
Total African-American MBE Participation:	_____ %	\$	_____
Total Asian American-Owned MBE Participation:	_____ %	\$	_____
Total Other Participation:	_____ %	\$	_____

## Attachment C

### OUTREACH EFFORTS COMPLIANCE STATEMENT

In conjunction with the bid or offer submitted in response to Baltimore County Public Schools for the \_\_\_\_\_ project, PSC # \_\_\_\_\_, I state the following:  
(name)

- 1) Bidder/Offeror identified opportunities to subcontract in these specific work categories:
- 2) Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.
- 3) Bidder/Offeror made the following attempts to contact personally the solicited MBEs:
- 4) ☐ Bidder/Offeror assisted MBEs to fulfill or to seek waiver of bonding Requirements (Described Efforts)  
☐ This project does not involve bonding requirements.
- 5) ☐ Bidder/Offeror did/did not attend the pre-bid conference  
☐ No pre-bid conference was held.

Company Name

By:

Name

Address

Title

Date

## MINORITY BUSINESS ENTERPRISES SUBCONTRACTOR PROJECT PARTICIPATION STATEMENT

PROJECT/ SCHOOL NAME: \_\_\_\_\_

PROJECT/ SCHOOL LOCATION: \_\_\_\_\_

LEA: Baltimore County Public Schools

NAME OF PRIME CONTRACTOR: \_\_\_\_\_

NAME OF MBE SUBCONTRACTOR: \_\_\_\_\_

\_\_\_\_\_  
MDOT Certification Number

1. Work/Services to be performed by MBE Subcontractor: \_\_\_\_\_  
\_\_\_\_\_
2. Subcontract Amount: \$ \_\_\_\_\_
3. Bonds - Amount and type required of Subcontractor if any: \_\_\_\_\_
4. MBE Anticipated or Actual Commencement Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_
5. This MBE subcontract represents the following percentage of the total contract cost: \_\_\_\_\_
6. This is an African American Firm: Yes \_\_\_\_\_ No \_\_\_\_\_
7. This is an Asian American Owned Firm: Yes \_\_\_\_\_ No \_\_\_\_\_
8. This is a Woman, American Indian, Hispanic or Disabled Firm: Yes \_\_\_\_\_ No \_\_\_\_\_  
(Circle One)

\*\*

The undersigned subcontractor and prime contractor will enter into a contract for the work/service indicated above upon the prime contractor's execution of a contract for the above referenced project with the Board of Education. The undersigned subcontractor is a MDOT certified Minority Business Enterprise. The terms and conditions stated above are consistent with our agreements.

Signature of Subcontractor: \_\_\_\_\_

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

\_\_\_\_\_  
The term and conditions stated above are consistent with our agreements.

Signature of Prime Contractor: \_\_\_\_\_

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

# MINORITY 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 the \_\_\_\_\_ school project in  
 Baltimore County by \_\_\_\_\_  
 \_\_\_\_\_  
 (Name of Prime Contractor's Firm)

\*

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

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\_\_\_\_\_  
 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 bid, 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



## Attachment F

**MBE WAIVER DOCUMENTATION**

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

PSC No. \_\_\_\_\_

Base Contract Amount \$ \_\_\_\_\_

Plus Accepted Alternates \_\_\_\_\_

Equals Total Contract Amount \$ \_\_\_\_\_

I have previously requested that a waiver be granted to the overall MBE goal for this project of \_\_\_\_ percent, with a minimum of \_\_\_\_ percent from certified African American-owned businesses, a minimum of \_\_\_\_ percent from certified Asian American-owned businesses, and the balance from all certified minority business enterprises, if applicable. This would include the total dollar value of all materials, supplies, equipment, and services, including construction services directly or indirectly, from Minority Business Enterprises (MBE) which are currently certified by the Maryland Department of Transportation (MDOT).

I \_\_\_\_\_, hereby certify that my position is

(Name of Company Representative)

\_\_\_\_\_, and I am the duly authorized representative of

(Position Title)

\_\_\_\_\_

(Company Name)

I further certify that I have submitted a *Schedule for Participation of Certified Minority Business Enterprises* which reflects the percentage and dollar value of certified Minority Business Enterprise participation which my company expects to achieve for this contract. Therefore, the request for the waiver is as follows:

**Summary MBE Participation Schedule from Attachment B**

Minority Group	MBE GOAL		Actual MBE Dollar Participation		Request For Waiver	
	Percent of Total Contract	Dollar Value of Total Contract*	Dollar Value	Percent of Total Contract	Dollar Value	Percent of Total Contract
a. Sub Goal African American						
b. Sub Goal Asian American						
c. Other * in Sub Goal group a/b above						
TOTALS						

\* with accepted/rejected alternates

To support this request for a waiver, I include the following information as attachments which I certify to be true to the best of my knowledge.

1. A detailed statement of the efforts made by the contractor to identify and select portions of the work proposed to be performed by subcontractors in order to increase the likelihood of achieving the stated goal;
2. A detailed statement of the efforts made by the contractor prior to and up to 10 days before the bid opening to solicit minority business enterprises through written notices that describe the categories of work for which subcontracting is being solicited, the type of work to be performed, and specific instructions on how to submit a bid;
3. A detailed statement of the contractor's efforts to make personal contact with MBE firms identified for Item 2. above;
4. A record of the name, address, telephone number, and dates contacted for each MBE identified under items 2. and 3. above;
5. A description of the information provided to MBE's regarding the plans, specifications and the anticipated time schedule for portions of the work to be performed;
6. Information on activities to assist minority business enterprises to fulfill bonding requirements, or to obtain a waiver of these requirements;
7. Information on activities to publicize contracting opportunities to minority business enterprises, attendance at pre-bid meetings, or other meetings scheduled by the MBE Liaison or designated representative;
8. As to each MBE that placed a subcontract quotation or offer which the apparent low bidder or successful offeror considers not to be acceptable, a detailed statement of reasons for this conclusion; and
9. A list of minority subcontractors found to be unavailable. This shall be accompanied by a Minority Subcontractor Unavailability Certificate signed by the minority business enterprise or from the apparent low bidder or successful offeror indicating that the minority business did not provide the written certification.

Signature \_\_\_\_\_  
(Company Representative Name)

Date \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day.

of \_\_\_\_\_ in the year \_\_\_\_\_ Notary Public \_\_\_\_\_

Reviewed and accepted by the Baltimore County Board of Education MBE Liaison.

Signature \_\_\_\_\_  
(County Representative Name)

Date \_\_\_\_\_

MBE Request For Waiver Master Form (July 2002)

# **CERTIFIED MINORITY BUSINESS ENTERPRISE PARTICIPATION STANDARD MONTHLY CONTRACTOR'S REQUISITION FOR PAYMENT**

LEA: Baltimore County Public Schools

DATE: \_\_\_\_\_

PROJECT \_\_\_\_\_

PSC NO: \_\_\_\_\_

LOCATION: \_\_\_\_\_

REQ NO: \_\_\_\_\_

NAME OF MBE SUB-CONTRACTOR	MDOT SUB- CONTRACTOR CERTIFICATION #	MBE SUB- CONTRACTOR CLASSIFICATION #	TOTAL MBE CONTRACT AMOUNT \$	AMOUNT TO BE PAID THIS REQUISITION \$	PAID JULY 1 to JUNE 30	TOTAL PAID TO DATE
1	2	3	4	5	6	7

TOTAL \_\_\_\_\_

MDOT Certification # can be located at [www.mdot.state.md.us](http://www.mdot.state.md.us)

MBE Classification #:

African American = 1 Hispanic American = 2

American Indian = 3

Asian American = 4

Women = 5

Disabled = 6

Non-profit = 7

I certify that the figures and information presented above represent accurate and true statements, that timely payments have been and will be made to suppliers and subcontractors on the project, as requisitioned payments are received, and in accordance with our contracts.

Name of Contractor Firm

Authorized Signature/Date

Contractor EFIN/SSN

Contractor MBE Classification # (if applicable)