

## ATTACHMENT D – Minority Business Enterprise Requirements

### EXHIBIT TO SOLICITATION STATE OF MARYLAND DEPARTMENT OF INFORMATION TECHNOLOGY MINORITY BUSINESS ENTERPRISE PARTICIPATION

#### PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to strive to achieve the Minority Business Enterprise (MBE) goal stated in the Request for Proposals for Hardware and Associated Equipment and Services 2012, No. 060B2490022 (Hardware 2012 or RFP). MBE performance must be in accordance with this Attachment, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Attachment.

#### DEFINITIONS

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

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

*Note:* A minority business enterprise also includes a not-for-profit entity organized to promote the interests of physically or mentally disabled individuals.

An MBE **must** be certified by the Maryland Department of Transportation (MDOT) in order to have its contract participation counted under the Department’s MBE program.

#### MBE GOALS AND SUB-GOALS

The Contractor shall achieve the MBE subcontracting goal and any sub-goals established for each individual Purchase Order (PO), by subcontracting to one or more MDOT-certified MBEs a sufficient portion of the Purchase Order Request for Proposal (PORFP) scope of work that results in total MBE payments that meet or exceed the PORFP MBE goal percentage.

If awarded a Master Contract:

- ◆ A prime contractor — including an MBE or a certified Small Business Reserve (SBR) prime contractor — must accomplish an amount of work not less than the MBE subcontract goal with certified MBE subcontractors, unless it has requested and been granted a waiver.

- ◆ A prime contractor comprising a joint venture that includes MBE partner(s) must accomplish the MBE subcontract goal with certified MBE subcontractors, unless it has requested and been granted a waiver.

### SOLICITATION AND CONTRACT FORMATION

#### *MASTER CONTRACT AWARDS*

- ◆ An Offeror must sign and submit Attachment D-1A (Hardware 2012 Master Contractor Acknowledgement of Task Order MBE Requirements) with its Hardware 2012 Technical Proposal submission. By signing Attachment D-1A, the Offeror affirms that if it is awarded a master contract under one or more Functional Areas of the RFP, it will comply with all MBE requirements associated with any PORFP, including submission of waiver documentation where applicable. **Offeror's failure to submit Attachment D-1A with its technical proposal will result in the Offeror's proposal being deemed not reasonably susceptible for award, and the Offeror being eliminated from consideration for a master contract award.**
- ◆ Offerors receiving notification from the State that they are an apparent master contract awardee will not be required to submit additional MBE documentation prior to final master contract execution. However, all PORFPs issued with an MBE participation goal will contain certain documents that the Contractor must submit at the time of its PORFP Proposal submission as well as documents that an apparent PORFP awardee must submit within 10 working days of notification of PORFP award. MBE affidavits, schedules, statements, and reports that will be used at the PORFP level are included herein as Attachment D-1 (Certified MBE Utilization and Fair Solicitation Affidavit), D-2 (MBE Participation Schedule), D-3 (Outreach Efforts Compliance Statement) and D-4 (Subcontractor Project Participation Statement). Attachments D-5 and D-6 are sample MBE reporting forms (See "Contract Administration Requirements" below).

#### *PORFP AWARDS*

- ◆ Attachments D-1 and D-2 must be completed, signed and submitted by the Master Contractor together with the PO Proposal. If a Master Contractor believes that a waiver of some or all of the MBE goal and/or sub-goals is necessary, the waiver request must be clearly indicated on Attachment D-1. **If the Master Contractor does not submit Attachments D-1 and D-2 with its PO Proposal, the Master Contractor's PO Proposal will be eliminated from consideration for award.**
- ◆ Attachments D-3, D-4 and D-7 waiver documentation, if applicable, shall be submitted by the apparent PORFP awardee within 10 working days of notification of award. If the apparent PORFP awardee fails to return the requested documentation within the required time, the contract offer may be withdrawn.

## CONTRACT ADMINISTRATION REQUIREMENTS

For each PO, the Master Contractor shall:

1. Submit monthly to the Department/Agency a report listing all unpaid invoices over 30 days old received from a certified MBE subcontractor working under the TO Agreement, the amount of each invoice and the reason payment has not been made. For informational purposes only, a sample prime contractor unpaid invoice report is attached (see Attachment D-5).
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices. For informational purposes only, a sample MBE Subcontractor Paid/Unpaid Invoice report is attached (see Attachment D-6).

**NOTE:** Each Department/Agency will designate, via PORFP, the specific format in which the prime contractor and subcontractor must submit monthly MBE reports, and to whom such reports shall be forwarded. **Under the Hardware 2012 Master Contract, all PORFPR MBE payment reports shall be sent to the agency for the which the PORFP scope of work is being completed. Payment reports should not be sent to DoIT unless the PORFP was issued by DoIT.**

3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. The Master Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

## MINORITY BUSINESS ENTERPRISE PARTICIPATION FORMS

### **Must be submitted with Master Contract Proposal in response to this RFP:**

- ◆ ATTACHMENT D-1A – Hardware 2012 Master Contractor Acknowledgement of Purchase Order MBE Requirements

### **Must be submitted with PORFP Proposal:**

- ◆ ATTACHMENT D-1 - Certified MBE Utilization and Fair Solicitation Affidavit
- ◆ ATTACHMENT D-2 - MBE Participation Schedule

### **Must be submitted within 10 working days of notification of PORFP apparent award:**

- ◆ ATTACHMENT D-3 - Outreach Efforts Compliance Statement
- ◆ ATTACHMENT D-4 - Subcontractor Project Participation Statement

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

- ◆ ATTACHMENT D-5 - Prime Contractor Unpaid MBE Invoice Report (Sample)
- ◆ ATTACHMENT D-6 - Subcontractor Paid/Unpaid MBE Invoice Report (Sample)

**ATTACHMENT D-1A**

**Hardware 2012 Master Contractor Acknowledgement of Purchase Order MBE Requirements**

**This document shall be included with the submittal of the Offeror's response to the RFP. If the bidder or Offeror fails to complete and submit this form with its response to the RFP, the procurement officer shall determine that the Offeror's response to the RFP is not reasonably susceptible of being selected for award.**

In conjunction with the offer submitted in response to Solicitation No. 060B2490022, I affirm the following:

1. I understand that if I am awarded a master contract under the solicitation noted above, I will have the opportunity to compete for and win PORFP contracts that may contain MBE participation requirements.
2. If I am awarded a master contract under the solicitation noted above, and I respond to a PORFP that contains MBE requirements by submitting a PO Proposal, I understand that if I fail to comply with any of the MBE requirements outlined in the PORFP, my PO Proposal will be eliminated from further consideration.
3. If I am awarded a PO, I commit to making a good faith effort to achieve the MBE goal established for the PORFP.

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

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

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

\_\_\_\_\_

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

The following Attachments D-1 through D-6 are sample forms and do not need to be completed or submitted with Offeror's response to this RFP.

The forms are required to be completed and submitted after Master Contract award with Master Contractor's PORFP proposal pursuant to any applicable issued under this RFP.

**D-1 MDOT Certified MBE Utilization and Fair Solicitation Affidavit**  
*(submit with bid or offer)*

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and 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.

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

1.  I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of \_\_\_\_ percent and, if specified in the solicitation, the following subgoals (complete for only those subgoals that apply):
- |                                |                             |
|--------------------------------|-----------------------------|
| ____ percent African American  | ____ percent Asian American |
| ____ percent Hispanic American | ____ percent Woman-Owned    |
- Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

**OR**

- I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.
2. I understand that if I am notified that I am the apparent awardee of a PORFP, I must submit the following additional documentation as directed in the PORFP.
- (a) MBE Participation Schedule (D-2)
  - (b) Outreach Efforts Compliance Statement (D-3)
  - (c) Subcontractor Project Participation Certification (D-4)

- (d) Any other documentation, including D-7 waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

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

- 3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
- 4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project and the items of work each MBE will provide under the contract. I hereby affirm that the MBE firms are only providing those items of work for which they are MDOT certified.

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

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

*(PLEASE PRINT OR TYPE)*

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

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

**SUBMIT THIS AFFIDAVIT WITH MASTER CONTRACT PROPOSAL**

## ATTACHMENT D-2 MBE Participation Schedule

<b>Prime Contractor:</b> <small>(Firm Name, Address, Phone)</small>	<b>Project Description:</b>
<b>Project Number:</b>	

**List Information For Each Certified MBE Subcontractor On This Project**

<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	
<b>Minority Firm Name</b>	<b>MBE Certification Number</b>
<b>FEIN</b> Identify the Applicable Certification Category (For Dually Certified Firms, Check Only One Category)	
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Woman-Owned <input type="checkbox"/> Other	
Percentage of Total Contract Value to be provided by this MBE _____%	
Description of Work to Be Performed:	

Continue on a separate page, if needed.

***SUMMARY***

Total <i>African-American</i> MBE Participation:	_____ %
Total <i>Asian American</i> MBE Participation:	_____ %
Total <i>Hispanic American</i> MBE Participation:	_____ %
Total Woman-Owned MBE Participation:	_____ %
Total <i>Other</i> Participation:	_____ %
<b>Total <i>All MBE</i> Participation:</b>	<b>_____ %</b>

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

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

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

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

**SUBMIT THIS AFFIDAVIT WITH PORFP  
BID/PROPOSAL**

**ATTACHMENT D-3**

**Outreach Efforts Compliance Statement**

**Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier.**

In conjunction with the bid or offer submitted in response to Solicitation No. \_\_\_\_\_, Bidder/Offeror states the following:

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 MDOT certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
  - a.  This project does not involve bonding requirements.
  - OR**
  - b.  Bidder/Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
  - a.  Bidder/Offeror did/did not attend the pre-bid/proposal conference.
  - OR**
  - b.  No pre-bid/proposal conference was held.

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

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

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

**ATTACHMENT D-4**

**Subcontractor Project Participation Certification**

*Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1 within 10 working days of notification of apparent award.*

\_\_\_\_\_ (prime contractor) has entered into a contract with  
 \_\_\_\_\_ (subcontractor) to provide services in connection with the  
 Solicitation described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or proposal;
- (3) fail to use the certified minority business enterprise in the performance of the contract; or
- (4) pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

**PRIME CONTRACTOR SIGNATURE**

**SUBCONTRACTOR SIGNATURE**

By: \_\_\_\_\_  
 Name, Title  
 Date

By: \_\_\_\_\_  
 Name, Title  
 Date

This form is to be completed  
monthly by the prime

**Attachment D-5**  
**Maryland Department of Information Technology**  
**Minority Business Enterprise Participation**  
**Prime Contractor Paid/Unpaid MBE Invoice Report**

Report #: _____  Reporting Period (Month/Year): _____  <b>Report is due to the MBE Officer by the 10<sup>th</sup> of the month following the month the services were provided.</b>  <b>Note: Please number reports in sequence</b>	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
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Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	FAX:	Email:																																					
Subcontractor Name:		Contact Person:																																					
Phone:	FAX:																																						
Subcontractor Services Provided:																																							
<b>List all payments made to MBE subcontractor named above during this reporting period:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice#</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td><b>Total Dollars Paid:</b></td> <td>\$ _____</td> <td></td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Paid:</b>	\$ _____		<b>List dates and amounts of any outstanding invoices:</b> <table border="1"> <thead> <tr> <th></th> <th><u>Invoice #</u></th> <th><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td><b>Total Dollars Unpaid:</b></td> <td>\$ _____</td> <td></td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			<b>Total Dollars Unpaid:</b>	\$ _____	
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\*\*If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.

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

(TO MANAGER OF APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)	(TO PROCUREMENT OFFICER OR APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)
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This form must be completed by  
MBE subcontractor

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

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

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

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

(TO MANAGER OF APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)	(TO PROCUREMENT OFFICER OR APPLICABLE POC NAME, TITLE) (AGENCY NAME) (ADDRESS, ROOM NUMBER) (CITY, STATE ZIP) (EMAIL ADDRESS)
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Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(Required)