

### Welcome!

**Today's Topic:** 

## Maryland's MBE Rights & Responsibilities

Tuesday, April 25, 2024



# MBE Prime Contractor and Subcontractor Rights and Responsibilities



# Governor's Office of Small, Minority & Women Business Affairs

- Create <u>policies</u> aimed at connecting small and minority businesses to greater economic opportunities
- Oversee and monitor <u>compliance</u> for the State's three procurement Socioeconomic procurement programs across 70 state agencies/departments
- Conduct statewide <u>outreach</u> to small and Minority Business Enterprises
- Host <u>trainings</u> and provide online resources for small business growth and development
- Advocate on behalf of MBEs facing challenges on state procurements

### Socioeconomic Program Overview

# Small Business Reserve (SBR) Program

- Prime contracting program
- 15% set-aside
- Race and gender neutral
- State-defined small business eligibility standards apply
- Online certification process (eMMA)
- Annual renewal

# Minority Business Enterprise (MBE) Program

- Subcontracting program; may also perform as prime
- 29% aspirational goal
- Race and gender specific
- Application-based certification process through MDOT
- Annual review

# **Veteran-Owned Small Business Enterprise (VSBE) Program**

- Subcontracting program; may also perform as a prime
- 1% aspirational goal
- 3-Step certification process includes *verification* of veteran status
- Annual renewal

All Programs are mutually exclusive.

# Celebrating Minority Inclusion in Maryland



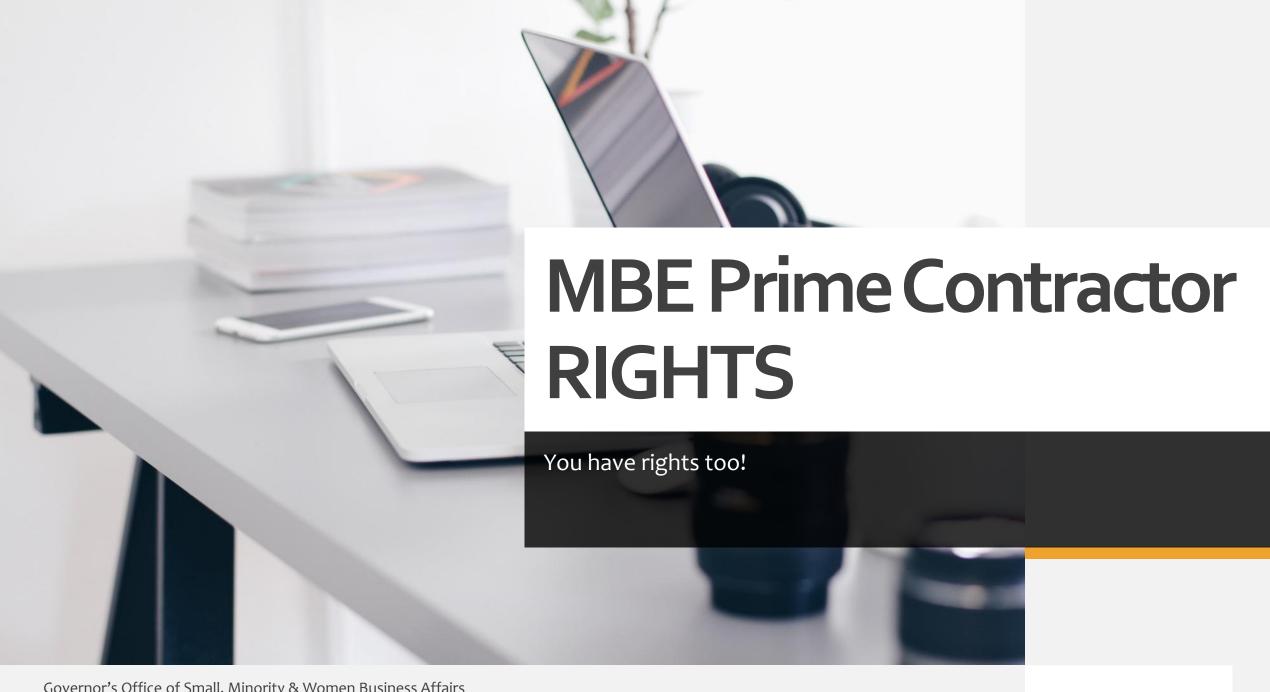
#### **NEW Program Seals**

Program seals are now available to certified vendors. Certification status will be verified during the procurement process.









# MBE prime contractors have the same rights as all other prime contractors.

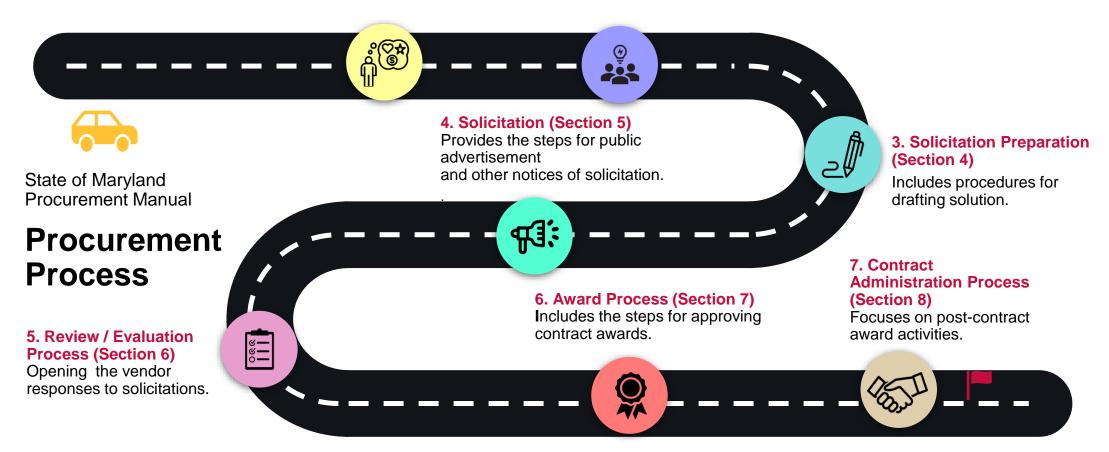
✓ Are entitled to receive fair and equal treatment during the procurement process

#### 1. Need Identification (Section 2)

Focuses on the various types of goods and services that are procured by the state.

#### 2. Pre-Solicitation (Section 3)

Planning stages prior to preparing a procurement solicitation.





# MBE prime contractors have the same rights as all other prime contractors.

✓ May request and receive information to help develop competitive bid or proposal through a Public Information Act (PIA) request

✓ PIA Site:
<a href="https://www.marylandattorneygeneral.gov/Pages/OpenGo">https://www.marylandattorneygeneral.gov/Pages/OpenGo</a>
v/pia.aspx

# MBE prime contractors have the same rights as all other prime contractors.

- ✓ You may submit written questions to and receive a written response from State agency
  - √ May ask State agency how MBE goals were set
  - ✓ Minimum qualifications

### MBE Prime Contractors RIGHTS (cont.)

- ✓ During contract term:
  - ✓ May ask to add MBEs, but not at the expense of originally-named MBEs
    - ✓ MBE Utilization and Fair Solicitation Affidavit & Participation Schedule
  - ✓ May ask to remove MBEs, but must demonstrate good cause
  - ✓ Any additions, removals or other changes to original MBE participation commitments must be approved in writing by the State agency

### MBE Prime Contractors RIGHTS (cont.)

- ✓ For contracts awarded after June 9, 2014, an MBE prime contractor may self-perform up to 50% of the overall MBE contract goal and up to 100% of any one MBE contract subgoal, provided that the certified MBE prime contractor is properly identified on the MBE participation schedule and the firm is NAICS code-certified to do the work
  - ✓ Intended to help MBEs grow their capabilities and build capacity

### Overall MBE Goal vs. Subgoals

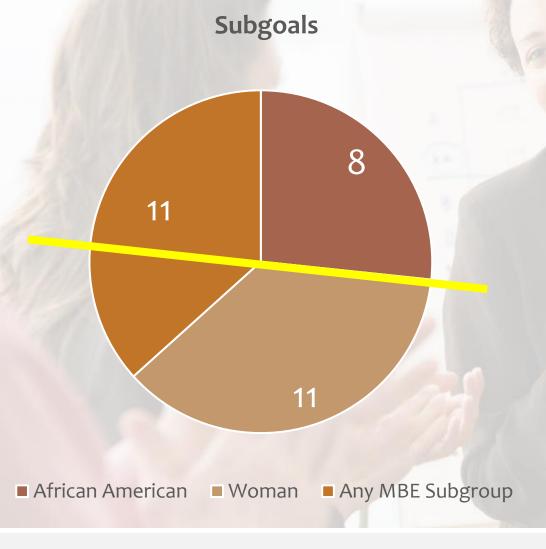
✓ Subgoals are the means by which we further diversify the firms that our Prime Contractors use to fulfill the Stated MBE Goal on a procurement.

In 2011, the State became concerned that Prime Contractors would continue to use the same firms (or even worse, the most overrepresented firms in each industry category to fulfill the MBE requirements on a contract).

## Overall MBE Goal vs. Subgoals

	approp	oriate column per	Cons	AE-CRS	Main	IT	Serv	CSE
9. # of Firms	10. ≥3 Y/N	Subgroups						
		African American	8%	7%	9%	10%		6%
		Hispanic American	2-	_	3%	-	2%	2%
		Asian American	:::	1. Table 1	2%	25	3%	-
		Women	11%	10%	_	10%	10%	8%
Subgo	al Total		19%	17%	14%	20%	15%	16%
			21%	19%	16%	22%	17%	18%

## Subgoals in Practice



Overall MBE Goal & Subgoals

African-American Woman-Owned Prime Awarded

## **Counting of MBE Participation**

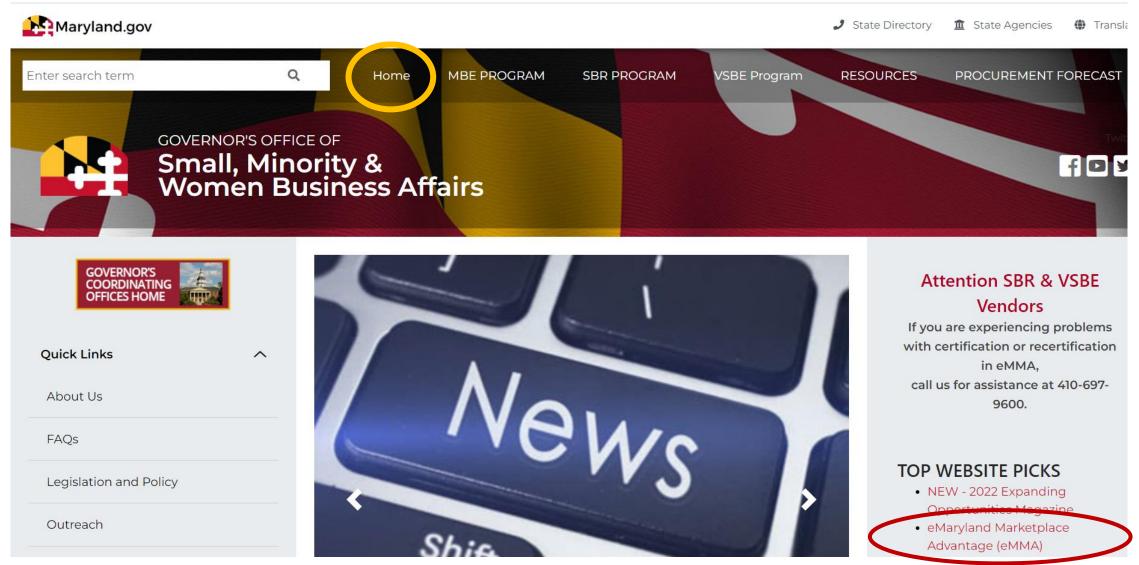
- Firms who are certified as both a woman-owned firm and a member of a subgroup (Asian American, African American, etc. can count under both classifications.
- This allows the work of a certified woman-owned MBE, who is also a member of an ethnic group, to possibly be counted for more than one subgoal on a contract.



# MBE Prime Contractor RESPONSIBILITIES

- ✓ Learn enough about the procurement process to compete effectively:
  - ☐ How does the process work?
  - Who are the decision makers?
  - ☐ What are they buying and when are they buying it?
  - ☐ Who is your competition?
  - ☐ What other information do you need to compete effectively?

## gomdsmallbiz.maryland.gov



## gomdsmallbiz.maryland.gov

#### MINING PUBLIC DATA

eMaryland Marketplace Advantage (eMMA)

- Video
- Slide Deck

#### Procurement Forecast

- Video
- Slide Deck

#### Board of Public Works

- Video
- Slide Deck

#### Communicating with Confidence

- Video
- Slide Deck

- Access to Buyer
   Networking Events
- Training Classes
- Statewide Events







### emma.maryland.gov



New Vendor? Register Now

Vendor Search

Public Solicitations

**Public Contracts** 





Login

#### Welcome to eMaryland Marketplace Advantage (eMMA)

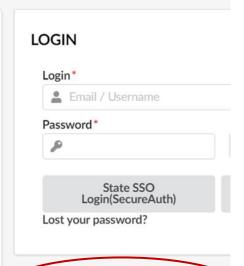


**eMMA** is Maryland's new online procurement platform used to connect the vendor community with contracting opportunities from state, county, and local government entities. Registered vendors will receive notices of bid opportunities, can submit bid responses online, and may obtain bid results online.

Qualified vendors may also complete the self-certification process for the Small Business Reserve (SBR) Program and Veteran-owned Small Business Enterprise (VSBE) Program.

**eMMA** facilitates an open, transparent, and efficient procurement process. We look forward to doing business with you!

Additional information can be found in the Frequently Asked Questions and Quick Reference
Guides Any questions please contact the eMMA Help Desk





New Vendor? Register Now



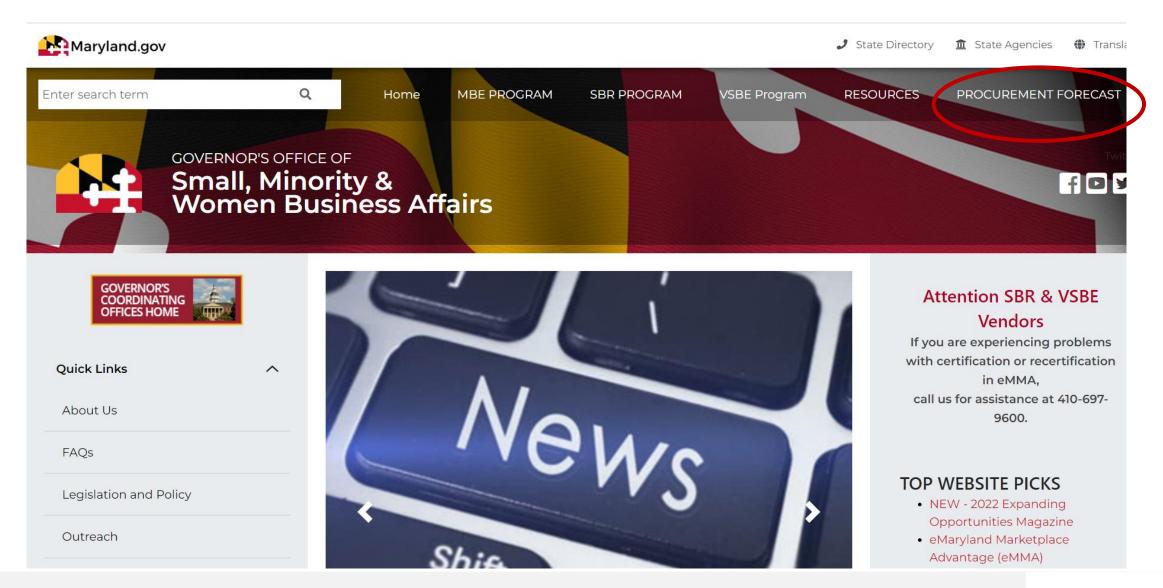
**Public Solicitations** 

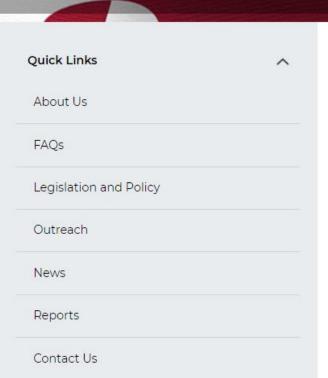


**Public Contracts** 

Governor's Office of Small, Minority & Women Business Affairs

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#### **Procurement Forecast Portal**

Welcome to Maryland's Procurement Forecast Portal for Fiscal Year 2022.

This database is populated with <u>projected</u> purchases of \$100,000 and above for the current fiscal year. Not all projected purchases will be made as indicated in the Procurement Forecast.

We strongly advise you to connect with the buyer directly for details and updates.

To obtain the contact information of the buyer, download your search results by clicking on "EXPORT TO EXCEL" below.



		Current	$\Lambda$	/				A
		MBE/DBE	$\Lambda$	Estimated Total	/			
		Participation		Contract Award				
Agency Name	Incumbent Name	Goal	Description -	(no options)	Term of Contra ▼	PO Name	PO Phone	PO Email
Housing and		,	Single Family Bond	1	1			
Community	Dovenmuehle	1	Funded Mortgage	\$5,000,001 to	1			
Development	Mortgage, Inc.	15.00%	Subservicing	\$10,000,000	5 years or more	Paul Dickman	301-429-7566	paul.dickman@maryland.gov
	7	,	Gigamon Wan	,	1			
Transportation -		1	Software	1	1			
Office of the	Knott Technology,	1	Maintenance FY 18-	1	1			
Secretary	Inc.	0.00%	19	\$15,000 to \$99,000	1-2 years	Joe Palechek	410-865-1137	jpalechek@mdot.maryland.gov
		,	Crime Lab Building	\$1,000,001 to				
Police	LB&B	30.00%	Maintenance	\$5,000,000	5 years or more	DGS	DGS	DGS
Transportation - Port	Marine Technologies,	,	'					
Administration	Inc.	0.00%	Seafender Removal	\$15,000 to \$99,000	3-4 years	Olu Fawehinmi	410-385-4568	ofawehinmi@marylandports.com
	Malstrom Electric,	,	On-Call General	\$500,001 to				
Stadium Authority	Inc.	12.00%	Electrical Services	\$1,000,000	2-3 years	John Samoryk	410-223-4147	jsamoryk@mdstad.com
	NEC Corporation of	,	,	\$500,001 to				
Comptroller	America	25.00%	PBX III	\$1,000,000	5 years or more	Mike Balderson	410-260-6330	mbalderson@comp.state.md.us
University of		,	,	\$10,000,001 to				
Maryland, Baltimore		0.00%	Microscopes	\$20,000.000	5 years or more	Kristal Burgess	410-706-0772	mailto:kburgess@umaryland.edu
		,	Resident Hall					
Coppin State		1	Bathroom	\$1,000,001 to	1			
University		<u>                                     </u>	Renovations	\$5,000,000	Less than 1 year	Thomas Dawson	410-951-3792	thdawson@coppin.edu
Housing and		,	Single Family Bond	1				
Community	Dovenmuehle	1	1	\$5,000,001 to	1			
Development	Mortgage, Inc.	15.00%	Subservicing	\$10,000,000	5 years or more	Paul Dickman	301-429-7566	paul.dickman@maryland.gov
Governor's Office of Small, Minority & Women Business Affairs  Governor's Office of Small, Minority & Women Business Affairs								

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### **Board of Public Works**



- ✓ Governor, Comptroller and Treasurer
- ✓Only board of its kind in the nation
- ✓ Meets bi-weekly on Wednesdays; meetings are live-streamed
- ✓ Agenda available on bpw.maryland.gov

### BPW Agenda- Identify Competition or Partners

#### 1-C. MARYLAND AVIATION ADMINISTRATION

Construction Contract

Contract ID: Installation of Gate-Electrification Equipment at Baltimore/Washington International Thurgood Marshall (BWI Thurgood Marshall) Airport; MAA-CO-23-004

ADPICS No.: MAACO23004

Contract Description: Install gate-electrification equipment at BWI Thurgood Marshall Airport. The work includes the installation of new 400 Hertz (Hz) power and Pre-Conditioned Air (PC Air) units at four MDOT MAA owned loading bridges (Gate C2, Gate D7, Gate D21 and Gate D22) at BWI Thurgood Marshall Airport.

Award(s): Glenelg Construction, Inc.; Hanover, MD

Contract Term: 12/08/2022\* - 12/20/2024 (\*or earlier upon BPW Approval)

(400 calendar days)

Amount: \$1,716,000

Procurement Method: Competitive Sealed Bidding

Bids:

Bidders	Amounts
Glenelg Construction, Inc.; Hanover, MD	\$1,716,000
Towson Mechanical, Inc.; Parkville, MD	\$2,049,000

DBE/VSBE Participation: 15% / 0%

Incumbent: N/A

Performance Security: Payment & Performance Bonds

Requesting Agency Remarks: This solicitation was advertised on eMaryland Marketplace Advantage and the Maryland Department of Transportation Maryland Aviation Administration's (MDOT MAA) website. The MDOT MAA directly solicited 17 prospective bidders. Three bids were received; one bid was rejected. The bid was deemed non-responsive because it did not conform to all material respects (did not complete and sign the bid proposal forms) as required in the solicitation. Therefore, the bid was rejected. No protest was filed.

# MBE Prime Contractor RESPONSIBILITIES (continued)

- Make sure MBE commitments are clearly, completely and accurately stated on the MBE forms
- Use named MBE subcontractors as promised
  - NOTE: As of May 13, 2013, all contracts with MBE subcontracting requirements include an MBE liquidated damages clause.
- Comply with monthly MBE reporting requirements and ensure that MBE subcontractors do so as well
- Meet all deliverables on time
- Keep good records to document project progress and MBE subcontracting performance

# MBE Prime Contractor RESPONSIBILITIES (continued)

#### NEW

- You will be required to submit MBE subcontract agreements to the procurement officer as per COMAR 21.11.03.10:
- (2) An MBE subcontractor project participation statement shall be furnished, signed by the bidder or offeror and each MBE listed in the MBE participation schedule, which includes:
- (a) A statement of intent to enter into a subcontract agreement between the apparent successful bidder or offeror and each proposed MBE subcontractor at the time the State contract is awarded to the apparent successful bidder or offeror;
- (b) A copy of each subcontract agreement between the apparent successful bidder or offeror and each proposed MBE subcontractor, that the apparent successful bidder or offeror and each proposed MBE subcontractor intend to enter into contingent upon the State's contract award to the apparent successful bidder or offeror, containing all necessary terms, including pricing, required for the MBE to perform its proposed work and for the apparent successful bidder or offeror to pay the MBE for its work during the contract term; and
- (c) The amount and type of bonds required of MBE subcontractors, if any.



# MBE Subcontractor RIGHTS

### The prime contractor must:

- ✓ Provide MBE subcontractors with enough time (10 days before the bid/proposal is due) and information to submit a qualified, competitive quote
- ✓ Provide MBE subcontractors with no less than the same information and amount of time to respond as any other potential subcontractor
- ✓ Obtain the MBEs authorization to list the MBE subcontractor on a bid or proposal
- ✓ Notify the MBE subcontractor before execution of the contract on which the firm has been listed as an MBE subcontractor

# MBE Subcontractor RIGHTS

### MBE subcontractors are entitled to:

- Receive prompt payment from the prime contractor for undisputed work completed successfully
- Be treated fairly and without fear of harassment or intimidation
- Contact the contract owner directly when appropriate (project manager, procurement officer, MBE Liaison)

Maryland has a statute in place to protect MBEs against fraud. Notify the State if you have first-hand knowledge of fraudulent MBE-related activity. Fraud Hotline: 410-697-9611.

# MBE Subcontractor RIGHTS

You have the right to receive assistance if you needed while performing on a state contract! The MBE Ombudsman was established through legislation and is outlined in State and Government Articles §9–303.3.

#### The Ombudsman will:

- ✓ Work with prime contractors, MBEs, and state agencies to resolve issues that arise during contract performance
- ✓ Conduct training for prime contractors as well as MBEs performing in the prime and/or subcontracting role
- ✓ Oversee data collection of documented nonperformance by prime contractors
- ✓ Additionally, it was the desire of Governor Moore that the Ombudsman provide extra support to assist small and minority business owners in navigating state procurement



# MBE Subcontractor RESPONSIBILITIES

#### D-3A

#### CERTIFED MBE SUBCONTRACTOR PARTICIPATION CERTIFICATION

#### INSTRUCTIONS:

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

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

If this form is not returned within the required time, the Procurement Officer may determine that the Prime Contractor is not responsible and therefore not eligible for Contract award.

SECTION A				
Provided that (Prime C	ontractor)	is	s awarded the State contract	
	licitation Number			
	intends to enter into a sub	contract with (Certifie	ed MBE Subcontractor)	
	with MDOT Certificatio	n Number	committing to	
participation by (Certif	ried MBE Subcontractor)		of at least	
\$	which equals% of the Total Contra	act Value for the follow	wing products/services:	
NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	Daniel III Common	OF SPECIFIC PRODUCTS OR SERVICES	

- Carefully review all forms and agreements before signing
  - ✓ Understand what prime and State are expecting
  - √ Keep copies of all documents
  - ✓ Never sign a blank form presented by a prime contractor; all documents should be filled in before you sign
  - √ Keep good records/documentation

# MBE Subcontractor RESPONSIBILITIES

- Deliver the goods and/or services as promised
- Get advance written confirmation of requests for additional work
  - Make sure that you get confirmation from the state in writing that change order work has been approved before you do any additional work outside of the original scope of your contract.

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

Contract #:
Contracting Unit:
MBE Subcontract Amt:
Project Begin Date:
Project End Date:
Services Provided:

MRE Subcontractor Name

Contract Monitor Name

MDOT	Certification #:						
Contact	Person:						
Address	:						
City:			5	State:	ZIP:		
Phone:	Phone: FAX:			E-mail:			
Subcon	tractor Services Provide	d:					
List all	payments received from	Prime Contractor during	List da	List dates and amounts of any unpaid invoices over 30 days old.			
	ng period indicated abov						
					Date		
	ng period indicated abov	e.		d.			
reporti	ng period indicated abov	e.	days ol	d.			
reportio	ng period indicated abov	e.	days ol	d.			
1.	ng period indicated abov	e.	1.	d.			
1. 2. 3. 4.	ng period indicated abov	e.	1. 2. 3. 4.	d.			

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

Contracting Unit

# MBE Subcontractor RESPONSIBILITIES

 Complete and submit monthly MBE payment forms (MBE Subcontractor Paid/Unpaid Invoice Report) and other required State submissions on time

## MBE Subcontractor RESPONSIBILITIES



MDOT's Office of Minority Business Enterprise (OMBE) is the State's official certification agency.

- Renew MBE certification annually
- ► Notify OMBE of any changes in your business status
- Request additional NAICS codes when you add additional products or services
- Review your listing in the online MBE directory to ensure accuracy

# MBE Subcontractor RESPONSIBILITIES

#### Something went wrong! What now?

- · Document the problem in writing with as much detail as possible
- Promptly notify all parties who are in a position to take action on your behalf, including the State agency's MBE Liaison
- Other resources:
  - GOSBA MBE Ombudsman Unit
  - Commission on Civil Rights
  - MDOT Certification Unit
  - Fraud Hotline
  - Court System
  - Bonding Company
  - False Claims Act
- Be reasonably patient, but escalate if necessary

### Resources

MDOT's Office of Minority Business Enterprise (410-865-1269) <a href="https://www.mdot.maryland.gov">www.mdot.maryland.gov</a>

(Minority/Disadvantaged Business Enterprise)

Certification/certification renewal

NAICS code expansion of services

MBE online directory listing

#### Resources

Code of Maryland Regulations (COMAR)

http://www.dsd.state.md.us/COMAR/searchall.aspx#

MBE Program: Search 21.11.03

SBR Program: Search 21.11.01.06

VSBE Program: Search 21.11.14

Governor's Office of Small, Minority & Women Business Affairs (410-697-9600) www.gomdsmallbiz.maryland.gov

MBE Liaisons listing

Annual Report data for the MBE, VSBE & SBR Programs

Legislation and Policy

### Resources

**Visit the MBE Ombudsman Page to:** 

**Contact Us** 

**Browse Resources** 

Find the latest Information/Updates

https://gomdsmallbiz.maryland.gov/Pages/default.aspx



For Questions about this presentation, you may contact me directly:

Nichelle Johnson 410-697-9605 nichelle.johnson1@maryland.gov

**Thank You** 



### Mining Public Data Techniques



qoMDsmallbiz.maryland.qov

### **Videos & Slide Decks** eMaryland Marketplace Advantage (eMMA) **Procurement Forecast Board of Public Works Communicating with** Confidence

### T.I.P.S.

**SMALL BUSINESS** 

WEBINAR SERIES

TRAINING & INSIGHTS FOR PROCUREMENT SUCCESS



**2 WEBINARS MONTHLY** 



**9AM-12PM** 



CLASSES LED BY SUBJECT MATTER EXPERTS

TO REGISTER VISIT:
GOMDSMALLBIZ.MARYLAND.GOV



GOVERNOR'S OFFICE OF SMALL, MINORITY & WOMEN BUSINESS AFFAIRS goMDsmallbiz.maryland.gov

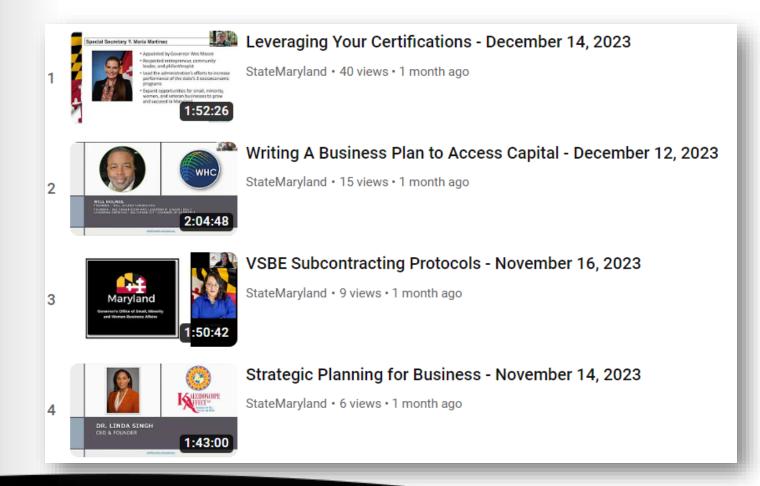


### Keep Learning

- 2 free webinars every month
- No cost to attend
- Register in advance to receive the participation link
- Download the presenter's slide deck
- Access video recordings of all classes on our YouTube playlist

goMDsmallbiz.maryland.gov

# T.I.P.S. Webinar Series Playlist



https://www.youtube.com/playlist?list=PLlgoHh4Po1J0W63akD6aGAU8JmT0qzOrX

#### **Upcoming Webinars & Workshops**



<u>goMDsmallbiz.maryland.gov</u>

Wednesday May 15, 2024

8:30 a.m. - 1:00 pm

**2024 Small Business Military Appreciation Breakfast** 

@

Prince George's Community College

Thursday May 23, 2024

10 a.m.

Pricing & Costing
To Win More Contracts

Thursday May 30, 2024

10 a.m.
Maryland's VSBE
Program & Resources

#### **Partners**

Maryland APEX Accelerators (formerly PTAC)

https://www.mdptac.org/

**Greater Baltimore SCORE** 

https://greaterbaltimore.score.org/

Maryland Women's Business Center (MWBC)

https://marylandwbc.org/

Baltimore-Metro Women's Business Center (Balt-Metro WBC)

https://www.baltmetrowbc.org/

Maryland Small Business Development Center (SBDC)

https://www.marylandsbdc.org/

#### Resources

Governor's Office of Small, Minority & Women Business Affairs

https://gomdsmallbiz.maryland.gov/Pages/default.aspx

Maryland's Office of Minority Business Enterprise (OMBE)
<a href="https://www.mdot.maryland.gov/tso/pages/Index.aspx?">https://www.mdot.maryland.gov/tso/pages/Index.aspx?</a>
<a href="PageId=90">PageId=90</a>

Maryland Department of Commerce
Maryland Financial Incentives for Business
<a href="https://commerce.knack.com/maryland-funding-incentives">https://commerce.knack.com/maryland-funding-incentives</a>

Maryland Entrepreneur HUB <a href="https://marylandentrepreneurhub.com/">https://marylandentrepreneurhub.com/</a>



OF SMALL, MINORITY & WOMEN BUSINESS AFFAIRS



https://gomdsmallbiz.maryland.gov

### Thank You!