



MBE Prime Contractor and Subcontractor

RIGHTS & RESPONSIBILITIES

Presented by **Nichelle Johnson**
MBE Ombudsman

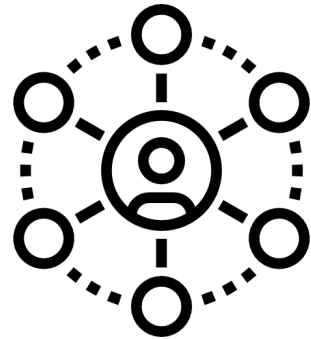


Maryland

GOVERNOR'S OFFICE OF
SMALL, MINORITY & WOMEN
BUSINESS AFFAIRS



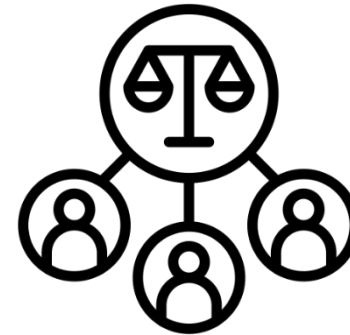
Implement Maryland's 3 socioeconomic procurement programs across 70+ agencies and departments



Connect small, minority, women, & veteran business owners to opportunities in the state contracting arena



Conduct free small business webinars, hosts stakeholder engagement events, and participates in outreach programs statewide



Work with MBEs to address issues that may arise during contract performance through the MBE Ombudsman unit



Curate online resources at the federal, state, and local levels for small business growth and development

goMDsmallbiz.maryland.gov

Socioeconomic Program Overview

Small Business Reserve (SBR) Program

COMAR 21.11.01.06

- 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

COMAR 21.11.03

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

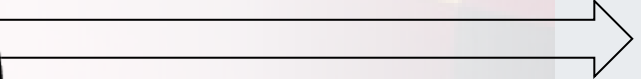
Veteran-Owned Small Business Enterprise (VSBE) Program

COMAR 21.11.14

- 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.

Program Seals



NEW Program Seals

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



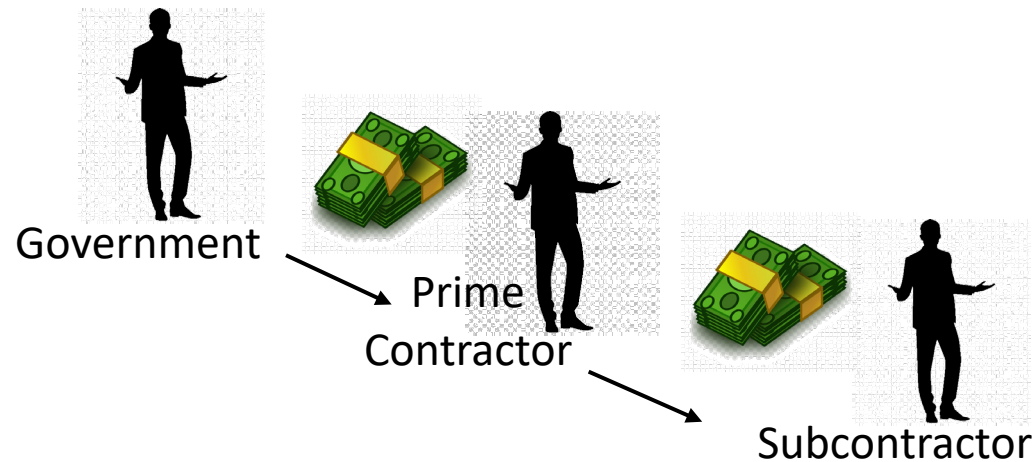
Prime Contractor vs Subcontractor?

- Maryland awards procurement contracts
 - ✓ Directly to prime contractors
- This means that the States only legal contractual relationship is with the prime contractor and NOT the subcontractor



Prime Contractor vs Subcontractor?

- The Subcontractor only has a legal relationship with the prime contractor, not the state
- Payment to the subcontractor will come from the prime contractor, not the state





MBE Prime Contractor RIGHTS

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.



State of Maryland
Procurement Manual

Procurement Process

5. Review / Evaluation Process (Section 6)

Opening the vendor responses to solicitations.



4. Solicitation (Section 5)

Provides the steps for public advertisement and other notices of solicitation.



3. Solicitation Preparation (Section 4)

Includes procedures for drafting solution.

7. Contract Administration Process (Section 8)

Focuses on post-contract award activities.

6. Award Process (Section 7)

Includes the steps for approving contract awards.



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:
<https://www.marylandattorneygeneral.gov/Pages/OpenGov/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.)

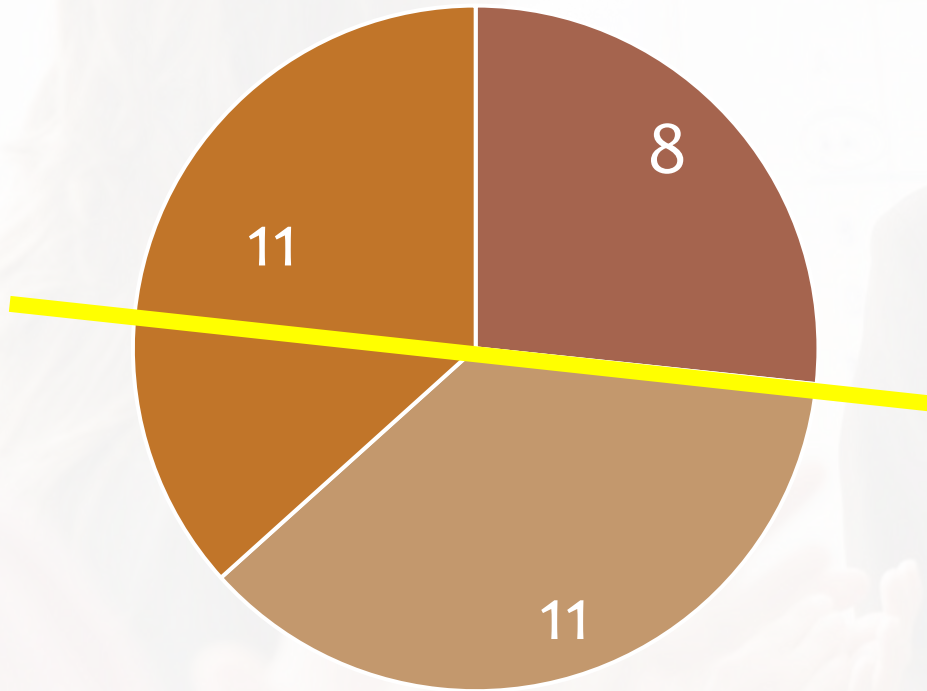
- ✓ **During contract term:**
 - ✓ **May ask to add MBEs, but not at the expense of originally-named MBEs**
 - ✓ **MBE Utilization and Fair Solicitation Affidavit & Participation Schedule**
 - ✓ **May ask to remove MBEs, but must demonstrate good cause**
 - ✓ **Any additions, removals or other changes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

MBE Prime Contractors **RIGHTS (cont.)**

- ✓ **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**
- ✓ **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 (Part of the overall MBE Goal).**

Subgoals in Practice

Subgoals



■ African American ■ Woman ■ Any MBE Subgroup

**Calverton ES/MS
Construction - 30 %
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

You have rights too!

Enter search term



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SBR PROGRAM

VSBE Program

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PROCUREMENT FORECAST



GOVERNOR'S OFFICE OF Small, Minority & Women Business Affairs



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Attention SBR & VSBE Vendors

If you are experiencing problems
with certification or recertification
in eMMA,
call us for assistance at 410-697-
9600.

TOP WEBSITE PICKS

- NEW - 2022 Expanding
Opportunities Magazine
- eMaryland Marketplace
Advantage (eMMA)

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



Enter search term



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TOP WEBSITE PICKS

- NEW - 2022 Expanding Opportunities Magazine
- eMaryland Marketplace Advantage (eMMA)



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.

LOGIN

Login*

Password*

[Lost your password?](#)



[New Vendor? Register Now](#)



[Public Solicitations](#)



[Public Contracts](#)

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:

<i>Bidders</i>	<i>Amounts</i>
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**
- **Submit all documentation at bid, and when requested**
- **Submit all 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 Subcontractor RIGHTS

Protect your interest!

***MBE Subcontractor* RIGHTS**

- **The prime contractor must BEFORE bid:**
 - ✓ **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**

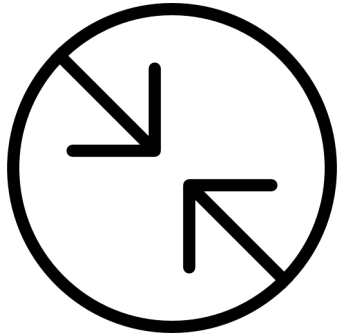
MBE Subcontractor RIGHTS

- **MBE subcontractors are entitled to:**
 - Be notified before execution of the contract when the MBE firm has been listed as an MBE subcontractor
 - Receive prompt payment from the prime contractor for undisputed work completed successfully – [Guide to Prompt Payment](#)
 - Be treated fairly and without fear of harassment or intimidation
 - Contact the contract owner directly when appropriate (project manager, procurement officer, MBE Liaison)

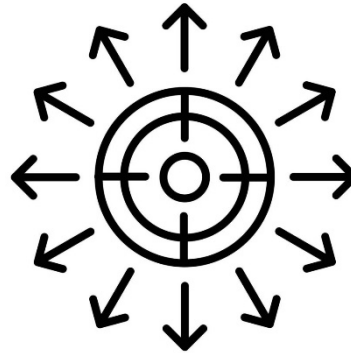
Maryland has a statute in place to protect MBEs against fraud. Notify the State if you have first-hand knowledge of fraudulent MBE-related activity.

Fraud Hotline: 410-697-9611.

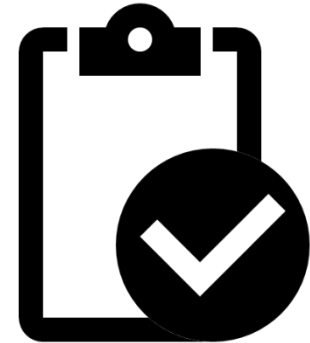
MBE Ombudsman Unit



Serves as an internal resource across the 70+ agencies and departments engaged in the MBE Program



Serves as an external resource to certified MBEs, prime contractors, legislators, and stakeholder organizations



Enforces compliance during contract performance to maximize implementation of the MBE Program

A photograph of three business professionals in a meeting. A woman with curly hair, wearing a dark blazer, stands and points at a laptop screen. A man in a light pink shirt sits at the table, looking at the screen. Another woman is partially visible on the left, also looking at the laptop. The table has papers, a smartphone, and glasses of water. In the background, there is a bookshelf and a window with a view of a building.

MBE Subcontractor **RESPONSIBILITIES**

MBE Subcontractor RESPONSIBILITIES

D-3A CERTIFIED MBE SUBCONTRACTOR PARTICIPATION CERTIFICATION

INSTRUCTIONS:

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

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

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

SECTION A

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

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

- 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 in writing that change order work has been approved before you do any additional work outside of the original scope of your contract.

MBE Subcontractor

RESPONSIBILITIES

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

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

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

MBE Subcontractor Name:		
MDOT Certification #:		
Contact Person:		
Address:		
City:	State:	ZIP:
Phone:	FAX:	E-mail:

Subcontractor Services Provided:

List all payments received from Prime Contractor during reporting period indicated above.	List dates and amounts of any unpaid invoices over 30 days old.
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	Invoice Amount	Date		Invoice Amount	Date
1.			1.		
2.			2.		
3.			3.		
4.			4.		
Total Dollars Paid: \$			Total Dollars Unpaid: \$		
Prime Contractor:			Contract Person:		

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

Contract Monitor Name	Contracting Unit
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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. Be reasonably patient, but escalate if necessary
- Other resources:
 - [GOSBA – Ombudsman Unit](#)
 - Commission on Civil Rights
 - [MDOT Certification Unit](#)
 - Fraud Hotline
 - [OLA Fraud Hotline](#)
 - Bonding Company
 - Court System
 - False Claims Act

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



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