Welcome!

Today's Topic:

MBE
Rights and Responsibilities

October 26, 2023

Maryland

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

MBE Prime Contractor and Subcontractor Rights and Responsibilities

October 26, 2023

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

- Create **policies** aimed at connecting small and minority businesses to greater economic opportunities
- Oversee and monitor **compliance** for the State's three procurement Socioeconomic procurement programs across 70 state agencies/departments
- Conduct statewide **outreach** to small and Minority Business Enterprises
- Host **trainings** 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

www.gomdsmallbiz.maryland.gov

MBE Prime Contractor RIGHTS

You have rights too!

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

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

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

State of Maryland
Procurement Manual

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.

3. Solicitation Preparation (Section 4)
Includes procedures for drafting solution.

4. Solicitation (Section 5)
Provides the steps for public advertisement
and other notices of solicitation.

5. Review / Evaluation Process (Section 6)
Opening the vendor responses to solicitations.

6. Award Process (Section 7)
Includes the steps for approving contract awards.

7. Contract Administration Process (Section 8)
Focuses on post-contract award activities.

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.)

- ✓ 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.**

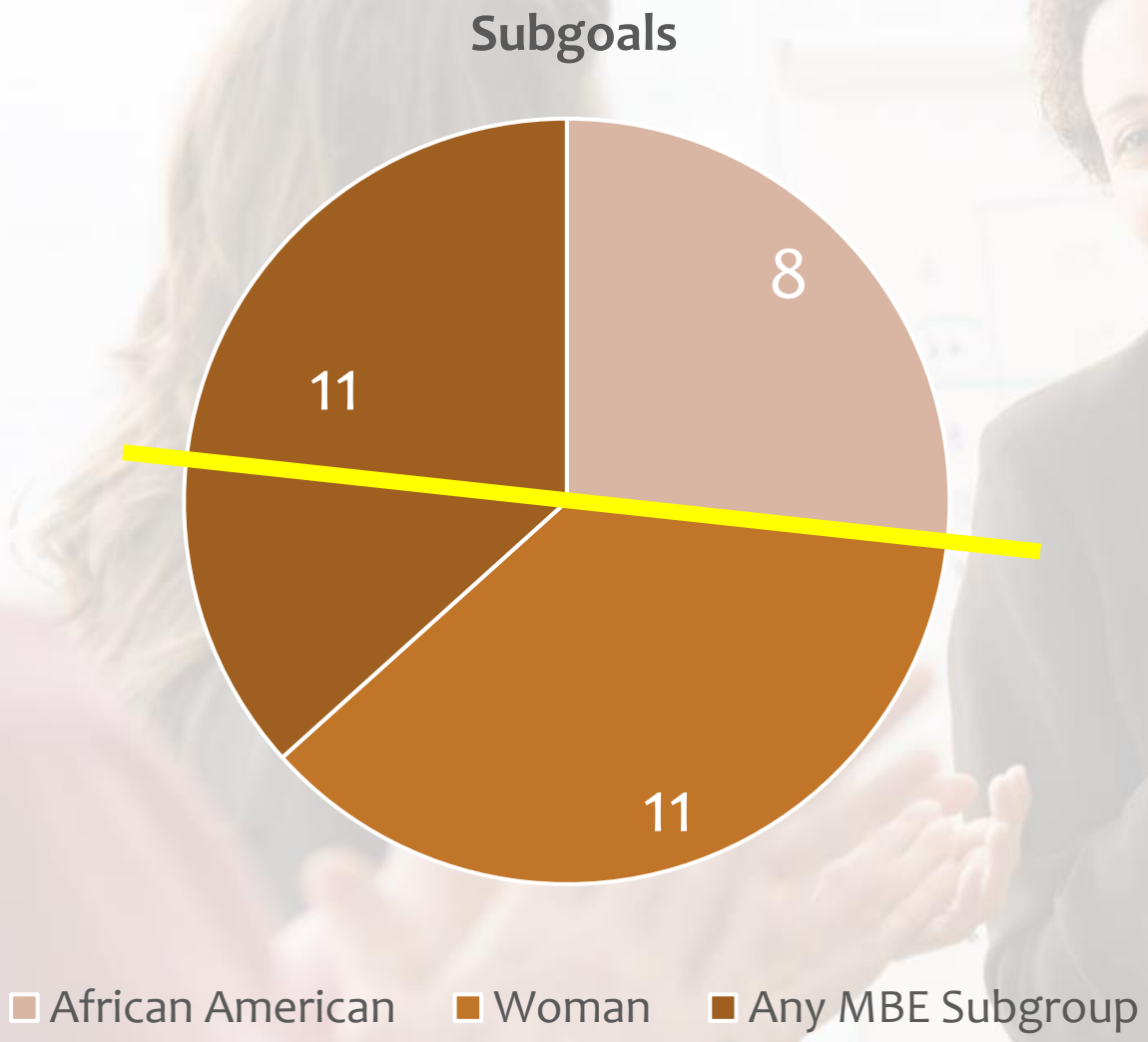
In 2011, the State became concerned that Prime Contractors would continue to use the same firms (or even worse, the most overrepresented firms in each industry category to fulfill the MBE requirements on a contract).

Overall MBE Goal vs. Subgoals

TABLE 2 – RECOMMENDED SUBGOALS								
Combined Industry Category (Check appropriate column per Step 5.)			**Cons** ☐	**AE-CRS** ☐	**Main** ☐	**IT** ☐	**Serv** ☐	**CSE** ☐
9. # of Firms	**10. ≥ 3 Y/N**	**Subgroups**						
		African American	8%	7%	9%	10%	—	6%
		Hispanic American	—	—	3%	—	2%	2%
		Asian American	—	—	2%	—	3%	—
		Women	11%	10%	—	10%	10%	8%
Subgoal Total			19%	17%	14%	20%	15%	16%
Subgoal Total Plus 2% Margin			**21%**	**19%**	**16%**	**22%**	**17%**	**18%**

***The *Subgoal Total Plus 2% Margin* is the sum of the Recommended Subgoals plus 2%.**

Subgoals in Practice



Douglass HS 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 a prime contractor to count the work of a certified woman-owned MBE, who is also a member of an ethnic group, for more than one subgoal on a contract.

MBE Prime Contractor RESPONSIBILITIES

You have rights too!

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

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?

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Maryland.gov

State Directory | State Agencies | Transla

Enter search term

Home | MBE PROGRAM | SBR PROGRAM | VSBE Program | RESOURCES | PROCUREMENT FORECAST

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

GOVERNOR'S COORDINATING OFFICES HOME

Quick Links

- About Us
- FAQs
- Legislation and Policy
- Outreach

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)

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)

eMaryland Marketplace Advantage

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*

Email / Username

Password*

State SSO Login(SecureAuth)

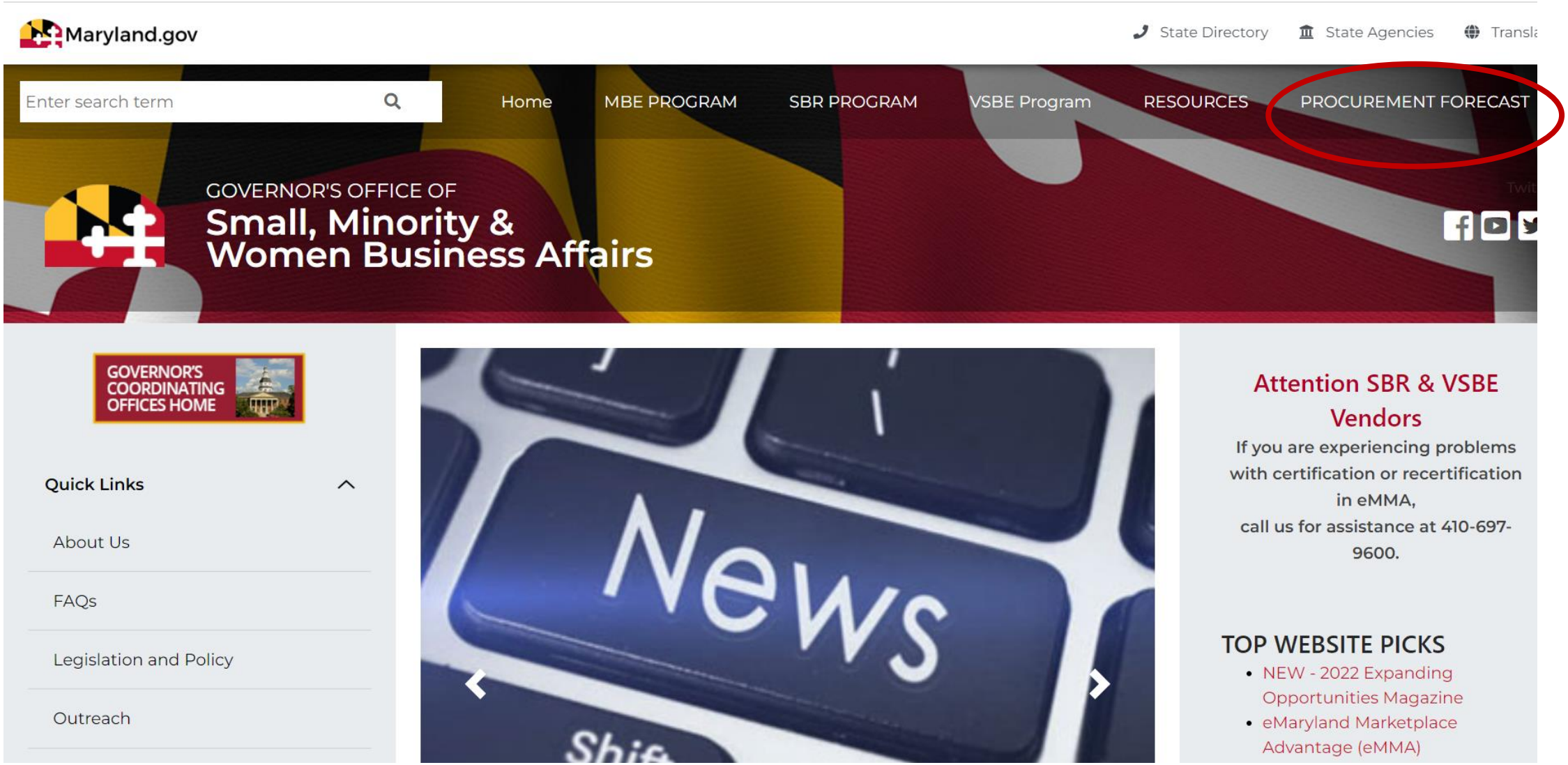
Lost your password?

New Vendor? Register Now

Public Solicitations

Public Contracts

gomdsmallbiz.maryland.gov



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

Quick Links

- About Us
- FAQs
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- News
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- Contact Us

Procurement Forecast Portal

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

This database is populated with *projected* 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.

Export To Excel

Search - Description

Search

Reset All Filters

Search by Agency

Search by Procurement Categories

Search by Region

Search by Contract Value

Search by Projected Advertisement Dates

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

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

18. MARYLAND STADIUM AUTHORITY
Prince George's Stadium Improvements
Design-Build (D/B) Services

Contract ID: MILB-01

Recommendation: That the Board of Public Works approve the Maryland Stadium Authority awarding a design-build contract for design and preconstruction services for Prince George's Stadium Improvements project located in Bowie.

Project: Design and construction of improvements to Prince George's Stadium

Authority: Chapter 61 Acts of 2022 as amended by Chapter 468 Acts of 2023, codified in part in Title 10 subtitle 6 of Economic Development Article, Annotated Code of Maryland.

Amount: $864,581.30

Term: 11/1/2023 – 12/31/2025

Fund Source: Sports Entertainment Facilities Revenue Bonds (Minor League Stadium Projects) Series 2023B (See Secretary's Agenda, Item 13)

Contract Description: Professional Services

Procurement Method: Competitive Sealed Proposals

Contractor: Gilbane Building Company
Baltimore, MD

Proposals:

Offeror	*Technical Ranking*	*Price Score*	*Overall Score*	*Total Fee:*
Gilbane Building Company *Baltimore, MD*	1	1	1	$864,581.30
Turner Construction Company *New York, NY*	2	2	2	$1,054,388.03

MBE Goal (Design and Preconstruction): 33% overall
Sub-goals: 7% African American; 10% Women-Owned
This package participation includes 47.54% overall, 21.07% African American, and 20.47% Women-Owned

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.**

- **Meet all deliverables on time**

- **Keep good records to document project progress and MBE subcontracting performance**

MBE Prime Contractor
RESPONSIBILITIES

- Complete and submit monthly MBE payment forms (**MBE Prime Contractor Report**) and other required State submissions on time

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

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

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

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

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

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

MBE Subcontractor
RIGHTS

Protect your interest!

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

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
RESPONSIBILITIES

Do Your Part!

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

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 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 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.

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.**		
	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

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
  - Commission on Civil Rights
  - MDOT Certification Unit
  - Fraud Hotline
  - Court System
  - Bonding Company
  - False Claims Act

- Be reasonably patient, but escalate if necessary

State of Maryland

DISPARITY STUDY

stateofmddisparitystudy.com

Resources

MDOT's Office of Minority Business Enterprise (410-865-1269)

www.mdot.maryland.gov

(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

Mining Public Data Techniques

goMDsmallbiz.maryland.gov

Videos & Slide Decks

- eMaryland Marketplace Advantage (eMMA)
- Procurement Forecast
- Board of Public Works
- Communicating with Confidence

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

Upcoming T.I.P.S. Webinars

Tuesday
November 14, 2023

10 a.m.
Strategic Planning for Business

Thursday
November 16, 2023

10 a.m.
VSBE Program and Resources

goMDsmallbiz.maryland.gov

Workshop

November 9, 2023

8:30 a.m.
VSBE Appreciation Breakfast
In Honor of
National Veteran's Day

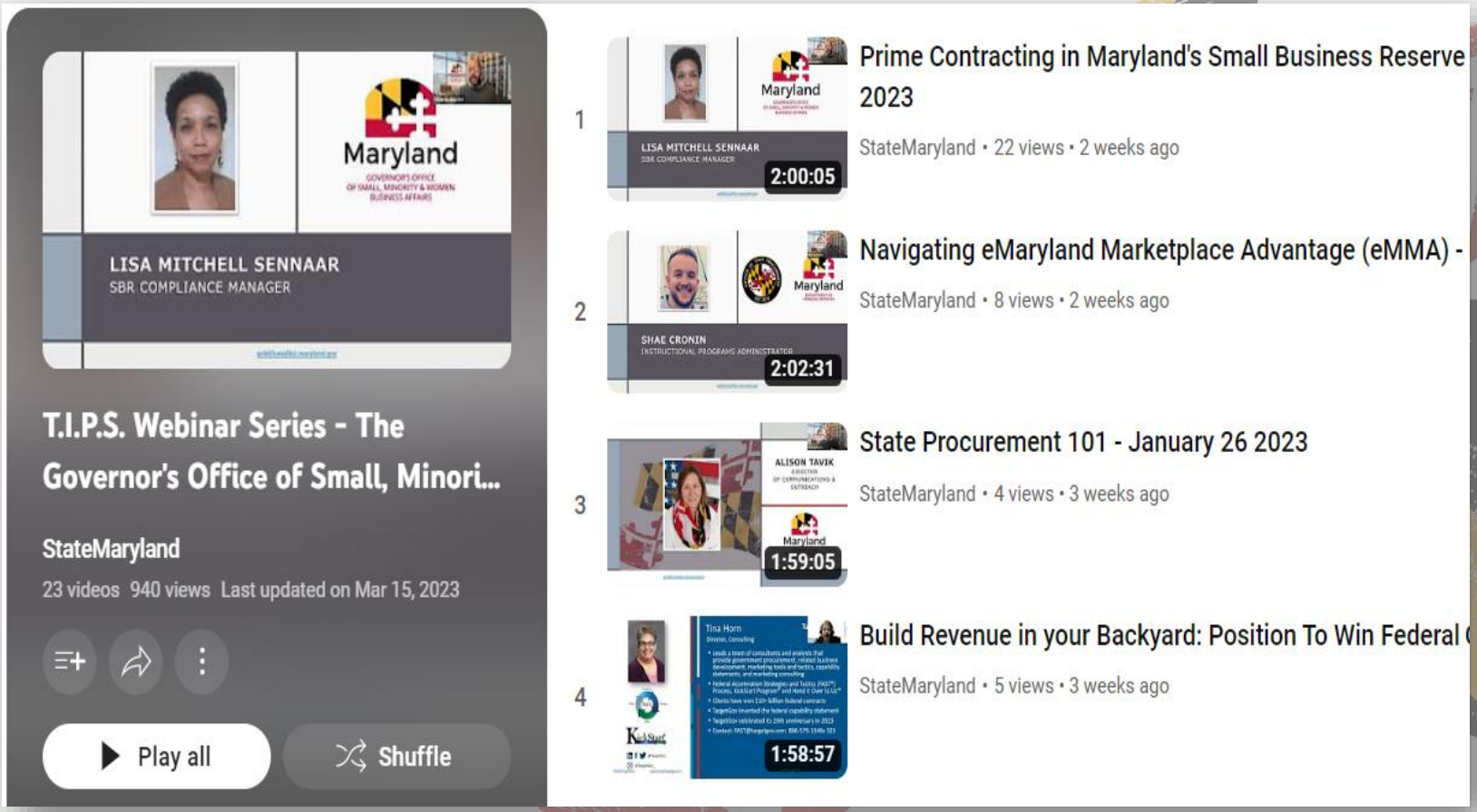
Workshop

November 15, 2023

10:00 a.m.
Doing Business with Maryland Casinos Series:
at
Horseshoe Casino Baltimore

VIDEO PLAYLIST

T.I.P.S. Webinar Series Playlist



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

Partners

Maryland Procurement Technical Assistance Center (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)
https://www.mdot.maryland.gov/tso/pages/Index.aspx?PageId=90

Maryland Department of Commerce
Maryland Financial Incentives for Business
https://commerce.knack.com/maryland-funding-incentives

Maryland Entrepreneur HUB
https://marylandentrepreneurhub.com/

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

Nichelle Johnson

410-697-9605

nichelle.johnson1@maryland.gov

Maryland

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

Eduardo D. Hayden
Small Business Outreach Manager
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Connect with us at,
www.goMDsmallbiz.maryland.gov.

Thank You!