

One of the responsibilities of the Ombudsman unit is to conduct training on enforcement of the requirements of state laws concerning the MBE Program. This includes laws such as those concerning the MBE waiver process, MBE goal setting, and requirements for counting MBE participation on state funded contracts. When a state contract has an MBE goal requirement included, prime contractors are responsible for securing MBE subcontractors to fulfill that MBE goal before submitting their bid/proposal. Both prime contractors and MBE subcontractors have some responsibilities in order to make the bidding/proposal and award process go smoothly.

Prime contractors should:

- Locate state certified MBE subcontractors (MBEs) in the MDOT Directory that can fulfill subcontracting opportunities identified within the solicitation
- Properly vet MBEs
- Request a quotation for all MBEs
- List any MBEs the Prime has decided to secure for the contract on the required MBE Forms (Utilization Affidavit and Participation Schedule) at bid/proposal
- Begin negotiating a Subcontract Agreement with each of the MBEs named in the bid/proposal

Once a prime contractor is notified that they are the apparent awardee of a contract, they must:

- Get the named MBEs to sign off on MBE Subcontractor Project Participation Statement, and
- Submit a Subcontract Agreement for each MBE that was originally named at bid/proposal

These procedures are outlined in [COMAR 21.11.03.10](#).

Subcontract Agreements are important for all subcontractors, not just those in the MBE Program, however, it is critically important that MBE subcontractors ensure the terms within the Subcontract Agreement are not only contractually sound, but also in line with requirements of the MBE Program.

MBEs should pay particular attention to:

- Payment terms
- Bonding requirements and/or clauses

Additionally, MBEs should consider engaging their [BAIL team](#) when seeking inclusion on a state contract. Your banker, accountant, insurance agent, and lawyer can help make securing bonding and negotiating a great subcontract agreement much easier.

