

**MINORITY BUSINESS ENTERPRISE (MBE) COMMITMENT PLAN**

**PROJECT NAME:** \_\_\_\_\_ **ADDRESS:** \_\_\_\_\_

The Developer \_\_\_\_\_ Contact person \_\_\_\_\_

Phone number \_\_\_\_\_ Email address \_\_\_\_\_

The General Contractor(s) \_\_\_\_\_ Contact person \_\_\_\_\_

Phone number \_\_\_\_\_ Email address \_\_\_\_\_

\_\_\_\_\_ agrees to demonstrate a good faith effort to utilize Minority Business Enterprises (MBE) when establishing contracting or subcontracting opportunities for this project.

\_\_\_\_\_ agrees to demonstrate a good faith effort to solicit MBEs for contracting or subcontracting opportunities for this project through any or all of the following means listed on page 3 of 3.

\_\_\_\_\_ will monitor the success of MBE participation (Awards vs. Payments) on this project during progress meetings and through the monthly payment reports submitted to the Department of Housing and Community Development (DHCD) Office of Fair Practices (OFP).

I have reviewed this plan in its entirety and agree to demonstrate good faith efforts to provide Minority Business Enterprises (MBE) subcontracting opportunities on this project.

\_\_\_\_\_  
Developer(s) Signature                      Date

\_\_\_\_\_  
General Contractor(s) Signature                      Date

\_\_\_\_\_  
DHCD's MBE Liaison Signature                      Date



## **Office of Fair Practices Minority Business Enterprise Program Requirements**

### **Purpose**

In 1978, Maryland's General Assembly enacted legislation to create a Minority Business Enterprise (MBE) Program to ensure that socially- and economically-disadvantaged small business owners are included in the State of Maryland's procurement and contracting opportunities.

The Office of Fair Practices (OFP) has the overall responsibility of assuring DHCD's MBE program is compliant with Federal, State, and local laws, regulations, policies and procedures. OFP monitors contracts for compliance and ensures that good faith efforts are being demonstrated to achieve or exceed the MBE goals identified by contractors.

The MBE program was designed to prevent discriminatory practices, increase the participation of socially- and economically-disadvantaged small business owners, and create a level playing field for those businesses. Through the program, MBEs are better able to compete in the marketplace for taxpayer-funded projects, including those in industries in which they have been historically underrepresented.

### **MBE Program Compliance**

Administrative desk audits and/or on-site compliance reviews (announced and unannounced) may be conducted to verify that participating MBE firms are performing a commercially useful function (CUF). To perform a CUF, a MBE firm **MUST** be responsible for the execution of a distinct element of the work assigned to them from the contract and carries out its responsibilities by performing, managing and supervising the distinct element of work involved.

Please ensure all MBE firms that will be utilized to meet or exceed the MBE Participation goal for this project are certified by Maryland Department of Transportation (MDOT) to perform the distinct element of the work assigned to them and/or have the applicable National American Industry Classification System (NAICS) code. *\*Only MDOT MBE certified firm's participation will be counted towards the project's MBE Participation goal. Any exceptions to this requirement must be approved by OFP in advance.*

### **MBE Program Requirements**

Email Monthly MBE subcontractor payment reports to OFP at [officeoffairpractices.dhcd@maryland.gov](mailto:officeoffairpractices.dhcd@maryland.gov) and to the DHCD project manager on or before the 15th of each month for the duration of the project. If the reports are not received the project will be determined to not be in compliance.

**Please Note:** If any problems occur with the performance of the MBE firms or they are unable to perform the applicable CUF, please contact OFP's Socioeconomic Programs Manager at 443-623-8579 or OFP's Director at 301-429-7417 as soon as possible to ensure that the appropriate mediation and/ or add/removal process is utilized.



## **Minority Business Enterprise (MBE) Good Faith Efforts (GFE) List of Examples**

The following is a list of types of actions which you should consider as good faith efforts to obtain MBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A.** Solicit through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified MBEs who have the capability to perform the work of the contract. Solicit this interest within sufficient time to allow the MBEs to respond to the solicitation and making appropriate steps to follow up initial solicitations.

**B.** Select portions of the work to be performed by MBEs in order to increase the likelihood that the MBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

**C.** Provide interested MBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

**D.** Negotiate in good faith with interested MBEs. Make a portion of the work available to MBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available MBE subcontractors and suppliers, so as to facilitate MBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of MBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBEs to perform the work.

**E.** Negotiate with subcontractors, including MBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using MBEs is not in itself sufficient reason for a bidder's failure to meet the contract MBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from MBEs if the price difference is excessive or unreasonable.

**F.** Not rejecting MBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

**G.** Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and minority/women business assistance offices; and other organizations.

