

Martin O'Malley, Governor
Anthony G. Brown, Lieutenant Governor

Minority Business Enterprise (MBE) Program *"More Business for Everyone"*

Cabinet Briefing
July 26, 2007

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MBE Program

The MBE Program! How it works!

Maryland's MBE Program

The MBE Program is Maryland's commitment to remedying identified discrimination in State procurement. The program requires each state agency/department to structure its procedures to maximize the inclusion of MBEs for procurements in its efforts to achieve Maryland's Statewide Minority Business Enterprise Goal of 25%.

Maryland's MBE Program (cont)

- **An overall minimum goal of 25%** of a Department's/Agency's total dollar value of all procurements made directly or indirectly from certified minority businesses.
- **MBE Sub-Goals-within the 25% goal**
 - A minimum of 7% of a unit's total dollar value of all procurements from certified minority business enterprises classified as African American.
 - A minimum of 10% of the unit's total dollar value of all procurements from certified minority business enterprises classified as women.

Maryland's MBE Program (cont)

- The **Governor Office of Minority Affairs (GOMA)** provides Statewide oversight for the MBE Program.
- +75 units of State Government participate in the MBE Program.
- In 2006 the Governor signed into law legislation extending until 2011 the State's Minority Business Enterprise Program.

Maryland's MBE Program (cont)

- **Combines Prime & Subcontracting Strategies**
 - Direct contract awards to MBEs result from use of race-neutral measures
 - Indirect MBE subcontract awards result from using race/gender based measures
- **Success Measured by Awards & Payments**
 - Annual statewide MBE goal achievement:
 - Both MBE prime and subcontract award \$\$ as % of total award \$\$
 - MBE Payments measured by % increase current to previous fiscal year

Agency MBE Decision Areas

Goal Setting

- Agencies determine MBE Goal amount on each solicitation
- Procurement Review Group
 - BPW Advisory #2001-2; applies to >200K; written summary required
- Sub-contracting friendly
- MBE opportunities
- Goals and sub-goals
 - Contract MBE goals/sub-goals must always be reasonable and attainable
- 25% agency goal--not per procurement
 - Agency goal of 25% participation can be met through combination of direct (prime) and indirect (subcontract) MBE utilization
 - MBE Program requires use of race-neutral measures first (21.11.03.01C); must use measures outlined in 21.11.03.07A - H (e.g., SBR) to increase likelihood of MBE prime awards

Agency MBE Decision Areas

Waivers

■ Purpose

- Satisfies court's requirement for program flexibility
- Adjusts MBE goal downward to a level that is reasonable and achievable based on good faith efforts documentation

■ Facts & Myths

- Myth: Granting waivers makes an agency look bad
- Fact: Agencies who use the waiver process properly and in conjunction with goal-setting best practices are to be commended

■ Good faith effort

- Describes criteria used to grant/deny a waiver request
- Very high burden of proof; much documentation required

■ Essential to program success

- Improper handling of waiver requests puts entire program at risk and undermines program integrity

Maryland's MBE Program Players

- **Governor's Office of Minority Affairs** – Oversight and Implementation
- MDOT – State & Federal MBE Certification
- DBM/DGS – Procurement Control Agencies
- Board of Public Works (BPW)- Contract Awards
- 75 State Agencies:
 - Procurement Officers
 - MBE Liaisons
 - Project Managers
- Business Community:
 - Prime Contractors (non-MBE and MBE firms)
 - MBE Subcontractor firms

GOMA's Role

- Carry out State and Federal MBE program mandates.
- Promote and coordinate plans, programs and operations of State government that strengthen minority business enterprises.
- Establish a system to develop, collect, summarize information that would help MBEs succeed.

GOMA's Role (cont)

- Subject to the limitations of law and the availability of funds:
 - Provide technical and managerial assistance to minority business enterprises.
 - Provide the managerial and organizational framework for private entities and units of State government to plan and carry out joint undertakings that relate to minority business enterprises.
- Coordinate all outreach events with agencies making similar procurements.

Who Qualifies for MBE Status?

- Firms that are at least 51 % owned and controlled by one or more minority persons:
 - Ethnic Minorities (African Americans, Hispanic Americans, Asian Americans, Native Americans)
 - Women
 - Individuals with Disabilities
- Net worth under \$1.5 million (State) or \$750k (Federal)
- Under SBA size standards
- Non-profit firms that are organized to promote the interests of the physically or mentally disabled

Administration's Goals for Maryland's MBE Program

"One MarylandMore Inclusive Culture"

- Commitment to maximum MBE utilization
- Greater accountability at the Agency level – StateStat
- Adherence to MBE Best Practices at Agency/Dept. level
 - Promote MBE Prime contracting activity
 - Set aggressive yet realistic MBE goals on procurements
 - Utilize MBE Waivers wisely
 - Agency Monitoring and Compliance is a must!

What is Your Agency's MBE Status?

Has participation increased or decreased since last year? (both dollar amount and percentage)

Next Steps:

- Establish an **MBE Management Team** and hold quarterly planning meetings to outline a plan of action for how your agency will meet your MBE goal and to provide additional oversight/support for your agency's MBE program. (Management Team should consist of the Agency Head or Deputy, MBE Liaison, Procurement Director, Program Managers, Budget Director, and Legal Counsel.)

FY '07 MBE Reports Due August 15th

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