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STATE OF MARYLAND MINORITY BUSINESS ENTERPRISE (MBE) PROGRAM SUBGOAL DIRECTIVE AND GUIDELINES FOR SETTING CONTRACT SUBGOALS

In an ongoing effort to remedy discrimination for minority- and women-owned businesses, ensure that various racial, ethnic and gender Subgroups participate in contracting at levels that would be expected in the absence of discrimination, foster the overarching policy of diversity in contracting for the State, and promote further compliance with the State's MBE Program, the Governor has instructed the Office of Minority Affairs to issue a **MBE Subgoal Directive**. The **Directive** is consistent with the statutory requirement set forth at State Finance and Procurement Article, Section 14-302(a)(1)(ii) and the February 17, 2011 Disparity Study.

In addition to the **MBE Subgoal Directive**, in furtherance of maximizing the participation of minority and women-owned firms in State contracting, the Governor's Office of Minority Affairs has also issued *Guidelines* to provide clear direction to State agencies on how to establish MBE subgoals on applicable State contracts and procurements. See Guidelines and Subgoal Worksheet below. A copy of the **MBE Subgoal Directive**, can be viewed at www.mdminoritybusiness.com.



**GUIDELINES FOR SETTING CONTRACT SUBGOALS
IN THE STATE OF MARYLAND'S
MINORITY BUSINESS ENTERPRISE (MBE) PROGRAM**

I. Preliminary Considerations

As a threshold matter, the process for setting contract goals and subgoals shall begin with the following considerations:

- (1) Goals and subgoals shall be set on a contract by contract basis.
- (2) Goals and subgoals shall only be set on contracts that actually have subcontracting opportunities.
- (3) The unit shall examine the type of work involved in the contract.
- (4) The unit shall determine whether there are certified MBEs available to perform the work.

II. Subgoal Process

Once an overall MBE participation goal is set for a contract, each unit shall determine the appropriate subgoals using the following Subgoal Process:

(1) Determine the expected value of the procurement. The Subgoal Process must be completed for any procurement expected to equal or exceed \$200,000 in value, regardless of contract type or procurement category. This includes master contract task order procurements where MBE goals and subgoals are determined at the task order level. For procurements that are not expected to have a value that equals or exceeds \$200,000, completion of the Subgoal Process is discretionary.

(2) Identify the Major Industry Category encompassed by the contract. The Major Industry Categories, which are defined at COMAR 21.01.02.01, are listed below with the Combined Industry Category acronym pertinent to that industry:

**Major
Industry Category**

Architectural & Engineering
 Construction
 Construction Related Services
 Human, Cultural, Social, & Educational Services

**Combined
Industry Category**

AE-CRS
 Cons
 AE-CRS
 Serv

IT Services
 IT Supplies & Equipment
 Maintenance
 Services
 Supplies & Equipment

IT
 IT
 Main
 Serv
 CSE

(3) The Recommended Subgoals for each Combined Industry Category are set forth below in item II (7). Use of the Recommended Subgoals is subject to the parameters set forth in items II (4) through II (7).

(4) Subgoals are only permissible when the overall goal for the contract is greater than or equal to the sum of the Recommended Subgoals for all Subgroups in the Combined Industry Category plus two. If the overall goal for the contract is not greater than or equal to the sum of the subgoals plus two, the unit may not use any subgoals on that contract.

(5) A Recommended Subgoal may not be set if the number of certified firms in the Subgroup who are available to perform the work on a contract is less than 3. For purposes of determining the number of certified firms in a Subgroup, always count dually certified firms as being owned by a member of the relevant racial or ethnic Subgroup, not as a woman-owned firm. **Note:** For purposes of counting MBE participation, bidders or offerors may use a dually certified firm to meet any subgoal they want.

(6) The Recommended Subgoals should be evaluated for each Subgroup. If the Subgroup has 3 or more certified firms who are available to perform the work on a contract, the Recommended Subgoal for that Subgroup should be set unless the unit explains the basis for not applying the Recommended Subgoal and the explanation relates to something specific in the Procurement Review Group documentation.

(7) If a bidder or offeror is unable to meet the overall goal and/or any subgoals established for a contract, the bidder or offeror may request a waiver and submit documentation demonstrating that it made good faith efforts to meet the overall goal and subgoals.

(8) Recommended Subgoals are indicated in the following chart for the Subgroups with the greatest disadvantage or underrepresentation for each Combined Industry Category.

RECOMMENDED SUBGOALS						
Combined Industry Category	Cons	AE-CRS	Main	IT	Serv	CSE
Subgroups						
African American	7%	6%	8%	7%	7%	6%
Hispanic American	—	2%	3%	2%	—	—
Asian American	4%	—	3%	—	4%	5%
Women	—	9%	—	8%	12%	10%
Subgoal Total	11%	17%	14%	17%	23%	21%
*Subgoal Total Plus 2% Margin	13%	19%	16%	19%	25%	23%
*The Subgoal Total Plus 2% Margin is the sum of the Recommended Subgoals plus 2%.						

(9) The attached MBE Program Subgoal Worksheet must be completed and signed for all procurements that have an overall goal.

MBE PROGRAM SUBGOAL WORKSHEET (For Internal Agency Use Only)

This Worksheet must be completed for all procurements that have an overall goal. It requires the approval of the Procurement Officer and the MBE Liaison, who also must sign the Worksheet. Each unit must maintain a copy of the Worksheet as a part of the Procurement Review Group (PRG) documentation for the procurement.

Agency/Unit:	
Project Description:	Solicitation No.
Approvals:	
_____ Signature of Procurement Officer	_____ Date
_____ Signature of MBE Liaison	_____ Date
1. What is the expected value of the procurement (excluding options)?	\$
2. Does the expected value of the procurement equal or exceed \$200,000?	() Yes () No
<input checked="" type="checkbox"/> If YES , completion of the rest of this Worksheet to determine the appropriate subgoals, if any, is mandatory. <input checked="" type="checkbox"/> If NO , the unit may, at its discretion, determine that subgoals will not be set for the procurement. If, however, the unit determines that subgoals should be set, the rest of this Worksheet must be completed to determine the appropriate subgoals, if any.	
3. Select, from Table 1 below, the Major Industry Category for the procurement based on the definitions in COMAR 21.01.02.01.	
4. What is the Combined Industry Category, from Table 1 below, based on the Major Industry Category selected for the procurement in Step 3?	
TABLE 1 – INDUSTRY CATEGORY CONVERSION CHART	
Major Industry Category Architectural & Engineering Construction Construction Related Services Human, Cultural, Social & Educational Services IT Services IT Supplies & Equipment Maintenance Services Supplies & Equipment	Combined Industry Category AE-CRS Cons AE-CRS Serv IT IT Main Serv CSE

5. Check the appropriate column for the Combined Industry Category in Table 2 below based on the answer to Step 4.

6. What is the Subgoal Total Plus 2% Margin shown in the last line of Table 2 below for the Combined Industry Category? %

7. What is the overall MBE participation goal for the procurement? %

8. Does the overall MBE participation goal for the procurement equal or exceed the Subgoal Total Plus 2% Margin? (Compare Steps 6 and 7) () Yes () No

If **YES**, proceed with the remaining steps in this Worksheet.
 If **NO**, do not set any subgoals for the procurement.

9. For Column 9 in Table 2, insert the number of certified firms available to perform the work of the procurement for each Subgroup that has a Recommended Subgoal. (NOTE: For purposes of determining the number of certified firms in a Subgroup, count dually certified firms as being owned by a member of the relevant racial or ethnic Subgroup, not as a woman-owned firm.)

10. For column 10 in Table 2, insert a "Y" (for Yes) or "N" (for No) to indicate whether the number of certified firms in a Subgroup that has a Recommended Subgoal equals or exceeds 3 firms.

TABLE 2 – RECOMMENDED SUBGOALS

Combined Industry Category (Check appropriate column per Step 5.)			Cons	AE-CRS	Main	IT	Serv	CSE
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. # of Firms	10. ≥ 3 Y/N	Subgroups	/	/	/	/	/	/
		African American	7%	6%	8%	7%	7%	6%
		Hispanic American	—	2%	3%	2%	—	—
		Asian American	4%	—	3%	—	4%	5%
		Women	—	9%	—	8%	12%	10%
Subgoal Total			11%	17%	14%	17%	23%	21%
*Subgoal Total Plus 2% Margin			13%	19%	16%	19%	25%	23%

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

Refer to Table 2 above. If there are 3 or more certified firms in a Subgroup for the work of the procurement (indicated by a "Y" in Column 10), the Recommended Subgoal for the Combined Industry Category in Table 2 should be set for that Subgroup unless an explanation is provided in Step 11.

A subgoal may not be set if the number of certified firms in that Subgroup is less than 3 (indicated by an "N" in Column 10).

11. The following Recommended Subgoals have not been set because: