



MARYLAND TRANSIT ADMINISTRATION

MARYLAND DEPARTMENT OF TRANSPORTATION

Martin O'Malley, Governor • Anthony G. Brown, Lt. Governor
Beverly K. Swaim-Staley, Secretary • Paul J. Wiedefeld, Administrator

MEMORANDUM

TO: Holders of Contracts Documents

FROM: Maryland Transit Administration
Procurement Division
6 Saint Paul Street, 7th Floor
Baltimore, Maryland 21202-1614

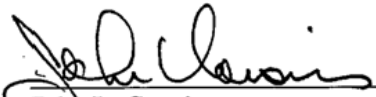
SUBJECT: Addendum No. 9
Request For Proposals
Contract No. MTA-1227
MARC Third Party O&M Services

DATE: October 8, 2009

Issued herewith and effective this date is Addendum No. 9. Offerors shall include acknowledgement of receipt of this Addendum in the cover letter of the Technical and Management Proposal.

Attached are MDOT DBE Forms A, B, C and D. These forms are to be utilized for reporting DBE Subcontractor utilization. It is imperative that forms A and B be included with your Technical Proposal.

Regards,


John L. Cousins
Deputy Director, Procurement

MDOT DBE FORM A
FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)
CERTIFIED DBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 1 OF 2

THIS AFFIDAVIT MUST BE INCLUDED WITH THE PROPOSAL AS DIRECTED IN THE SOLICITATION. THE FAILURE OF AN OFFEROR TO PROPERLY COMPLETE AND SUBMIT THIS AFFIDAVIT SHALL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

In connection with the proposal submitted in response to Solicitation No. _____, I affirm the following:

1. DBE Participation (PLEASE CHECK ONLY ONE)

I have met the overall certified Disadvantaged Business Enterprise (DBE) participation goal of _____ (_____ %) percent. I agree that the DBE firms listed in the DBE Participation Schedule - Part 2 of the MDOT DBE Form B (Federally-Funded Contracts – Proposals Only) will be used to accomplish the DBE participation goal for this Contract for at least the percentage amounts set forth therein.

OR

I conclude that I am unable to achieve the DBE participation goal. I hereby request a waiver of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee or as requested by the Procurement Officer, I will submit a written waiver request and all required documentation in accordance with COMAR 21.11.03.11. I agree that the DBE firms listed in the DBE Participation Schedule - Part 2 of the MDOT DBE Form B (Federally-Funded Contracts – Proposals Only) will be used to accomplish the DBE participation goal for this Contract for at least the percentage amounts set forth therein.

2. Additional DBE Documentation

I understand that if I am notified that I am the apparent awardee or as requested by the Procurement Officer, I must submit the following documentation within 10 business days of receiving such notice:

- (a) Outreach Efforts Compliance Statement (MDOT DBE Form C - Federally-Funded Contracts – Proposals Only);
- (b) Subcontractor Project Participation Statement (MDOT DBE Form D - Federally-Funded Contracts – Proposals Only);
- (c) DBE Waiver Request documentation per COMAR 21.11.03.11 (if waiver was requested); and
- (d) Any other documentation required by the Procurement Officer to ascertain offeror's responsibility in connection with the certified DBE participation goal.

I acknowledge that if I fail to return each completed document (in 2 (a) through (d)) within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award.

MDOT DBE FORM A
FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)
CERTIFIED DBE UTILIZATION AND FAIR SOLICITATION AFFIDAVIT
PAGE 2 OF 2

3. Information Provided to DBE firms

In the solicitation of subcontract quotations or offers, DBE firms were provided not less than the same information and amount of time to respond as were non-DBE firms.

I solemnly affirm under the penalties of perjury that the information in this affidavit is true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT DBE FORM B
FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)
DBE PARTICIPATION SCHEDULE

PART 1 – INSTRUCTIONS FOR DBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE PROPOSAL. THE FAILURE OF AN OFFEROR TO PROPERLY COMPLETE AND SUBMIT THIS FORM SHALL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

PAGE 1 OF 2

***** STOP *****

FORM INSTRUCTIONS
PLEASE READ BEFORE COMPLETING THIS FORM

1. Please refer to the Maryland Department of Transportation (MDOT) DBE Directory at www.mdot.state.md.us to determine if a firm is certified for the appropriate North American Industry Classification System (“NAICS”) Code **and** the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). For more general information about NAICS, please visit www.naics.com. Only those specific products and/or services for which a firm is certified in the MDOT Directory can be used for purposes of achieving the DBE participation goal.
2. In order to be counted for purposes of achieving the DBE participation goal, the firm must be certified for that specific NAICS (“DBE” for Federally-funded projects designation after NAICS Code). **WARNING:** If the firm’s NAICS Code is in **graduated status**, such services/products **will not be counted** for purposes of achieving the DBE participation goals. Graduated status is clearly identified in the MDOT Directory (such graduated codes are designated with the letter “G” after the appropriate NAICS Code).
3. Examining the NAICS Code is the **first step** in determining whether a DBE firm is certified and eligible to receive DBE participation credit for the specific products/services to be supplied or performed under the contract. The **second step** is to determine whether a firm’s Products/Services Description in the DBE Directory includes the products to be supplied and/or services to be performed that are used to achieve the DBE participation goal.
4. If you have any questions as to whether a firm is certified to perform the specific services or provide specific products, please call MDOT’s Office of Minority Business Enterprise at 1-800-544-6056 or send an email to mbe@mdot.state.md.us.
5. The Contractor’s subcontractors are considered second-tier subcontractors. Third-tier contracting used to meet a DBE goal is to be considered the exception and not the rule. The following two conditions must be met before MDOT, its Modal Administrations and the Maryland Transportation Authority may approve a third-tier contracting agreement: (a) the offeror must request in writing approval of each third-tier contract arrangement, and (b) the request must contain specifics as to why a third-tier contracting arrangement should be approved. These documents must be submitted with the proposal in Part 2 of this DBE Participation Schedule.
6. For each DBE firm that is being used as supplier/wholesaler/regular dealer/broker/manufacturer, please follow these instructions for calculating the **percentage of the Contract (as provided in price/financial proposal or any best and final offer) for purposes of achieving the DBE participation goal:**
 - A. Is the firm certified as a broker of the products/supplies? If the answer is YES, please continue to Item C. If the answer is NO, please continue to Item B.
 - B. Is the firm certified as a supplier, wholesaler, regular dealer, or manufacturer of such products/supplies? If the answer is YES, continue to Item D. If the answer is NO, continue to Item C only if the DBE firm is certified to perform trucking/hauling services under NAICS Codes 484110, 484121, 484122, 484210, 484220 and 484230. If the answer is NO and the firm is not certified under these NAICS Codes, then no DBE participation credit will be given for the supply of these products.
 - C. For purposes of achieving the DBE participation goal, you may count only the amount of any reasonable fee that the DBE firm will receive for the provision of such products/supplies - not the total subcontract amount or the value (or a percentage thereof) of such products and/or supplies. In Column 5 of the DBE Participation Schedule, please state the amount of any reasonable fee that the DBE firm will receive for the provision of such products/services in Section 5.3 as a percentage of the Contract.

MDOT DBE FORM B
FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)
DBE PARTICIPATION SCHEDULE
PART 1 – INSTRUCTIONS FOR DBE PARTICIPATION SCHEDULE
 PAGE 2 OF 3

- D. Is the firm certified as a manufacturer (refer to the firm’s NAICS Code and specific description of products/services) of the products/supplies to be provided? If the answer is NO, please continue to Item E. If the answer is YES, for purposes of achieving the DBE participation goal, you may count the total amount of the subcontract. In Column 5 of the DBE Participation Schedule, please state the total amount of the subcontract in Section 5.1 as a percentage of the Contract.
- E. Is the firm certified as a supplier, wholesaler and/or regular dealer? If the answer is YES for purposes of achieving the DBE participation goal, you may only count sixty percent (60%) of the value of the subcontract (60% Rule). In Column 5 of the DBE Participation Schedule, please state the amount of the subcontract as a percentage of the Contract value in Section 5.1 **AND** the sixty percent (60%) of the total value of the subcontract as a percentage of the Contract in Section 5.2.
7. **Cumulative credit given for the use of all DBE suppliers/wholesalers/regular dealers/brokers/manufacturer in the DBE Participation Schedule cannot exceed sixty percent (60%) of the entire DBE participation goal. For example, if your proposal is \$100,000 and you have indicated that you will achieve \$25,000 in DBE Participation, the cumulative participation by DBE firms that are suppliers, manufacturers, wholesalers, brokers and regular dealers cannot exceed \$15,000 (or 60% of \$25,000).**
8. Please note that for USDOT-funded projects, a DBE prime may count towards its DBE participation goal work performed by its own forces. Include information about the DBE prime in Part 2.
9. **WARNING:** The percentage of DBE participation, computed using the dollar amounts in Column 5 for all of the DBE firms listed in Part 2, **MUST** at least equal the DBE participation goal as set forth in MDOT DBE Form A – Federally-Funded Contracts (Proposals Only) for this solicitation. If the offeror is unable to achieve the DBE participation goals, then the offeror must request a waiver in Form A or it may result in a determination that the proposal is not susceptible for award. You may wish to use the Worksheet shown below to assist you in calculating the percentage and confirming that you have met the applicable DBE participation goal

WORKSHEET

Total DBE Firm Participation Amount	\$	
(Add amounts listed for all DBE Firms in Column 5 of DBE Participation Schedule)		
Divide by Total Contract Amount	÷	
<i>Percent Overall DBE Participation</i>	=	%

**MDOT DBE FORM B
FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)
DBE PARTICIPATION SCHEDULE**

PART 2 – DBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE PROPOSAL AS DIRECTED IN THE SOLICITATION. THE FAILURE OF AN OFFEROR TO PROPERLY COMPLETE AND SUBMIT PARTS 2 AND 3 OF THE DBE PARTICIPATION SCHEDULE SHALL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NOT SUSCEPTIBLE TO BEING SELECTED FOR AWARD.

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Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED MBE SUBCONTRACTOR USED TO ACHIEVE THE DBE PARTICIPATION GOAL

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
				Unless the offeror requested a waiver in MDOT DBE Form A – Federally-Funded Contracts (Proposals Only) for this solicitation, the cumulative DBE participation for all DBE firms listed herein must equal at least the DBE participation goal set forth in Form A.
NAME OF DBE PRIME, SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND CLASSIFICATION	TOTAL SUB-CONTRACT AMOUNT AS A PERCENTAGE OF THE CONTRACT (AS PROVIDED IN PRICE/FINANCIAL PROPOSAL OR ANY BEST AND FINAL OFFER)	NAICS CODE/S NAICS Code/s of the specific products to be supplied or services to be performed by the DBE firm	PERCENTAGE AMOUNT(S) FOR PURPOSES OF ACHIEVING THE DBE PARTICIPACION GOAL. State the percentage amount of the products/services in Line 5.1 except for those services or products where the DBE firm is being used as a wholesaler, supplier, regular dealer, or broker. For those items of work where the DBE firm is being used as a supplier, wholesaler and/or regular dealer complete Line 5.2 using the 60% Rule. For those items of work where the DBE firm is being used as a broker, complete Line 5.3.
<input type="checkbox"/> Please check if DBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: _____ <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other DBE Classification	%		5.1 PERCENTAGE AMOUNT OF SUBCONTRACT FOR PRODUCTS/SERVICES (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, REGULAR DEALERS AND BROKERS) _____ % 5.2 PERCENTAGE AMOUNT FOR ITEMS OF WORK WHERE THE DBE FIRM IS BEING USED AS SUPPLIERS, WHOLESALERS AND/OR REGULAR DEALERS) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS). Total value of Supplies/Products % X 60% (60% Rule) = % (amount for purposes of achieving the DBE Participation Goal). 5.3 PERCENTAGE AMOUNT OF FEE WHERE DBE FIRM IS BEING USED AS BROKER (PLEASE REFER TO SECTION 6(C) IN PART 1 - INSTRUCTIONS). _____ %

Please check if Continuation Sheets are attached.

MDOT DBE FORM B
DBE PARTICIPATION SCHEDULE
FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)
PART 2 – DBE PARTICIPATION SCHEDULE
CONTINUATION SHEET
PAGE ___ OF ___

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5 Unless the offeror requested a waiver in MDOT DBE Form A – Federally-Funded Contracts (Proposals Only) for this solicitation, the cumulative DBE participation for all DBE firms listed herein must equal at least the DBE participation goal set forth in Form A.
NAME OF DBE PRIME, SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND CLASSIFICATION	TOTAL SUB-CONTRACT AMOUNT AS A PERCENTAGE OF THE CONTRACT (AS PROVIDED IN PRICE/FINANCIAL PROPOSAL OR ANY BEST AND FINAL OFFER)	NAICS CODE/S NAICS Code/s of the specific products to be supplied or services to be performed by the DBE firm	PERCENTAGE AMOUNT(S) FOR PURPOSES OF ACHIEVING THE DBE PARTICIPACION GOAL. State the percentage amount of the products/services in Line 5.1 except for those services or products where the DBE firm is being used as a wholesaler, supplier, regular dealer, or broker. For those items of work where the DBE firm is being used as a supplier, wholesaler and/or regular dealer complete Line 5.2 using the 60% Rule. For those items of work where the DBE firm is being used as a broker, complete Line 5.3.
<input type="checkbox"/> Please check if DBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: _____ <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other DBE Classification	%		<p>5.1 PERCENTAGE AMOUNT OF SUBCONTRACT FOR PRODUCTS/SERVICES (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, REGULAR DEALERS AND BROKERS)</p> <p style="text-align: center;">%</p> <p>5.2 PERCENTAGE AMOUNT FOR ITEMS OF WORK WHERE THE DBE FIRM IS BEING USED AS SUPPLIERS, WHOLESALERS AND/OR REGULAR DEALERS) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS). Total value of Supplies/Products %</p> <p>X 60% (60% Rule) = % (amount for purposes of achieving the DBE Participation Goal).</p> <p>5.3 PERCENTAGE AMOUNT OF FEE WHERE DBE FIRM IS BEING USED AS BROKER (PLEASE REFER TO SECTION 6(C) IN PART 1 - INSTRUCTIONS).</p> <p style="text-align: center;">%</p>
<input type="checkbox"/> Please check if DBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: _____ <input type="checkbox"/> Women-Owned <input type="checkbox"/> African American-Owned <input type="checkbox"/> Other DBE Classification	%		<p>5.1 PERCENTAGE AMOUNT OF SUBCONTRACT FOR PRODUCTS/SERVICES (EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS, REGULAR DEALERS AND BROKERS)</p> <p style="text-align: center;">%</p> <p>5.2 PERCENTAGE AMOUNT FOR ITEMS OF WORK WHERE THE DBE FIRM IS BEING USED AS SUPPLIERS, WHOLESALERS AND/OR REGULAR DEALERS) (PLEASE REFER TO SECTION 6(E) IN PART 1 - INSTRUCTIONS). Total value of Supplies/Products %</p> <p>X 60% (60% Rule) = % (amount for purposes of achieving the DBE Participation Goal).</p> <p>5.3 PERCENTAGE AMOUNT OF FEE WHERE DBE FIRM IS BEING USED AS BROKER (PLEASE REFER TO SECTION 6(C) IN PART 1 - INSTRUCTIONS).</p> <p style="text-align: center;">%</p>

MDOT DBE FORM B
FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)
DBE PARTICIPATION SCHEDULE

PART 3 – CERTIFICATION FOR DBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE PROPOSAL AS DIRECTED IN THE SOLICITATION. THE FAILURE OF AN OFFEROR TO PROPERLY COMPLETE AND SUBMIT PARTS 2 AND 3 OF THE DBE PARTICIPATION SCHEDULE SHALL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

I hereby affirm that I have reviewed the Products and Services Description (specific product that a firm is certified to provide or areas of work that a firm is certified to perform) set forth in the MDOT DBE Directory for each of the DBE firms listed in Part 2 of this DBE Form B for purposes of achieving the DBE participation goal that was identified in the DBE Form A that I submitted with this solicitation, and that the DBE firms listed are only performing those products/services/areas of work for which they are certified. I also hereby affirm that I have read and understand the form instructions set forth in Part 1 of this DBE Form B.

I solemnly affirm under the penalties of perjury that the contents of Parts 2 and 3 of MDOT DBE Form B are true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT DBE FORM C

FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY) OUTREACH EFFORTS COMPLIANCE STATEMENT

In conjunction with the offer/proposal submitted in response to Solicitation No. _____, I state the following:

1. Offeror took the following efforts to identify subcontracting opportunities in these specific work categories:

2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified DBE firms for these subcontract opportunities.

3. Offeror made the following attempts to personally contact the solicited DBE firms:

4. **Please Check One:**
 - Offeror assisted DBE firms to fulfill or to seek waiver of bonding requirements. (DESCRIBE EFFORTS)

 - This project does not involve bonding requirements.

5. **Please Check One:**
 - Offeror did attend the pre-proposal meeting/conference
 - No pre-proposal meeting/conference was held.
 - Offeror did not attend the pre-proposal meeting/conference

Company Name

Signature of Representative

Address

Printed Name and Title

Date

MDOT DBE FORM D

FEDERALLY-FUNDED CONTRACTS (PROPOSALS ONLY)

DBE SUBCONTRACTOR PROJECT PARTICIPATION AFFIDAVIT

IF THE OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE OFFEROR IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD. SUBMIT ONE FORM FOR EACH CERTIFIED DBE FIRM LISTED IN THE DBE PARTICIPATION SCHEDULE

Provided that _____ (Prime Contractor's Name) is awarded the State contract in conjunction with Solicitation No. _____, such Prime Contractor will enter into a contract with _____ (Subcontractor's Name) committing to participation by the DBE firm _____ (DBE Name) with MDOT Certification Number _____ (if subcontractor previously listed is also the DBE firm, please restate name and provide DBE Certification Number) will receive for at least _____% (Total Subcontract Amount – as a percentage of total Contract value) for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

I solemnly affirm under the penalties of perjury that the information provided in this DBE Subcontractor Project Participation Affidavit is true to the best of my knowledge, information and belief. I acknowledge that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes.

PRIME CONTRACTOR	SUBCONTRACTOR (SECOND-TIER)	SUBCONTRACTOR (THIRD-TIER)
Signature of Representative: _____	Signature of Representative: _____	Signature of Representative: _____
Printed Name and Title: _____ _____	Printed Name and Title: _____ _____	Printed Name and Title: _____ _____
Firm's Name: _____	Firm's Name: _____	Firm's Name: _____
Address: _____ _____	Federal Identification Number: _____	Federal Identification Number: _____
Telephone: _____	Address: _____ _____	Address: _____ _____
Date: _____	Telephone: _____	Telephone: _____
	Date: _____	Date: _____

IF DBE FIRM IS A THIRD-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE EXECUTED BY THE SECOND-TIER SUBCONTRACTOR THAT HAS THE SUBCONTRACT AGREEMENT WITH THE DBE FIRM.