

**Department of Materials Management  
Division of Procurement  
MONTGOMERY COUNTY PUBLIC SCHOOLS  
45 West Gude Drive, Suite 3100  
Rockville, Maryland**

**INVITATION FOR BID # 9757.1  
ELEVATOR MODERNIZATION AT  
NEW HAMPSHIRE ESTATES ELEMENTARY SCHOOL  
AND WATERS LANDING ELEMENTARY SCHOOL**

**GENERAL CONDITIONS AND SPECIFICATIONS**

**I. GENERAL CONDITIONS**

**A. SCOPE**

The work includes removing, furnishing, delivery, and complete modernization of two passenger/freight elevator system, including all related materials as required to make the project complete in all details and in compliance with Montgomery County Public Schools (MCPS) specifications and drawings herein and manufacturer's installation requirements at:

**New Hampshire Estates Elementary School, 8720 Carroll Ave, Silver Spring, MD 20903  
Tel #: 240-740-1580**

**Waters Landing Elementary School, 13100 Waters Landing Dr., Germantown, 20874  
Tel #: 240-740-1020**

**B. INTENT**

1. It is the intention of these specifications and drawings to fully cover the furnishing of materials and labor for the modernization of two passenger elevator, adhering to MCPS' specifications herein and the manufacturer's installation instructions. Unit prices for labor and materials crew are requested as the basis for the execution of change order work please refer to the Quotation form. The successful contractor will be required to submit the Asbestos Free Material Verification Form as applicable and required herein. (See General Conditions Section M and APPENDIX I)
2. The **New Hampshire Estate** elevator project is 100% funded with state funds. Effective October 1, 2021, prevailing wage rate apply to any state construction project that cost \$250,000 or more in which 25% or more of the project's total funding is provided by the State.
3. Bid prices offered shall be all-inclusive including, but not limited to labor, equipment, and miscellaneous materials to satisfy all specification requirements. All costs shall be included in the bid price submitted. All work shall be performed in accordance with the latest applicable laws, codes, and regulations of the various regulatory bodies of the State of Maryland, Federal/Local Governments, and all other boards or departments having jurisdiction, with special attention to ADA requirements. Review and understand

Factory Mutual (FM) requirements and resolve all conflicts between the FM specifications and MCPS specifications. These regulations and standards will be further considered a part of these specifications and conditions. The contractor shall furnish and install any additional items required by the same, whether or not particularly shown or specified. All deliveries must be prepaid to the destination (FOB destination); in no case will collect shipment be accepted.

### C. AWARD

1. This solicitation does not commit MCPS to award any contract or to pay any costs incurred in the preparation of a response. It is the intention to award this contract to the bidder(s) submitting the most favorable price with consideration being given to any previous performance for the Board of Education as to the quality of service, acceptable merchandise, and with regard to the bidder's ability to perform should it be awarded the contract. However, the Board of Education reserves the right to make awards according to the best interest of MCPS. **Awards are contingent upon the availability of funds.** In addition, MCPS Board of Education reserves the right to remove or add additional locations to the specifications as our requirements change, as well as add contractors or services throughout the contract term should a need arise that cannot be fulfilled by the awarded contractors.
2. Wherever the term "provide" is used, it shall mean, "furnish and install in place, complete in all details".

### D. SITE INSPECTION

**Bidder is required to inspect the worksite before bidding.** The bidder shall contact the building service manager prior to performing their inspection. The bidder shall carefully review the drawings and specifications before submitting their bid. Should any errors, discrepancies, or omissions be found in these specifications and/or drawings or any discrepancies found between the drawings and the physical conditions at the site, the contractor shall notify MCPS in writing immediately. When the bid has been submitted and received, it shall be understood that the work site has been inspected and that the bidder is aware of the needs and conditions under which the work is to be accomplished including, but not limited to, all work and equipment required to satisfy any and all laws, codes, regulations, etc., that are applicable. The bidder shall submit a **written report** to Anissa Black, Buyer II, via email at [Anissa.B.Black@mcpsmd.org](mailto:Anissa.B.Black@mcpsmd.org) upon identifying any condition which might prevent installation of the equipment or performance of the work in the manner intended no later than four working days prior to the bid opening. Failure to do so will not relieve the successful bidder of the obligation to furnish all materials and labor necessary to fully carry out the provision of the contract documents.

### E. SCHEDULE

1. The elevator systems shall be installed, operational and State accepted for use on/or before **August 22, 2023**. Work on-site can begin on **June 21, 2023** with the approval of the MCPS project coordinator. If the official school year is altered, the completion dates affected will be adjusted proportionately. An earlier start date may be allowed if requested by the contractor and approved by the MCPS project coordinator. This project

shall be 100% completed as specified and accepted by the MCPS project coordinator on or before **August 29, 2023**. This includes, but is not limited to, all closeout tasks; punch out corrections completed and accepted, final inspections, demonstrations, training, documentation, equipment, etc. **Since this bid requires custom fabricated equipment, the contractor must verify that they can provide all materials necessary to meet the schedule as specified. This schedule is the essence of this bid.** Late charges will be deducted for failure to meet any target dates without an MCPS approved extension. (See **“Late Charges for Failure to Complete on Time” under Contract Administration, Section H.**) A comprehensive work schedule will be developed with the successful contractor and the MCPS project coordinator to satisfy the identified completion dates. A purchase order issued and signed by the director of the Department of Materials Management will be the contractor’s authorization to proceed. All work is to be totally completed on or before the stated completion date identified. This includes but is not limited to, all cleaning tasks, punch-out work, operational demonstration to the satisfaction of MCPS, and final inspection by MCPS staff. Should conditions of the existing well hole require remedial measures, the schedule will be re-evaluated and will be adjusted by Change Order.

2. The contractor may commence any of the preparatory work, i.e., shop drawings, ordering of equipment and materials, etc., upon receipt of an Award Notification letter from the Division of Procurement.
3. The contractor shall maintain an adequate labor force on the work-site from the start of the project until the completion in order to satisfy the schedule. MCPS expects the work to proceed uninterrupted with regard to labor and material availability. The contractor shall inventory materials as they are received from the manufacturer and not wait until work is underway to determine if inventory is sufficient.

4. Special Work Period

Work may be performed on evenings, weekends, or holidays with MCPS approval; however, the contractor shall reimburse MCPS for the overtime cost of having MCPS’ building services staff on site. These overtime cost will be tracked and deducted from the contractor’s final invoice. See “Overtime Reimbursement Agreement”, under **APPENDIX F**.

5. The contractor shall take into consideration that school may be in session while work for this contract is being performed. No work performed by the contractor shall disrupt normal school functions. Any outages, downtime of electrical systems, etc., which may be required in the execution of the contractor’s work shall be scheduled with the MCPS project coordinator and will require the contractor to perform such work at premium labor times. The contractor shall anticipate these occurrences in their bids, and no changes in contract amount or completion date will be made for such occurrences.

**F. CONTRACT TERM**

The term of the contract shall be for one year as stipulated on the Invitation For Bid. However, the contract may not begin until one day after approval by the Board of Education and will conclude as stated under the contract term.

**G. PROVISION FOR PRICE ADJUSTMENT**

Price increases will not be considered for this project. Thereafter, the successful vendor must submit a written request for price relief. The request for a price increase shall include documentation from the manufacturer to verify the basis for such request. MCPS reserves the right to accept or reject the request as may be determined to be in the best interest of MCPS. Any orders received prior to a request for the price increase shall be honored at the original contract price.

Subsequent to award, the unit price on equipment quoted herein is subject to price adjustment upward or downward in accordance with increases or decreases announced by the manufacturer. The successful bidder(s) must notify the director, of the Division of Procurement of any announced manufacturer's price reductions and give immediate benefit to MCPS in a proportionate amount.

**H. MCPS EMERGENCY/CRISIS PROCEDURES, SHELTER/LOCKDOWN****Emergency/ Crisis Procedure Information**

1. In the event of an emergency/crisis incident while working in an MCPS facility, the contractor and/or their representative(s) shall be required to adhere to the established MCPS procedures and school administrative guidelines during such an occurrence.
2. Supplied herein under **APPENDIX D**, for the contractor's information are the MCPS Emergency/Crisis Procedures, Shelter/Lockdown. It is the contractor's responsibility to familiarize themselves and their representative(s) regarding the Shelter/Lockdown Procedures. These procedures are subject to change to meet MCPS requirements.
3. The contractor shall have at the worksite, a reasonable amount of materials that will allow them to quickly secure the work area and/or secure building openings as required for the type of work being performed.

**I. WARRANTY/SERVICES/REPAIRS**

1. The specifications require that all workmanship and materials shall be warranted for two years. Final payment will be made once the installation is complete and accepted by MCPS. The warranty shall begin once the MCPS project coordinator has approved the contractor's final invoice for payment.
2. Warranty shall provide for replacements of defective parts plus installation labor. The contractor shall also provide all preventive maintenance, inspections as required, and adjustment necessary throughout the two years warranty period. Any warranty claim made by MCPS prior to the expiration of said warranty shall be satisfied although the warranty has subsequently expired. Failure of a bidder to provide satisfactory warranty service to MCPS shall be grounds for exclusion from future bidding.

**J. BRAND NAMES**

1. Commodity descriptions that state “Only a specified brand will be considered” are brands that have been evaluated and tested for inclusion on this bid and are the only brands acceptable at this time. **No substitutions will be accepted.** Other brands will be evaluated and tested for future projects by MCPS if materials are submitted at no cost to MCPS. Forward samples/information to Montgomery County Public Schools, Division of Design and Construction, 45 West Gude Drive, Suite 4300, Rockville, Maryland 20850. **Testing normally requires a minimum of sixty calendar days to complete; therefore, your samples/materials for testing may be approved for future bids if the evaluation is satisfactory. This process of evaluation is intended for larger types of equipment and/or components i.e. bleachers, elevators, lockers, flooring, roofing systems, and PA Systems.**
2. In the brand column state the brand name, code, or model number on each item being offered, even if bidding the specified brand shall be provided. If a brand and code or model number are not shown your bid may not be considered.
3. If an item specification shows code or model numbers that have been discontinued, the bidder shall so state and indicate the current code or model number.

**K. MATERIALS**

Materials used in the performance of this contract shall be new and the manufacturer’s latest design improvements and materials current at the time of shipment. The MCPS project coordinator shall be notified of any design changes prior to delivery and the contractor shall supply sufficient information to allow evaluation.

**L. DESCRIPTIVE LITERATURE**

The apparent successful bidder may be required to furnish, **within two business days** after bid opening, sufficient detailed information regarding the makes, models, design, etc., of the item(s) offered. The successful bidder is required to furnish all literature properly bound and labeled, showing full instructions and detailed specifications. The literature and specifications are to be arranged and labeled in numerical sequence according to the item and attached on separate pages of a brochure. Failure to submit sequentially marked descriptive literature may result in disqualification. The bidder shall show the manufacturer’s code and catalog numbers of the item(s) offered. The cover of the brochure shall contain:

1. Bidder’s name, address, and telephone number
2. Bid number

**M. ASBESTOS INFORMATION**

1. **Asbestos Free Materials**

**NO MATERIALS PROVIDED SHALL CONTAIN ASBESTOS!!!!** All Contractors providing and/or installing any of the building materials listed below shall secure

laboratory analysis confirming that materials contain NO ASBESTOS. The cost for testing shall be included in the bid prices offered. After the initial testing has been performed additional annual testing will be required thereafter or immediately upon any change in materials or manufacturers.

- Acoustical ceiling tile,
- Adhesives
- Caulking
- Fire Rated Doors
- Fireboards
- Floor tile and sheet flooring,
- Folding Doors
- Gypsum Panels (Drywall)
- Insulation (All types; roof, HVAC, piping, wall, etc.)
- Mastics
- Plaster
- Roofing System Components e.g. BUR Asphalt, Felts, Cap Sheets, Shingles, etc.
- Spackle
- Toilet Partitions
- Window Glazing

The laboratory performing the analysis must have received U.S. Environmental Protections Agency (EPA) accreditation and be a member of the National Voluntary Laboratory Accreditation Program (NVLAP). The Contractor or the manufacturer can have the laboratory testing performed. No other form of confirmation such as Material Safety Data Sheets, manufacturer documentation, historical testing, etc. will be accepted.

A list of EPA accredited laboratories can be found at <http://ts.nist.gov/standards/scopes/programs.htm>

The contractor shall provide the required laboratory analysis report(s) and a completed “Asbestos Free Material Verification Form” herein (see **APPENDIX I**) **within five working days** after receipt of the “Award Notification” letter for each listed product required in the execution of the scope of work.

2. **Existing Asbestos Materials**

MCPS shall be responsible for all asbestos abatement tasks as may be required regarding existing materials on site. Any questions concerning asbestos materials shall be directed to John Conaway, Environmental Health Specialist at 240-740-2331.

N. **DEVIATIONS**

All bids meeting the intent of the invitation will be considered for award. Bidders who are deviating from the terms, conditions, and/or specifications shall list such and explain fully on a separate sheet to be submitted with their bid. The absence of such a sheet shall indicate that the bidder has taken no exception and shall be held responsible for performing in accordance with the terms, conditions, and specifications as stated herein.

**O. BID SECURITY**

1. **Bids in excess of \$50,000.00** shall be accompanied by a Bid Security in the form of Bid Bonds (A.I.A. Document A310), in the amount of 10% of the bid, naming Montgomery County Board of Education as Obligee. A certified check in the amount of 10% of the bid will be accepted in lieu of the Bid Bond. Where a certified check is furnished, the Contractor shall attach the following statement from a **Maryland licensed bonding company** signed by an authorized representative of the bonding company:

"As surety for the above-named contractor, **(name of bonding company)** hereby agrees to furnish the required bond as specified, on behalf of the contractor, in the event that such firm is the successful bidder for this project."

2. Bid bonds will be returned upon request to all except the three lowest bidders. After sixty days from the bid opening date, the three lowest bidders can request the return of bid bonds so long as they have not been notified of the acceptance of their bid.
3. If the successful bidder withdraws their bid or fails to execute and deliver to MCPS the contract and the required bonds within five working days after receipt of the Bid Award, the Bid Security shall be forfeited to MCPS as the result of such failure. **Note: Failure to submit the Bid Security with the bid proposal may be the reason to be considered as a non-responsive bid.**

**P. SUBMISSION OF BIDS (Sealed Bids Only) Required Submissions**

1. **Bid Documents**

One original and one copy of the bid are requested. The cover page of each copy must be clearly marked original or copy. Bidders may wish to reproduce and retain an additional copy for your files.

2. **Quotation Form (Pages 1-7)**

- a. Quotations are to be entered on the Quotation Form supplied in **APPENDIX J. Faxed quotations are not acceptable. SEALED BIDS ONLY.**
- b. **Bidder must submit a separate price for each item listed on the Quotation Form. Submission of one price for all the items without indicating a price per item shall be considered non-responsive and will invalidate the bid.** If there is a discrepancy between the unit cost and total cost, the unit cost shall prevail. Prices offered shall be valid for acceptance during a period of no less than 90 days from the date of bid opening.

3. **Addenda/Errata**

Changes and addenda to a solicitation may occur prior to the bid opening date and time. It is the bidder's responsibility to check the MCPS website under the event calendar <http://www.montgomeryschoolsmd.org/calendar/mcpsbids.aspx> or contact the Division

of Procurement by phone at (240)740-7600 or email to [Procurement@mcpmd.org](mailto:Procurement@mcpmd.org) to verify whether addenda/errata have been issued. **Failure to provide the signed acknowledgement of the addenda/errata may result in a bid being deemed non-responsive and consequently rejected.**

4. **Licenses/Certifications (TO BE SUBMITTED WITH BID)**

- a. The contractor shall possess a current “State of Maryland” Construction Business License. These Contractors business licenses are issued through the County of Baltimore City, Clerks of the Circuit Court in which the business is located within the state of Maryland. **Note: All out-of-state bidders must submit an an out-of-state Maryland Construction Business license. Contact the License Bureau <http://www.marylandtaxes.com/> or at 410-260-6240.**
- b. Contractor shall include a letter from the manufacturer stating that the firm is a manufacturer’s authorized installer/representative for the brand equipment offered. Manufacturer shall submit a letter stating manufacturer shall supply specified equipment in order for the contractor to complete project by specified date.
- c. Contractor shall submit an existing State of Maryland Elevator Contractor license with bid submission. Failure to provide an existing license may disqualify the bid submission.

5. **Statement of Experience and Manufacturer’s Authorization Letter**

The contractor shall provide a statement of experience with the bid submission. The contractor shall have been in business and have been regularly engaged in the installation of elevators as specified herein, a minimum of five years. **Failure to provide required documentation may disqualify the bid submission.**

6. **Minority Business Enterprise in Public Schools**

**The goal has been set for 10% MBE participation. Attachment A and B of the MBE PROCEDURE (APPENDIX A) reflecting minimum 10% MBE participation shall be submitted with your bid. Failure to supply as specified will disqualify your bid response. (See “II Contract Administration” for additional MBE information)**

**MCPS expects all bidders to make the essential effort to meet or exceed the established MBE goal for this invitation to Bid. MCPS will NOT grant MBE waivers without sufficient support documentation that clearly substantiates that the bidder has made a sincere good faith effort to meet the MBE requirements. There will be an extensive effort required on the part of the bidder to ensure compliance with the MBE procedures to rationalize a review of an MCPS waiver request.**

7. **Bid Security**

**Bids in excess of \$50,000.00 shall be accompanied by a Bid Security in the form of Bid Bonds (A.I.A. Document A310), in the amount of 10% of the bid, naming**



Montgomery County Board of Education as Obligee. (See **GENERAL CONDITIONS, SECTION M, BID SECURITY** on page 6 – 7 for more information)

**Q. Contractors' Obligation Regarding Criminal Records of Individuals Assigned to Work in MCPS Facilities**

Beginning July 1, 2015, all MCPS contracts must include the following provisions:

- a. **Prohibition against assigning registered sex offenders and individuals convicted of sexual offenses, child sexual abuse, and other crimes of violence to MCPS contracts:**

Maryland Law requires that any person who enters into a contract with a county board of education “may not knowingly employ an individual to work at a school” if the individual is a registered sex offender. Under § 11-722 of the Criminal Procedure Article of the Maryland Code, an employer who violates this requirement is guilty of a misdemeanor and, if convicted, may be subject to up to five years imprisonment and/or a \$5000 fine.

Effective July 1, 2015, amendments to §6-113 of the Education Article of the Maryland Code further require that a contractor or subcontractor for a local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of, or pled guilty or nolo contendere to a crime involving:

1. A sexual offense in the third or fourth degree under § 3–307 or § 3–308 of the Criminal Law Article of the Maryland Code or an offense under the laws of another state that would constitute an offense under § 3–307 or § 3–308 of the Criminal Law Article if committed in Maryland;
2. Child sexual abuse under § 3-602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under § 3-602 of the Criminal Law Article if committed in Maryland; or
3. A crime of violence as defined in § 14–101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14–101 of the Criminal Law Article if committed in Maryland, including: (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking; (11) armed carjacking; (12) sexual offense in the first degree; (13) sexual offense in the second degree; (14) use of a handgun in the commission of a felony or other crime of violence; (15) child abuse in the first degree; (16) sexual abuse of a minor; (17) an attempt to commit any of the crimes described in items (1) through (16) of this list; (18) continuing course of conduct with a child under § 3-315 of the Criminal Law Article; (19) assault in the first degree; (20) assault with intent to murder; (21) assault with intent to rape; (22) assault with intent to rob; (23) assault with intent to commit a sexual

offense in the first degree; and (24) assault with intent to commit a sexual offense in the second degree.

Each contractor is required to submit, the following award of a contract, documentation confirming that its direct employees and those of any subcontractors and/or independent contractors assigned to perform work in an MCPS school facility under the contract meet this obligation. Additionally, the contractor must confirm that it continues to meet this obligation on an annual basis and/or when there are changes in the workforce that the contractor and/or its subcontractors use to perform the work required by the contract.

Violation of this provision is a material breach of contract for which MCPS may take appropriate action up to and including termination of the contract.

**b. Required criminal background check process for certain individuals in the contractor's workforce:**

Under recent amendments to § 5-551 of the Family Law Article of the Maryland Code, each contractor and subcontractor shall require that any individuals in its workforce must undergo a criminal background check, including fingerprinting; if the individuals will work in a MCPS school facility in circumstances where they have direct, unsupervised, and uncontrolled access to children. The term "workforce" in this and the preceding section refers to all of the contractor's direct employees, subcontractors and their employees, and/or independent contractors and their employees that the contractor uses to perform the work required by the contract.

Fingerprinting for the criminal background check may be performed by the MCPS Office of Human Resources and Development, 45 W. Gude Drive, Rockville, MD 20850, or through another service approved by MCPS. Individuals fingerprinted by MCPS will be required to provide written consent, and MCPS will maintain copies of all records for criminal background checks performed by MCPS. If the contractor uses another service approved by MCPS, the results of the criminal background check must be provided to MCPS for record-keeping. A list of MCPS approved fingerprinting agencies can be found on the Division of Procurement website at <http://www.montgomeryschoolsmd.org/departments/procurement>.

The contractor must take appropriate steps to promptly follow up on information identified in the criminal background check related to the sexual offenses, child sexual abuse offenses, and crimes of violence enumerated above, as well as any information regarding offenses involving the distribution of drugs or other controlled substances, or any other criminal information identified by MCPS as warranting further explanation insofar as it may significantly affect the safety and security of MCPS students. If, after following up, the contractor believes that the individual is qualified and should be assigned to work (or continue to work) in a MCPS school facility, then the contractor will provide a written summary to MCPS justifying its recommendation. MCPS will rely on the contractor's summary to determine whether to accept the contractor's recommendation, and the contractor will be

responsible for any consequences of a material misrepresentation in its written summary.

Once the contract is awarded, the contractor is responsible for implementing the background check process. An individual in the contractor's workforce may not begin work in a MCPS school facility on an assignment where the individual will have direct, unsupervised, and uncontrolled access to children, until: (a) the background check results for that individual have been received by MCPS; (b) the contractor certifies to MCPS that the individual has received training and/or reviewed informational materials, as appropriate, regarding recognizing, reporting, and preventing child abuse and neglect, consistent with the content provided in training for MCPS employees; and (c) the individual obtains a MCPS identification badge. The badge will be issued by the MCPS Department of Safety and Security, 45 West Gude Drive, Suite 4000, Rockville, MD 20850. Appointments are made by calling 240-740-4669. The contractor will be required to return all badges at the conclusion of the contract.

The criminal background check and the badging process will be at the contractor's expense.

Violation of this provision is a material breach of contract for which MCPS may take appropriate action up to and including termination of the contract.

R. **REFERENCES**

Bidders shall provide three references with their bid submission. The references shall have the company name, contact person, address, and phone number of three current customers for which a contract for a similar size and type of project has been provided. If the reference information is not accurate and MCPS cannot contact the person(s) named then your bid may not be considered. MCPS may request additional references. Note: ALL BIDDERS must provide references other than MCPS, including bidders currently engaged in business with MCPS.

<b><u>Company Name &amp; Address</u></b>	<b><u>Contact Person</u></b>	<b><u>Phone Number</u></b>	<b><u>Contact Number</u></b>
1. _____ _____			
<b>Email</b> _____			
2. _____ _____			
<b>Email</b> _____			
3. _____			

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Email \_\_\_\_\_

S. **AWARD CRITERIA**

1. Conformance to specifications and completeness of bid submission
2. Ability to perform
3. Price
4. Past Performance
5. MBE compliance

T. **EMARYLAND MARKETPLACE ADVANTAGE REGISTRATION**

Maryland law requires local and state agencies to post solicitations on eMaryland Marketplace Advantage. Registration with eMaryland Marketplace is free. It is recommended that any interested supplier register at <https://emma.maryland.gov/>, regardless of the award outcome for this procurement as it is a valuable resource for upcoming bid notifications for municipalities throughout Maryland.

U. **SPECIAL CONDITIONS**

1. Audit Provisions – MCPS shall have the right to examine the successful bidder(s) records pertaining to work performed under the contract to determine and verify their compliance with all contractual conditions. MCPS shall be granted access to such records at all reasonable times during the contract period and for three years thereafter.
2. Contingent Fee – The successful bidder(s) hereby represents that they have not retained anyone to solicit, or secure this contract from MCPS upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide employees or bona fide established commercial selling agencies maintained by the person so representing for the purpose of securing business, or any attorney rendering professional legal services consistent with applicable canons of ethics.
3. Assignments – Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the successful bidders(s) except as expressly authorized in writing by MCPS and no contract shall be made by the successful bidder(s) with any other party for furnishing any of the work or services herein contracted for without the written approval of MCPS.
3. Disputes – Any dispute concerning a question of fact arising under this contract shall be disposed of by written agreement between the contractor and the MCPS contracting officer. Pending the final decision of a dispute hereunder, the contractor shall proceed diligently with the contract performance.

V. INQUIRIES

Inquiries regarding this solicitation must be submitted in writing, to Anissa Black, Buyer, Montgomery County Public Schools, 45 West Gude Drive, Suite 3100 Maryland 20850, or by email to [Anissa\\_B\\_Black@mcpsmd.org](mailto:Anissa_B_Black@mcpsmd.org) and [Procurement@mcpsmd.org](mailto:Procurement@mcpsmd.org). Questions must be received no later than four business days prior to bid opening in order for the bidder to receive a reply prior to submitting its bid. The MCPS Board of Education will not be responsible for any oral or telephone explanations or interpretations. Bidder contact with any other MCPS employee regarding this solicitation until the contract is awarded by the Board of Education will be considered by MCPS as an attempt to obtain an unfair advantage and result in non-consideration of its bid.

Subsequent to the award if the contractor finds any discrepancy or omission and has questions of MCPS's intent, prior to performing work, they shall notify the MCPS project coordinator in writing to resolve and receive clarification with copies MCPS Capital Improvements Contracting Supervisor and Anissa Black in the Division of Procurement.

**II. CONTRACT ADMINISTRATION****A. PRE-AWARD MEETING**

1. MCPS reserves the right to convene a meeting with the apparent low bidder(s) prior to awarding a contract. The purpose of this meeting is to afford all parties an opportunity to discuss any aspects of the project and contract execution, which may be of concern for the successful and timely completion of the project.
2. Documents required elsewhere in this specification, such as service and warranty agreements, construction schedule, and schedule of values, shall be presented at this meeting for review by MCPS staff in Division of Design and Construction.
3. Issues raised during this meeting, which cannot be resolved to the satisfaction of MCPS, will be caused to reject the apparent low bid; and to consider the next lowest bidder as the successful offeror.

**B. CONTRACT SECURITY**

1. The Performance Bond shall be executed using the modified A312, Payment and Performance Bonds. The Payment shall be executed using AIA Document A312, Amended Payment Bond.
2. Upon receipt of the Pre-Award Notification letter, the successful bidder shall deliver to MCPS **within five working days** security requirements, which are:

**Performance and Payment Bonds** – Bonds are required for contracts in excess of \$50,000.00. The Contractor shall provide bonds in the amount of the total contract value.

3. If bond(s) are to be used for contract security, the cost of the bond(s) shall be borne by the contractor. **Note: Failure to supply the Contract Securities as specified will be considered a non-responsive bid offer.**

**C. POST AWARD SUBMISSIONS**

1. The apparent low bidder may be required to supply **within 48 hours** after MCPS request, applicable business and contractor's licenses, master licenses for trades appropriate for work to be performed, and/or company financial statements, etc., as required to allow MCPS contractor evaluation. The bidder must submit a copy of the Maryland Master License under which this project will be performed. **Failure to supply a copy as specified may disqualify your bid proposal.**
2. **Sub-Contractors**
  - a. MCPS must approve all sub-contracting work in advance; the prime contractor shall supply MCPS with the rationale for requesting sub-contracting. It is MCPS' intent that the successful bidder(s) has the in-house resources to perform the primary task and only sub-contract secondary task(s) which they do not specialize in, appropriately, e.g., electrical, mechanical, and/or plumbing, etc. The apparent

low bidder shall supply a complete list of all sub-contractors and the cost of their work for evaluation by MCPS. This list must be submitted within two workdays after MCPS makes the request. **Failure to do so will be grounds for termination of your bid.** The contractor shall be responsible for assuring that all proposed sub-contractors are in good standing with MCPS and have been in business for and have a minimum of five years' experience performing the type of work they will be performing under this contract and possess appropriate licensing.

- b. MCPS shall notify the contractor **in writing** if, after due investigation, there is reasonable objection to any of the proposed sub-contractors. Failure of MCPS to make objection to any proposed sub-contractor shall constitute notice of no objection. Each sub-contractor may be required to furnish to MCPS, in duplicate, proof of their financial stability and experience to perform the particular work for which they will be engaged. All contractual agreements between the contractor and their sub-contractors shall be written and unamended on the Standard Form of Agreement between the contractor and sub-contractor, AIA Document A401 (most recent Edition). Upon request the contractor shall supply copies of this contract to MCPS **within five workdays**.
- c. MCPS acceptance of sub-contractors in no way relieves the contractor from being responsible for the total and complete performance of the work for the project; i.e., failure of the sub-contractors to satisfactorily perform the work in a timely fashion is the contractor's responsibility and not that of MCPS.

### 3. Minority Business Enterprise in Public Schools

- a. **The goal has been set for 10% MBE participation. Attachment A and B of the MBE PROCEDURE (APPENDIX A) reflecting minimum 10% MBE participation shall be submitted with your bid. If you do not submit the forms with your bid, the director of the Procurement Unit may deem your bid non-responsive and you will not be selected for award. (See Section "II Contract Administration" for additional MBE information). Failure to supply as specified will disqualify your bid response.**
- b. MCPS expect all bidders to make the essential effort to meet or exceed the established MBE goal for this invitation to Bid. MCPS will **NOT** grant MBE waivers without sufficient support documentation that clearly substantiates that the bidder has made a sincere good faith effort to meet the MBE requirements. There will be an extensive effort required on the part of the bidder to ensure compliance with the MBE procedure to rationalize a review of an MCPS waiver request.

### 4. Submit Evidence of Insurance

#### a. Insurance

See Article XXI of the General Stipulations and Instructions to Bidders. The successful Contractor shall submit an actual certificate of insurance made in favor

of MCPS within five workdays after a Pre-Award Notification letter has been issued to the successful bidder.

b. **Additional Insurance**

The Montgomery County Board of Education shall be named as an additional insured on all liability policies.

c. **Policy Cancellation/Certificate Holder**

- 1) Sixty days written notice of cancellation or material change in any of the policies is required.
- 2) The Division of Procurement, Montgomery County Board of Education shall be the insurance certificate holder.

5. **Invoicing**

- a. Bidder shall submit all invoices to the MCPS project coordinator Division of Design and Construction, preferred electronically via email or regular mail to project coordinator Montgomery County Public Schools, **45 West Gude Drive, Suite 4300, Rockville, Maryland 20850** for payment approval. **All invoices shall identify pertinent information such as purchase order number and building name where work was performed.** The MCPS project coordinator shall submit invoices and receiving reports to the Division of Controller to process payments, and shall specify final or partial payments.
- b. MCPS is not obligated to make partial payments. However, partial payments may be considered based upon the contractor's justification of expenditures and satisfactory work performed up to 75% of the total contract cost. The remaining balance will be paid upon MCPS acceptance of the project as being 100% complete and in compliance with specifications. MCPS will refrain from making any partial payments if, in MCPS' opinion, the project falls behind schedule. MCPS may resume making partial payments once all delays have been overcome and the project is back on schedule. Final payment shall be made after the project is complete in all detail as specified and accepted by MCPS project coordinator.
- c. Partial payment invoices shall be accompanied by a detailed schedule of values allocated to various portions of the work (similar to AIA Document's G702 & G703). This schedule, unless objected to by the MCPS project coordinator, shall be used as a basis for reviewing the contractor's application for partial payment.

6. **Permits and Inspections**

**The contractor shall obtain all required permits, including electrical and plumbing permits, pay all fees,** and certify that other required permits have been obtained prior to commencing work. This includes, but is not limited to, the contractor securing permits on behalf of MCPS and scheduling of inspections as required by Federal, State and County authorities, such as State CSD-1 inspections and MDE permits. Upon



completion of all work, obtain all certificates of inspections required and deliver them to the MCPS project coordinator. All required permit certificates and related documentation shall be submitted to the MCPS project coordinator for approval prior to final payment.

**D. STATE FUNDED PROJECT COMPLIANCE REQUIREMENTS**

1. The contractor shall complete and submit to MCPS, CONTRACTOR'S CERTIFICATION OF RECEIPT OF PAYMENT, included with this bid solicitation package under **APPENDIX B**. This form shall be completed after the Contractor has received payments from MCPS exceeding the amount of the State funding. At the time of the contract award, the Contractor shall be informed of the actual dollar amount being funded by the State for the project. Once the Contractor has received payment from MCPS exceeding this amount, the Contractor shall have **10 days** in which to submit CONTRACTOR'S CERTIFICATION OF RECEIPT OF PAYMENT TO MCPS. No further payments will be made to the Contractor until this form has been submitted.
2. **THE CONSTRUCTION SIGN SHOULD BE ERECTED FOR ALL STATE OF MARYLAND SCHOOL FUNDED CONSTRUCTION PROGRAM PROJECTS THAT EXCEED \$ 100,000.00.** The contractor shall supply and install a sign at the work location as specified on the drawing under **APPENDIX C** on the project site. The contractor has the option of making a specified sign or obtaining the sign from State at MCE Sign Plant #111 C/O Patuxent Institution, Attn: Charles Behnke, Plant Manager, 7555 Waterloo Road, Jessup, Maryland 20794, phone 410-799-5102 or 5103, Fax 410-799-7911 or via email [cwbehnke@dpsc.state.md.us](mailto:cwbehnke@dpsc.state.md.us). The current price from Maryland Correctional Enterprises for this sign is \$525.00 with a lead time of approximately one week. The contractor shall coordinate the location of the sign with the MCPS project coordinator. The contractor shall remove the sign and restore the site to its original condition upon the completion of the contract. It will be MCPS option to either retain the sign for future use or have the contractor dispose of the sign.

**E. MARYLAND BUY AMERICAN STEEL ACT**

Steel purchase under this bid must be in compliance with the "Maryland Buy American Steel Act", Section 17-301 to 17-306 of the State Finance and Procurement Article of the American Code of Maryland. This applies to steel purchases that are composed of at least 10,000 pounds of steel products. It is the bidder's responsibility to be in compliance as required if purchasing steel in excess of 10,000 pounds.

**F. SALES TAX**

Section 326(a) of Chapter 452 of the Laws of Maryland, 1968, provides, among other things, for the taxation of "any sale... of tangible personal property to Contractors or Builders shall be used for the construction, repair, or alteration of real property...". Sales tax, as applicable, shall be included in any bid made to the Board of Education of Montgomery County, Maryland.

**G. PERFORMANCE**

1. The contractor shall have on the job site at least one person fluent in English at all times.
2. **The contractor must provide to the MCPS project coordinator cellular telephone numbers and Email addresses of project managers to allow for day-to-day direct communications.**
3. Work shall be completed in a timely workmanlike manner; fumes, odors, materials and work procedures will be controlled to protect occupants and property from harm and damage. Contractor shall protect all existing floors, including floors where materials is stored or being transported with Ram Board .375" thick or MCPS approved equal.
4. The contractor shall furnish the services of an experienced supervisor, who shall be in charge of the work and provide direction to the crew at all times.
5. Contractors and employees:
  - a. Contractors are required to have all employees complete the fingerprinting and background check, so they can receive an MCPS contractor badge. MCPS contractor's badges shall be worn while on-premises. All workers will be required to check in daily at the facility's main office to obtain a visitor badge. These badges must be returned to MCPS daily. All contractor employees must wear a badge while on site.
  - b. Use of any form of tobacco products, liquor and/or illegal drugs is not permitted in MCPS buildings and on grounds.
  - c. Contractor's employees are not to use facility equipment and buildings, i.e., telephone, lounges, parking lots, etc. The MCPS project coordinator will designate such facilities authorized for contractor use.
6. All work shall be scheduled to the mutual satisfaction of the MCPS school administration and the MCPS project coordinator to avoid conflicts with school activities.
6. The building is expected to be occupied throughout the stated period allowed for this work. The contractor shall take all required safety precautions.
8. Work area must be left clean and after each work day. The contractor must remove all debris generated by the work from the premises daily, adhering to **Montgomery County Solid Waste and Recycling Regulation No.1 5-04AM, COMCOR 48.00.03**. The contractor shall track all recyclable materials such as metal, concrete, asphalt, cardboard, etc. and provide to MCPS recyclable amounts by the weight as requested.
9. Installation must be performed in strict compliance with the latest local, state and federal regulations having authority. The Occupational Safety and Health Administration Hazard Communication Standards must be followed.

10. Upon completion of all work, repair lawns, landscaping, fences, roads, curbs, sidewalks, and parking areas damaged as a result of the work; restore damaged items to a condition as good as existed prior to damage. Damaged lawns shall be re-sodded; damaged shrubs and trees shall be replaced.
11. Field measurements are required.
12. Failure to perform in accordance with MCPS specifications, drawings and industry standards may result in the contractor being removed from the approved vendor list to receive future Invitations for Bid for a period of two years.

#### H. CHANGES IN THE WORK

1. Should alterations or changes at any time during the progress of the work or to add or delete work, MCPS shall have the undisputed right to make such changes, additions, omissions, or alterations by written order. An MCPS CHANGE ORDER FORM **APPENDIX E** must be completed and signed by both MCPS and contractor's authorized representative as identified on the form. All Change Order Forms, Proposals and other supporting documentation relating to additional work must be supplied to the MCPS project coordinator within one week from the time the Change Order need is identified. No cost changes to contract will be paid without a complete Change Order Form signed by both parties. **Approved Change Orders do not automatically revise completion dates.** It is the contractor's responsibility to provide a written request for extension, as they deem necessary with an explanation of justification. Using approved change orders as rationale for not completing on time will not be accepted without an MCPS approved extension. If additional work is performed without MCPS authorization and/or written Change order, the contractor will be subject to reversing said work, or work and/or materials shall remain in place at no cost to MCPS. This shall be solely at MCPS' discretion.
2. The allowable, all inclusive mark-up for combined overhead, bonds, fringe benefits, union fees, equipment, tools and profit for work performed by the prime contractor will be based on the monetary value of the work not to exceed the following rates:

<u>Value of Work</u>	<u>Combined Overhead &amp; Profit</u>
\$0 - \$1,000	20%
\$1,001 - \$4,999	18%
\$5,000 - \$9,999	16%
\$10,000 - \$24,999	14%
Over \$24,999	Negotiated but not more than 10%

This schedule applies to work done by the prime contractor or by a sub-contractor(s). The prime contractor shall be allowed not more than 8% of the Sub-Contractor's cost for labor, materials, overhead and profit.

3. The contractor shall furnish supporting documentation with all Change Order Requests for all credits and/or extras. At a minimum, change order requests shall include a description of the work, detailed material lists, costs of materials (actual Contractor

costs, not list prices), man-hours and rates. The same material costs, man-hours, rates, supervision, overhead and profit shall be applied equally to all credits.

**I. LATE CHARGES FOR FAILURE TO COMPLETE ON TIME**

1. MCPS shall retain \$500.00 per each calendar day of delay beyond the completion date stipulated on each approved proposal, for the first five days. MCPS shall retain \$1,000.00 for each calendar day thereafter. The late charges shall be assessed by MCPS as a result of the late completion. This shall apply if the contractor fails to meet any specified target date as identified herein unless a written approval for extension has been granted by MCPS.
2. Failure to complete the work within the time specified will entitle MCPS to late charges. These charges will be deducted and retained out of any monies due the contractor under this contract for the sum stated in the above paragraph for each calendar day required to complete the work beyond the agreed upon and documented completion date. This includes Saturdays, Sundays and legal holidays.
3. If necessary, to reach a proper stopping place in any portion of work or to complete work within contract time limit, contractor shall work overtime both their workforces and the sub-contractors' workforces without additional cost to the contract price. The contractor shall be responsible for all incidental costs in connection with such overtime work including, but not limited to, MCPS building service overtime as required.
4. If work falls behind schedule, as determined by the MCPS project coordinator, the contractor shall provide, at their own expense, additional labor and/or equipment, overtime pay, etc., as required to overcome delays including, but not limited to, MCPS building service overtime as required.
5. The MCPS Capital Improvement Contracting Supervisor will review requests for extension of completion time due to strikes, lack of materials, and/or any other condition over which the contractor has no control. Written application for extension shall be made immediately upon occurrence of conditions that, in the opinion of the contractor requires such an extension, with reason clearly stated and detailed proof for each such delay. The delay of MCPS issuing a purchase order does not automatically alter any completion dates. If in the contractor's view the delay of a purchase order is having a negative effect on completion of the contract within the dates specified, they must notify MCPS in writing immediately. Using the rationale that a purchase order was issued late, at the conclusion of the work will not be an acceptable reason for requesting a contract extension. No time extension will be allowed except by final written approval of the MCPS contract officer. No requests for extension due to weather conditions will be considered unless accompanied by documentary evidence supplied by the NOAA's National Weather Service showing, by comparison, that such weather suffered is abnormal to any of the past five years as recorded. **No request for extension will be considered by MCPS if received from the contractor after the previously agreed completion date has passed. Late charges will be automatically deducted.**

**J. CONTRACTORS OVERTIME PROCEDURE**

If the contractor chooses to work overtime for any reason and secures MCPS approval to do so, the contractor shall be responsible for any associated costs including MCPS building service staff, etc. Average building service staff overtime rate is \$35.00 per hour depending on the individual working. This rate is estimated and could either be more or less than the quoted overtime rate. All overtime work must be requested **in writing** to the MCPS project coordinator, at least 48 hours in advance. This will allow MCPS staff sufficient time to coordinate the required building service staff participation. The Overtime Reimbursement Agreement under **APPENDIX F** must be completed and signed by MCPS and the Contractor before work is to be performed. The request must identify the dates and times the Contractor proposes to work. Without written request and Overtime Reimbursement Agreement, MCPS will not approve any overtime.

**K. MCPS CONTRACT OFFICE SUPERVISOR/PROJECT COORDINATOR**

1. The Capital Improvement (CIP) contracting supervisor will represent MCPS in the execution of this contract. No changes to the contract conditions or specifications will be made without the CIP Contracting Office Supervisor's approval and authorization by the director of the Division of Procurement.
2. After the award the MCPS project coordinator will be assigned, who will handle the day-to-day operation and installation coordination. Scheduling work onsite after an award of contract must be made through the MCPS project coordinator.
3. The MCPS project coordinator is authorized to:
  - a. Serve as liaison between MCPS and the contractor;
  - b. Give direction to the contractor to ensure satisfactory and complete performance;
  - c. Monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
  - d. Serve as records custodian for this contract;
  - e. Accept or reject the contractor's performance;
  - f. Furnish timely written notice of the contractor's performance failure to the MCPS contract officer, copy to the Division of Procurement;
  - g. Prepare required reports;
  - h. Approve or reject invoices for payment and submitted construction schedules;
  - i. Recommend contract modifications or terminations to the MCPS CIP Contracting Supervisor; copies to the Division of Procurement;

- j. Issue notice to the contractor to proceed with the project after receiving signed Change Order forms as required.
4. The MCPS project coordinator is **NOT** authorized to make determination, as opposed to recommendations, that alter, modify, terminate or cancel the contract, affect procurement, interpret ambiguities in the contract language, or waive MCPS' contractual rights.

#### L. **PROJECT CLOSE-OUT**

1. Initial Installation Punch-Out:
  - a. The contractor shall notify the MCPS project coordinator, **in writing**, that the work is complete and has been accepted by the State of Maryland, Department of Labor, Licensing & Regulation Elevator Safety Inspection Division and is ready for final punch-out inspection. Punch-out shall occur sufficiently in advance of the installation **completion date** to afford the contractor time to rectify punch list corrections. Before calling for a punch-out, renovation of the passenger/freight elevator installation shall be completed and all areas shall be clear of construction materials and debris.
  - b. During punch-out, the following shall be present:
    - 1) Authorized representatives of MCPS
    - 2) Contractor
    - 3) Elevator Design Consultant
  - c. Upon completion of a punch-out, a written punch list shall be prepared by the Contractor and submitted to MCPS within five days.
2. The contractor is entitled to one punch-out inspection and one final inspection. Any additional inspection by MCPS staff due to the Contractor's failure to complete the punch-out items will result in deductions of costs incurred by MCPS for such inspections from the Contractor's final invoice.
3. The contractor shall notify the MCPS project coordinator **in writing** for a final inspection once all related punch list items have been 100% completed. All punch-out and final inspections shall be performed well in advance of the completion date to allow for corrections. Late fees shall accrue until all punch-out items are 100% complete.
4. The contractor shall provide written warranty statements indicating start and end of warranty dates, both the contractor and MCPS shall sign this document.

**M. QUALITY ASSURANCE**

1. The contractor shall perform all installations in accordance with MCPS specifications herein and the manufacturer's installation procedures, and in compliance with all applicable codes. **A Factory Authorized Installer of the equipment offered shall perform all installations. Upon completion of the project the contractor shall schedule an inspection of the installation by a representative of the equipment manufacturer to verify compliance and acceptance of the installation.** This inspection must be documented in writing to MCPS. Final payment will not be made until MCPS receives this documentation.
2. **The contractor shall be a manufacturer's authorized installer/representative for the brand of equipment offered. Contractor shall provide written documentation of their certification with their bid submittal.**
3. The work performed under this bid shall be the responsibility of a single contractor who shall perform overall project coordination.
4. The successful contractor shall be regularly engaged in the modernization of the passenger elevators that are similar to those specified herein and have been in business for, and has a minimum of, five years' experience. **Appropriately licensed trade persons shall perform all trade work. A copy of these licenses must be submitted to the MCPS project coordinator prior to performing any work. Bidder must provide a letter of information showing the number of years they have been in business and the number of years' experience in the principle trade of work to be included in their bid submission.**

**III. DETAILED SPECIFICATIONS****A. INTENT**

1. The contractor shall perform all required work necessary to perform the identified projects at New Hampshire Estates Elementary School and Waters Landing Elementary School, adhering to all industry standards, manufacturer's installation instructions, and all safety requirements. All work shall be performed by a contractor certified by the manufacturer of the specified materials. The contractor shall be responsible for performing the actual work. No sub-contracting work other than specific trade related work such as electrical, mechanical, roofing, etc. shall be performed by sub-contractors.

**B. SCOPE OF WORK**

1. Elevator modernization at New Hampshire Estates and Waters Landing Elementary Schools. This shall include but not limited to the following. As specified herein.

See **APPENDIX G**; Elevator Modernization Instructions for contractors and **APPENDIX H**; Drawings, attached.



## **APPENDIX A**

# **MINORITY BUSINESS ENTERPRISE PROCEDURES FOR STATE FUNDED PUBLIC SCHOOL CONSTRUCTION PROJECTS Revised JULY 2020**

**Approved by the Montgomery County Board of Education on  
September 22, 2008.**

**DATE OF ORIGINAL APPROVAL: September 22, 2008  
REVISED: October 14, 2008  
REVISED: July 30, 2020**

These procedures were approved by the Interagency Committee on School Construction on June 26, 2008 and, amended on September 18, 2008, shall be utilized by each Public School system in Maryland as a condition for the receipt of State funds through the Public School Construction Program.

The effective date for implementation for projects in Montgomery County is October 14, 2008.

## SECTION 008010 - Minority Business Enterprises (MBE) Memo/Procedures

October 1, 2020

To: All Bidders

From: Donna Hanson, MCPS Minority Business

Enterprise Coordinator Re: Revised MBE

Participation Schedule and Guidelines

Maryland Senate Bill 309

([http://mgaleg.maryland.gov/2017RS/Chapters\\_noln/CH\\_438\\_sb0309e.pdf](http://mgaleg.maryland.gov/2017RS/Chapters_noln/CH_438_sb0309e.pdf)), effective October 1, 2017, changed the minority business participation requirements. It is imperative that you understand and comply with the new requirements.

- **New Attachment B (sample included herein with explanation) for reporting participation**
- Revision of the supplier (regular dealer vs. broker) participation allowed

### ***New Rules for Minority Business Enterprises (MBEs) Providing Materials and Supplies (Maryland Senate Bill 309) Chapter 438, Laws of 2017***

*A bidder may apply only 60% of the costs of the materials and supplies provided by a certified MBE if the MBE is a **regular dealer** for purposes of achieving the MBE contract goal. A “regular dealer” means an MBE that owns, operates, or maintains a store, a warehouse, or any other establishment in which the materials, supplies, articles, or equipment are of the general character described by the specification required under the contract and are bought, kept in stock, or regularly sold or leased to the public in the usual course of business. Generally, a regular dealer will be identified as a wholesaler or supplier in the MBE Directory on the Maryland Department of Transportation website.*

*If materials or supplies are purchased from an MBE who is considered a **broker**, bidders cannot apply any portion of the costs of the materials and supplies toward the MBE goal. However, bidders may apply the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, fees or transaction charges for the delivery of materials and supplies required on a*

*procurement toward MBE contract goals. The fees must be reasonable and not excessive as compared with fees customarily allowed for similar services.*

*If a bidder purchases materials or supplies from a certified MBE who is a **manufacturer** of the materials and supplies, the bidder may count 100% toward meeting the MBE goal.*

*The participation of a certified MBE supplier, wholesaler, or regular dealer certified in the NAICS Code to **furnish and install** materials necessary for successful contract completion may be counted 100% toward meeting the goal.*

**The bill defines “regular dealer” to be a firm that owns, operates, or maintains a store, warehouse, or any other establishment in which materials, supplies, articles, or equipment are of the general character described by the specifications required under the contract and are bought, kept in stock, or regularly sold or leased to the public in the usual course of business. A “regular dealer” does not include a packager, broker, manufacturer’s representative, or any other person that arranges or expedites transactions. (SB309)**

The MBE Participation Schedule, Attachment B, has been revised to incorporate rows for MDOT certified prime contractor and MDOT certified Regular Dealer/Supplier/Wholesaler. A vendor may apply only 60% of the costs of the materials and supplies provided by the MBE if the certified MBE is a regular dealer for purposes of achieving the MBE contract goal. **For each MBE firm on the Attachment B that is a wholesale trade agent or broker, only the commission or fee for their service may be counted toward minority participation.**

# **MINORITY BUSINESS ENTERPRISE PROCEDURES FOR STATE FUNDED PUBLIC SCHOOL CONSTRUCTION PROJECTS**

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# MINORITY BUSINESS ENTERPRISE PROCEDURES FOR STATE FUNDED PUBLIC SCHOOL CONSTRUCTION PROJECTS

## BACKGROUND

In 1978, the Maryland General Assembly passed legislation, which was signed into law to establish the State's Minority Business Enterprise Program. This new law set as a goal that at least 10 percent of each unit of State government's total dollar value of procurement contracts for purchases and/or contracts be awarded to minority business enterprises. This law was subsequently modified and the goal was increased to 14 percent. More recently, in 2001, the goal was increased to 25 percent with subcontracting sub-goals of 7 percent for certified African American-owned businesses and 10 percent for certified women-owned businesses.

In 1979, the Rules, Regulations, and Procedures for the Administration of the School Construction Program were revised by the Board of Public Works to require each local board of education to adopt procedures to attempt to include minority business enterprises in State funded school construction projects. The State law was revised and now states: "The Interagency Committee on School Construction (IAC) shall require each local board of education to adopt procedures consistent with this chapter before obtaining funds for public school construction projects".

In May 2007, the Rules, Regulations, and Procedures were replaced by regulations. The regulations concerning project procurement (COMAR 23.03.03) indicate that the State's minority business enterprise goals and procedures apply to all State funded projects, irrespective of procurement method.

## OVERVIEW

This Minority Business Enterprise (MBE) procedure document was originally developed in response to a requirement set forth in the Rules, Regulations, and Procedures for the Administration of the School Construction Program. The MBE requirement was originally established under HB 64, which was passed in the 1978 session of the Maryland General Assembly and signed into law as Chapter 575 of the Acts of 1978.

Since the Board adopted its original Minority Business Enterprise Procedures, there have been changes in State statutes, regulations adopted by the Board of Public Works, procedural requirements, project eligibility requirements and the level of State participation in school construction projects. This revised procedure is consistent with current legislation and the changes to the Code of Maryland Regulations (COMAR) requirements, effective November 7, 2005 and May 21, 2007.

### 1.0 PURPOSE

The purpose of the Procedures is to fulfill the intent of the law by setting goals for minority business enterprise participation in every contract that includes State funding through the Public School Construction Program. Local Educational Agencies (LEAs) shall attempt to achieve the result that a minimum of 25 percent of the total dollar value of all construction contracts is made directly or indirectly with certified minority business enterprises when State Public School Construction Program (PSCP) funds are utilized, with a minimum of 7 percent from certified African American-owned businesses, a minimum of 10 percent from certified women-owned businesses, and the balance from any certified minority business enterprises. All general contractors, including certified MBE firms, when bidding as general or prime contractors are required to attempt to achieve the MBE subcontracting goals from certified MBE firms.

### 2.0 EFFECTIVE DATE

These procedures have been adopted for use in Montgomery County and supersede previously utilized MBE procedures, and will take effect on or after September 22, 2008.

### 3.0

## DEFINITIONS

1. **Certification** means the determination that a legal entity is a minority business enterprise consistent with the intent of Subtitle 3 of the State Finance and Procurement Article.
2. **Certified Minority Business Enterprise** means a minority business that holds a certification issued by the Maryland State Department of Transportation (MDOT).
3. **Corporation**, as defined by MDOT, is an artificial person or legal entity created by or under the authority of the laws of any state of the United States, the District of Columbia or a territory or commonwealth of the United States and formed for the purpose of transacting business in the widest sense of that term, including not only trade and commerce, but also manufacturing, mining, banking, insurance, transportation and other forms of commercial or industry activity where the purpose of the organization is profit. For eligibility for certification, disadvantaged and/or minority individuals must own at least 51 percent of the voting stock and at least 51 percent of the aggregate of all classes of stock that have been issued by the corporation. (Note: stock held in trust is not considered as stock held by the disadvantaged businesspersons when computing the business person(s) ownership.)
4. **Managerial Control**, as defined by MDOT, means that a disadvantaged or minority owner(s) has the demonstrable ability to make independent and unilateral business decisions needed to guide the future and destiny of a business.

Control may be demonstrated in many ways. For a minority owner to demonstrate control, the following examples are put forth, but are not intended to be all inclusive:

- a. Articles of Incorporation, Corporate Bylaws, Partnership Agreements and other agreements shall be free of restrictive language which would dilute the minority owner's control thereby preventing the minority owner from making those decisions which affect the destiny of a business;
  - b. The minority owner shall be able to show clearly through production of documents the areas of the disadvantaged business owner's control, such as, but not limited to:
    - 1) Authority to sign payroll checks and letters of credit;
    - 2) Authority to negotiate and sign for insurance and/or bonds;
    - 3) Authority to negotiate for banking services, such as establishing lines of credit; and
    - 4) Authority to negotiate and sign for contracts.
  - c. Agreements for support services that do not lessen the minority owner's control of the company are permitted as long as the disadvantaged or minority business owner's authority to manage the company is not restricted or impaired.
5. **Minority Business Enterprise (MBE)** means any legal entity, except a joint venture, that is (a) organized to engage in commercial transactions, and (b) at least 51 percent owned and controlled by one or more individuals who are socially and economically disadvantaged including:
- African Americans;
  - American Indian/Native Americans;
  - Asians;
  - Hispanics;
  - Physically or mentally disabled individuals;
  - Women; or
  - A non-profit entity organized to promote the interests of physically or mentally disabled individuals.
6. **Minority Business Enterprise Liaison** means the employee of the school system designated to administer the Minority Business Enterprise Procedures for State funded public school construction projects.
  7. **Operational Control**, as defined by MDOT, means that the disadvantaged or minority owner(s) must possess knowledge necessary to evaluate technical aspects of the business entity. The primary consideration in determining operational control and the extent to which the disadvantaged or minority owner(s) actually operates a business will rest upon the specialties of the industry of which the business is a part. The minority owner

should have a working knowledge of the technical requirements needed to operate in his/her industry. Specifically, in the construction industry and especially among small (one to five person firms) contractors, it is reasonable to expect the disadvantaged or minority owner(s) to be knowledgeable of all aspects of the business. Accordingly, in order to clarify the level of operational involvement which a minority owner must have in a business for it to be considered eligible, the following examples are put forth, but are not intended to be all inclusive:

- a. The minority owner should have experience in the industry for which certification is being sought; and
- b. The minority owner should demonstrate that basic decisions pertaining to the daily operations of the business are independently made. This does not necessarily preclude the disadvantaged or minority owner(s) from seeking paid or unpaid advice and assistance. It does mean that the minority owner currently must possess the knowledge to weigh all advice given and to make an independent determination.

8. **Ownership**, as defined by MDOT, means that:

- a. The minority owner(s) of the firm shall not be subject to any formal or informal restrictions, which limit the customary discretion of the owner(s). There shall be no restrictions through, for example, charter requirements, by-law provisions, partnership agreements, franchise or distributor agreements or any other agreements that prevent the minority owner(s), without the cooperation or vote of any non-minority, from making a business decision of the firm.
- b. This means that the disadvantaged or minority persons, in order to acquire their ownership interests in the firm, have made real and substantial contributions of capital, expertise or other tangible personal assets derived from independently owned holdings without benefit of a transfer of assets, gift or inheritance from non-minority persons. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not minority persons or the mere participation as an employee rather than as a manager. If the ownership interest held by a disadvantaged or minority person is subject to formal or informal restrictions, such as options, security interests, agreements, etc., held by a non-minority person or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the disadvantaged or minority person's ownership interest.

9. **Partnership** means an unincorporated association of two or more persons to carry on as co-owners of a business for profit. For a partnership to be deemed eligible for certification under the MDOT Program, the disadvantaged or minority person's interest must be at least 51 percent of the partnership capital.

10. **Socially and Economically Disadvantaged** means a citizen or lawfully admitted permanent resident of the United States who is socially disadvantaged and economically disadvantaged. The law establishes the level of personal net worth at \$1,500,000, above which an individual may not be found to be socially and economically disadvantaged.

11. **Sole Proprietorship**, as defined by MDOT, is a for-profit business owned and operated by a disadvantaged or minority person in his or her individual capacity. For a sole proprietorship to be deemed eligible for certification under the DBE/MBE Program, the disadvantaged or minority person must be the sole proprietor.

#### 4.0 MBE GOAL SETTING PROCEDURES

1. The MBE program requires that all race-neutral measures be considered before making use of race-based measures. Using a combination of race-neutral and race-based measures for each specific school construction project will help ensure that certified MBE firms are afforded the opportunity to submit bids and be utilized to the greatest extent possible.
2. Race-neutral measures include any action taken by the LEA to make it easier for all contractors, including MBEs, to compete successfully for public school construction project contracts.
3. Race-based measures include setting an overall MBE goal and MBE subgoals, if applicable, based upon race, gender, ethnicity, etc., for a specific project.



4. The overall MBE goal and the subgoals, if applicable, should be set for each specific project, considering but not limited to, the following factors:
  - a. The extent to which the work to be performed can reasonably be segmented to allow for MBEs to participate in the project;
  - b. A determination of the number of certified MBEs that potentially could perform the identified work;
  - c. The geographic location of the project in relationship to the identified certified MBEs;
  - d. Information obtained from other State departments/agencies related to establishing a MBE goal and/or subgoals for similar construction projects or work in the jurisdiction;
  - e. Information obtained from other State departments/agencies related to MBE participation in similar construction projects or work in the jurisdiction; and
  - f. Any other activities or information that may be identified as useful and productive.
5. The superintendent or designee shall establish one or more procurement review groups (PRG). The PRG must include at a minimum the MBE Liaison, and the procurement officer (PO) or a representative from the procurement office. The PRG could also include a capital improvement project manager, the project Architect, the cost estimator, the Construction Manager, and/or other individuals selected by the superintendent or designee.
  - a. The PRG should communicate and/or meet as needed to consider the MBE subcontracting goal and subgoals, if applicable, for individual projects or groups of projects.
  - b. The PRG should consider the factors cited in 4 above when establishing the MBE goal and subgoals, if applicable, for each project or segmented piece of a project that are reasonable and attainable.
  - c. The PRG must complete and submit a written analysis for each State-funded school construction project with an estimated cost that is expected to exceed \$200,000.
    - i. For State-funded projects that require review of construction documents (CD), the written analysis shall be submitted with the CD documents to the Department of General Services, and will be reviewed by DGS for submission, appropriate signatures, and correspondence between the goal and subgoals, if applicable, indicated in the analysis and those of the procurement documents
    - ii. For State-funded projects that do not require review of construction documents, the written analysis shall be submitted to the Public School Construction Program, and will be reviewed by the PSCP for submission and appropriate signatures.
    - iii. For locally funded projects that are anticipated to be requested for State approval of planning and funding, the written analysis shall be submitted with the CD documents to the Maryland State Department of Education, and will be reviewed by MSDE for submission, appropriate signatures, and correspondence between the goal and subgoals, if applicable, indicated in the analysis and those of the procurement documents. Submission of this document is a pre-conditions for recommendation for State approval of planning and funding when submitted in an annual CIP.
  - d. For projects estimated to cost between \$50,000 and \$200,000 the same analysis form is to be completed and submitted. This could be a responsibility of the PRG, but could be performed by others as well.
    - i. For State-funded projects that require review of construction documents (CD), the written analysis shall be submitted with the CD documents to the Department of General Services, and will be reviewed by DGS for submission, appropriate signatures, and correspondence between the goal and subgoals, if applicable, indicated in the analysis and those of the procurement documents.
    - ii. For State-funded projects that do not require review of construction documents, the written analysis shall be submitted to the Public School Construction Program, and will be reviews by the PSCP for submission and appropriate signatures.
  - e. If the project cost is estimated to exceed \$200,000, then a copy of the written analysis shall also be sent to GOMA at the same time that the written analysis is submitted to the DGE or PSCP.

- f. The PRG should consult with local counsel for the Board of Education as needed.
5. It is recognized that by utilizing the factors cited in 4 above, the MBE goal and/or subgoals, if applicable, for a specific project or portion thereof may be significantly higher than the overall goals of the program (25% overall, with 7% from African American-owned businesses and 10% from women-owned businesses). It is also recognized and possible that there will be MBE goals set that are lower than those stated above or even that no MBE goal and/or subgoals will be set for a specific project or the segmented piece of the project.
6. Assistance in reviewing the factors cited in 4 above and setting a goal and/or subgoals, if applicable, for specific projects or a segmented piece of a project can be obtained by contacting the Public School Construction Program and/or the Governor's Office of Minority Affairs.

## **5.0 IMPLEMENTING PROCEDURES - \$50,000 OR LESS**

For construction projects estimated to cost \$50,000 or less, the following procedures will be utilized

1. A MBE goal and/or MBE subgoals are not required to be set for contracts that are anticipated to be for \$50,000 or less.
2. All advertisements, solicitations, and solicitation documents shall include the following statement:
  - a. "Certified Minority Business Enterprises are encouraged to respond to this solicitation."
3. To encourage greater MBE participation the staff of the school system should send out notices of potential projects and a specific project to MBEs to solicit bids or proposals directly from minority business enterprise contractors that are certified.
4. A copy of the solicitation notice, preferably electronically, shall be sent to the Governor's Office of Minority Affairs at the same time the advertisement for the solicitation is released.
5. When a pre-bid or pre-proposal conference or meeting is held, the MBE liaison or designated representative shall explain that all bidders or offerors are encouraged to utilize certified MBEs for this project or segments of the project.
6. Upon request for a specific project, the school system shall provide one set of drawings and specifications (and addenda when issued) to minority business enterprise associations recognized by the Governor's Office of Minority Affairs. They will be available free of charge to be picked up at a location designated by the LEA. A review of the bid or proposal activity submitted by an association's members may be initiated to justify continuation of this service.
7. Minority Business Enterprise forms identified in Section 6.0 of this procedure for projects over \$50,000, are not required to be submitted for these projects (\$50,000 or less).
8. The names of prime contractors obtaining drawings and specifications will be shared with certified MBEs and MBE associations, upon request.
9. At the time of the contract award, the MBE Liaison or a designated person will record any anticipated certified minority business enterprise participation data made available from the successful contractor.
10. A business that presents itself as a minority business may participate in a project but may not be counted toward MBE participation until it is a certified minority business enterprise. If the MBE is not certified at the time of contract award, it may not be counted at that time. Only the funds paid after MDOT certification can be counted as MBE participation in the project. If a certified MBE fails to meet the standards specified in State Finance and Procurement Article 14-301 (G) and (I), Annotated Code of Maryland, the payments made to the MBE can be recorded and counted under a contract entered into when the MBE was eligible and certified. Ineligibility of an MBE to participate in the MBE program may not be the sole cause of the termination of the MBE contractual relationship for the remainder of the term of the contract.

11. The contractor will complete the Standard Monthly Contractor's Requisition for Payment (IAC/PSCP Form 306.4), specifically page 3 of 16, Minority Business Enterprise Participation, with each requisition submitted for payment. If certified MBE firms are known at the time of contract award their names and other appropriate information should be entered on page 3 of the first and all subsequent requisitions for payment. Any MBEs identified during the life of the project should be added as soon as the contractor engages them.
12. Upon completion of the project the contractor will provide a summary of the total of all funds paid to certified MBE firms. This should be within the contractor's final requisition for payment.

## **6.0 IMPLEMENTING PROCEDURES - Over \$50,000**

For construction projects estimated to cost in excess of \$50,000, the following procedures will be utilized:

1. All advertisements, solicitations, and solicitation documents shall include the following statements:
  - a. "Certified Minority Business Enterprises are encouraged to respond to this solicitation notice."
  - b. "The contractor or supplier who provides materials, supplies, equipment and/or services for this construction project shall attempt to achieve the specific overall MBE goal of \_\_\_\_ percent established for this project. All prime contractors, including certified MBE firms, when submitting bids or proposals as general or prime contractors, are required to attempt to achieve this goal from certified MBE firms."
  - c. If subgoals have been established for this project then one of the following should be included:
    - 1) "The subgoals established for this project are \_\_\_\_ percent from African American-owned businesses and \_\_\_\_ percent from woman-owned businesses."
    - 2) "The subgoal established for this project is \_\_\_\_ percent from African American-owned businesses."
    - 3) "The subgoal established for this project is \_\_\_\_ percent from woman-owned businesses."
  - d. "The bidder or offeror is required to submit with its bid or proposal a completed Attachment A - Certified MBE Utilization and Fair Solicitation Affidavit and Attachment B - MBE Participation Schedule, as described in the solicitation documents.
  - e. If there is no overall MBE goal or MBE subgoals established for the project, then only 1.A. above is to be included.
2. Other Advertisement and Outreach Requirements
  - a. To encourage greater MBE participation the staff of the school system should send out notices of potential projects to MBEs or solicit bids or proposals directly from minority business enterprise contractors that are certified.
  - b. A copy of the solicitation notice, preferably electronically, shall be sent to the Governor's Office of Minority Affairs at the same time the advertisement for the solicitation is released.
  - c. Upon request for a specific project, the school system shall provide one set of drawings and specifications (and addenda when issued) to minority business enterprise associations recognized by the Governor's Office of Minority Affairs. They will be available free of charge to be picked up at a location designated by the LEA. A review of the bid or proposal activity by an association's members may be initiated to justify continuation of this service.
  - d. When a pre-bid or pre-proposal conference is held, the MBE Liaison or designated representative shall explain the MBE goal and subgoals, if applicable; the MBE provisions of the solicitation; the documentation required at the time of submission; its relationship to the responsiveness of the bidder or offeror; how to complete the required attachments, particularly A, B, and C; and additional information and supporting documentation that may be required after the bid or proposal opening. All contractors who attend the pre-bid or pre-proposal conference should receive a list or information explaining how to obtain a listing of certified MBE firms who could perform the work or have expressed an interest in performing the school construction work required for the specific project in the jurisdiction.
  - e. The names of prime contractors obtaining drawings and specifications will be shared with certified MBEs and MBE associations, upon request.

- f. The MBE liaison, in conjunction with the procurement officer or project staff, should respond to all applicable questions and concerns relating to the project's MBE requirements completely and in a timely fashion to ensure that all potential contractors and subcontractors can compete effectively.

3. All Solicitation Documents Shall Include the Following:

- a. "Certified Minority Business Enterprises are encouraged to respond to this solicitation notice".
- b. "The contractor or supplier who provides materials, supplies, equipment and/or services for this construction project shall attempt to achieve the result that a minimum of \_\_\_ percent of the total contract value is with certified Minority Business Enterprises, with a minimum of \_\_\_ percent from certified African American-owned businesses, a minimum of \_\_\_ percent from certified women-owned businesses, and the balance from any certified Minority Business Enterprises. All contractors, including certified MBE firms, when submitting bids or proposals as prime contractors, are required to attempt to achieve the MBE goal and subgoals, if applicable, from certified MBEs". Note: see 6.1.C. above for variations that may be required.
- c. Each bid or offer submitted, including a submittal from a certified MBE in response to this solicitation, shall be accompanied by a completed Attachment A - Certified MBE Utilization and Fair Solicitation Affidavit and a completed Attachment B - MBE Participation Schedule. These two attachments must be accurate and consistent with each other.
  - 1) Attachment A and Attachment B shall be submitted with the sealed bid price or proposal at a place, date, and time specified in the solicitation document.
  - 2) As an alternative, and at the discretion of the school system, Attachment A could be submitted with the sealed bid price or proposal at a place, date, and time specified in the solicitation document. The sealed bids or proposals received by the time specified could be held, unopened for a maximum of 30 minutes. Within that time (30 minutes) each bidder or offeror must submit Attachment B, in a separate sealed envelope. The sealed price envelopes from each bidder or offeror who submits both the sealed bid or proposal and the envelope with Attachment B will then be opened and reviewed and recorded as a viable submission. Any contractor that fails to submit the second envelope, with Attachment B, prior to the specified time allowed (30 minutes) after the submittal of the sealed bid or proposal will be deemed non-responsive and the sealed bid or proposal will not be opened or considered.
- d. The submittal of a completed and signed Attachment A - Certified MBE Utilization and Fair Solicitation Affidavit and a completed and signed Attachment B - MBE Participation Schedule indicates the bidder's or offeror's recognition and commitment to attempt to achieve the MBE goal and/or MBE subgoals, if applicable, for the specific project.
  - 1) The bidder or offeror recognizes that their efforts made to initiate contact, to solicit, and to include MBE firms in this project will be reviewed carefully and evaluated based upon the actions taken by them prior to and up to 10 days before the bid or proposal opening. Follow-up actions taken by the bidder or offeror within the 10 days prior to the bid opening will also be considered.
  - 2) Based upon this review and evaluation it will be determined, by the MBE liaison, procurement officer, or a designated person, if a good faith effort was made by the apparent low bidder or apparent successful offeror.
- e. The bidder or offeror must check one of the three boxes on Attachment A, which relates to the level of MBE participation achieved for the project. The bidder's or offeror's signature indicates that in the event that they did not meet the MBE goal or subgoals, if applicable, that:
  - 1) They are therefore requesting a waiver, and
  - 2) Documentation of their good faith efforts will be provided to the school system staff within 10 days of being notified that they are the apparent low bidder or apparent successful offeror.
- f. The bidder or offeror must submit Attachment B (as and when described above), which lists and provides information related to each certified MBE firm that the bidder or offeror will utilize on this project. A completed and accurate Attachment B is required. All of the work specified to be performed by each MBE firm, the contact information, MDOT certification number, minority code, the dollar values, and percentages must be correct.

- g. Attachment B should be completed and submitted with all calculations utilizing the base bid or offer only. A revised Attachment B should be submitted by the successful bidder or offeror once a determination is made as to the acceptance and/or rejection of any alternates.
- h. If a request for a waiver has been made, the appropriate box on Attachment A has been checked and the attachment signed, then the LEA should obtain and review the apparent low bidder's or successful offeror's supporting documentation of the good faith efforts to justify the granting of the waiver, prior to submitting the contract award for approval to the board of education.
- i. The following documentation shall be considered as part of the contract, and shall be furnished by the apparent low bidder or successful offeror to the MBE Liaison or designated person, within ten (10) working days from notification that the firm is the apparent low bidder or successful offeror:
  - 1) A completed Attachment D - Minority Business Enterprise Subcontractor Project Participation Statement shall be completed and signed by the prime contractor and each MBE firm listed on Attachment B - MBE Participation Schedule and Attachment C - Outreach Efforts Compliance Statement shall be signed and completed by the bidder or offeror.
  - 2) Notification for purposes of this procedure means the earliest of the following methods of communication: orally in person, orally by telephone, orally by a telephone message, a faxed communication, a letter by date received or an electronic communication.
  - 3) The ten (10) working days do not include the day the notification is received, weekends or holidays (State or Federal), but the material submitted must be received by the close of business on the tenth day.
  - 4) The requirement to submit the above-listed documentation within the time frame specified will be considered by the IAC in its review of the request for contract award for the project. Failure to submit the required documentation within the time frame specified may result in a delay of the approval of the award of the contract, or the materials being returned without the approval of the award of the contract.

#### 4. Waiver Procedures

- a. If the apparent low bidder or successful offeror has determined that they are unable to meet the overall MBE goal or subgoals, if applicable, for the project at the time of submission of a bid or offer, they must check either of the two boxes on Attachment A. The signature recognizes and acknowledges that a request for a waiver is being made. The apparent low bidder or successful offeror will therefore be required to submit information and substantiating documentation that will be reviewed to justify the granting of a waiver.
- b. If the apparent low bidder or successful offeror is unable to achieve the overall MBE contract goal and/or the MBE subgoals, if applicable, from certified African American-owned businesses and/or from certified women-owned businesses, the apparent low bidder or successful offeror shall submit, within 10 working days from notification that the firm is the apparent low bidder or successful offeror, a completed Attachment C - Outreach Efforts Compliance Statement, Attachment E - Minority Subcontractors Unavailability Certificate, and Attachment F - MBE Waiver Documentation which shall include the following:
  - 1) A detailed statement of the efforts made by the bidder or offeror to identify and select portions of the work proposed to be performed by subcontractors in order to increase the likelihood of achieving the stated goal;
  - 2) A detailed statement of the efforts made by the bidder or offeror prior to and up to at least ten (10) days before the bid or proposal opening to solicit minority business enterprises through written notices that describe the categories of work for which subcontracting is being solicited, the type of work to be performed and specific instructions on how to submit a bid or proposal;
  - 3) Follow-up actions taken by the bidder or offeror within the 10 days prior to the bid or proposal opening will also be considered.
  - 4) A detailed statement of the bidder's or offeror's efforts to make personal contact with MBE firms identified for item (2) above;
  - 5) A record of the name, address, telephone number and dates contacted for each MBE identified under items (2) and (3) above;
  - 6) A description of the information provided to MBEs regarding the drawings, specifications and the anticipated time schedule for portions of the work to be performed;
  - 7) Information on activities to assist minority business enterprises to fulfill bonding requirements or to obtain a waiver of these requirements;

- 8) Information on activities to publicize contracting opportunities to minority business enterprises, attendance at pre-bid or pre-proposal meetings or other meetings scheduled by the MBE Liaison or designated representative; and
  - 9) As to each MBE that placed a subcontract quotation or offer which the apparent low bidder or successful offeror considers not to be acceptable, a detailed statement of reasons for this conclusion.
- c. In addition to any waiver documentation the apparent low bidder or successful offeror shall submit one completed Attachment D - Minority Business Enterprise Subcontractor Project Participation statement for each MBE firm that will participate in the project consistent with the information previously provided at the time of the submission of Attachment B or the revised Attachment B.
  - d. A waiver of an MBE contract goal or subgoal, if applicable, may be granted by the school system only upon receipt of Attachment C - Outreach Efforts Compliance Statement, Attachment E - Minority Subcontractors Unavailability Certificate, and Attachment F - MBE Waiver Documentation as described above in items 1) through 9)
    - 1) The MBE Liaison will review and accept or reject the minority business enterprise material that is submitted, and could obtain legal advice or assistance from their attorney.
    - 2) The MBE waiver request may not be considered unless all of the documentation specified above has been submitted in a timely fashion by the apparent low bidder or successful offeror.
    - 3) Assistance in the review of a request for a waiver (the documentation and justifications) may be requested from the Public School Construction Program and/or the Governor's Office of Minority Affairs.
    - 4) If a determination is made that the apparent low bidder or successful offeror did make a good faith effort, based upon a review of the documentation submitted, then the waiver must be granted. The award of contract shall then be made. The material and information submitted, including the LEA's review and analysis notes and conclusion shall be retained in the project file.
    - 5) If a determination is made that the apparent low bidder or successful offeror did not make a good faith effort, based upon a review of the documentation submitted, then the waiver should not be granted. The material and information submitted, including the LEA's review and analysis notes and conclusion, shall be retained in the project file. The award of contract shall then be made to the next lowest bidder or offeror, who meets the contractual requirements, including the MBE requirements.
    - 6) When a waiver is granted, a copy of Attachment F - MBE Waiver Documentation, accepted and signed by a school system representative and with the reasons for the determination, shall be forwarded to the Governor's Office of Minority Affairs and the Public School Construction Program within ten (10) days after approval of the contract award by the board of education. Failure to submit the required documentation within the time frame specified may result in delayed approval of the award of contract by the IAC.
5. All Contracts Shall Include The Following:
- a. "The contractor shall perform the contract in accordance with the representations made in Attachment A - Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit and Attachment B - MBE Participation Schedule, submitted as part of the bid or proposal".
  - b. "Failure to perform the contract as specified and presented in the bid or proposal submission without prior written consent of the owner shall constitute a violation of a material term of the contract".
    - 1) The contractor shall structure his/her operations for the performance of the contract to attempt to achieve the MBE goals as stated in the solicitation document.
    - 2) The contractor agrees to use his/her best efforts to carry out these requirements consistent with the efficient and effective performance of the contract.
    - 3) The contractor must ensure that all certified MBEs shall have the maximum practical opportunity to compete for additional subcontract work under the contract, even after the award of the contract.
    - 4) The contractor shall submit monthly to the MBE Liaison or the school system's designated representative a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
    - 5) The contractor shall included in its agreements with its certified MBE subcontractors, a requirement that those subcontractors submit monthly to the MBE Liaison or appropriate representative a report that

identifies the prime contract and lists all payments received from the contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.

- 6) The contractor shall cooperate in any reviews of the contractor's procedures and practices with respect to minority business enterprises, which the MBE Liaison, the Public School Construction Program, and/or the Governor's Office of Minority Affairs may, from time to time, conduct.
- 7) The contractor shall maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the contractor and furnished to the MBE Liaison and or appropriate representative on request.
- 8) All records concerning MBE participation must be retained by the contractor for a period of five years after final completion of the contract, and will be available for inspection by the MBE Liaison, representatives from the Public School Construction Program and/or other designated official entities.
- 9) At the option of the MBE Liaison or appropriate agency representative, upon completion of the contract and before final payment and/or release of retainage, the contractor shall submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.
- 10) If at any time after submission of a bid or proposal and before execution of a contract, the apparent successful bidder or offeror determines that a certified MBE listed on Attachment B - MBE Participation Schedule has become or will become unavailable, then the apparent successful bidder or offeror shall immediately notify the procurement officer and provide such officer with a reason(s) why the change has occurred. Any desired change in Attachment B - MBE Participation Schedule shall be approved in advance by the procurement officer and shall indicate the contractor's efforts to substitute another certified MBE subcontractor to perform the work. Desired changes occurring after the date of contract execution may occur only upon written approval by the LEA.
- 11) A business that presents itself as a minority business may participate in a project but the contract value may not be counted toward the MBE goal or subgoals, if applicable, until the business is certified by MDOT. If it is not certified at the time of contract award it may not be counted toward the goal or subgoals, if applicable, at that time. Only the funds paid after MDOT certification can be counted toward meeting the MBE goal or subgoals, if applicable. If a certified MBE fails to meet the standards specified in State Finance and Procurement Article.14-301, Annotated Code of Maryland, the payments made to the MBE can be recorded and counted under a contract entered into when the MBE was eligible and certified. Ineligibility of an MBE to participate in the MBE program may not be the sole cause of the termination of the MBE contractual relationship for the remainder of the term of the contract.
- 12) Contractors are encouraged to seek additional MBE participation in their contracts during the life of the project. Any additional MBE participation from certified MBEs should be reported to the MBE liaison and should be included in subsequent monthly requisitions for payment.
- 13) The contractor shall complete the Standard Monthly Contractor's Requisition for Payment (IAC/PSCP Form 306.4), specifically page 3 of 16, *Minority Business Enterprise Participation*, with each requisition submitted for payment. This submittal should accurately reflect the payments to be made that month to MBEs, and the cumulative total for the period specified. Any and all MBE firms that are identified on Attachment B – MBE Participation Schedule should be included on page 3 of the first and all subsequent requisitions for payment. Any MBEs identified during the life of the project should be added as soon as the contractor engages them.
- 14) At the completion of the project the contractor shall prepare a written summary of the final certified MBE participation in the contract as compared to the proposed participation at the time of contract award. This should include the name of each certified MBE, the amount that was anticipated to be paid at the time of contract award, the amount actually paid, and an explanation of any differences that have occurred. Special attention should be given to any situations where the final payments to any MBE was below the level of commitment at the time of contract award.

## 6. Projects Utilizing a Construction Manager Delivery Method

This section of the procedure has been prepared based upon the utilization of Construction Manager Agency method of delivery. If another alternative method of project delivery is being considered, then these procedures would need to be adapted in consultation with the PSCP before proceeding.

- a. For projects that are being designed and solicited utilizing a Construction Manager Agency delivery method with multiple prime contracts, the school system can structure its procedures to attain the overall MBE goal and subgoals, if applicable, for the project as presented below:
  - b. The MBE liaison and other school system staff should work with the project's construction manager, cost estimator, and architect, along with any other individuals who could provide assistance, to determine the overall MBE utilization strategy for the work required, appropriate bid packages, and an appropriate overall MBE goal and subgoals, if applicable, for each specific bid or proposal package.
  - c. The overall MBE goal and subgoals, if applicable, for the project shall represent the aggregate of the individual goals and subgoals, if applicable, set for each bid or proposal package.
  - d. In setting the specific goals and subgoals, if applicable, for each solicitation package consideration should be given to the potential for MBE participation to the maximum extent possible. The information and procedures provided in section 4.0 MBE Goal Setting Procedures should be consulted and followed for these types of projects.
  - e. Prior to submitting the construction documents for State review and authorization to solicit bids or proposals, the school system's representative will prepare a complete list of the individual solicitation packages and indicate the MBE goal and subgoals, if applicable, for each solicitation package. This would include the overall MBE goal and subgoals, if applicable, established in the solicitation documents, the estimated cost for each solicitation package, and the estimated MBE dollar amounts for each solicitation package. A copy of this list should be submitted with the construction documents. The list should be retained as a record by the school system for comparison to the actual contracts awarded with MBE participation, and the final actual MBE participation at the completion of the project.
  - f. Contractors submitting bids or proposals for solicitation packages that do not include a MBE goal and subgoals, if applicable, would not be required to submit any of the MBE attachments that are otherwise required nor would they be required to indicate that they are requesting a waiver. The school system representative would, however, request information from the contractor at the completion of the project to determine if any certified MBE firms had participated in the contract.
  - g. All other submittals of MBE materials and reporting requirements are applicable for the project, including the submittal of attachments a and b as described above in section 6.0. this includes the documentation for a request for a waiver, if applicable and appropriate.
7. Projects Utilizing an Indefinite Delivery/Indefinite Quantity (IDIQ) or Job Order Contracting (JOC) Method of Delivery
- a. The solicitation should be prepared and the overall MBE goal and subgoals, if applicable, established based upon the type of work that is anticipated to be specified or performed under the contract and the availability of certified MBEs. This could include an analysis of the percentages of the different types of work, the estimated dollar value in the entire contract, and the availability of MBEs.
  - b. If an overall goal and subgoals, if applicable, are set the bidders or offerors would be required to submit Attachment A - Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit in which they could indicate their anticipated MBE participation based upon the entire contract amount and the types of work specified. The award of contract can be made based upon their estimate of MBE participation since there is no specific task order or description of work to be performed and subcontractors have not been identified or engaged through any type of commitment or subcontract.
  - c. Since MBE participation is only anticipated in a general sense as an objective and specific contracts to MBEs have not been signed, then the contract award would not be included in any reporting to the PSCP or subsequent reporting to GOMA.
  - d. However, as the contract proceeds and individual task orders and/or purchase orders are issued, the contractor should submit Attachment B - MBE Participation Schedule for any and all projects or work where MBE subcontractors and/or suppliers might reasonably be utilized. Discussions between the contractor or offeror and the LEA as the task orders and/or purchase orders are being developed should address this aspect of the contract requirements.
  - e. Any MBE participation should be recorded by the MBE liaison and reported to the PSCP MBE Liaison as the task orders and/or purchase orders are approved.
  - f. The contractor shall complete the Standard Monthly Contractor's Requisition for Payment (IAC/PSCP FORM 306.4), specifically page 3 of 16, *Minority Business Enterprise Participation*, with each requisition submitted for payment. This submittal should accurately reflect the payments to be made that month to MBE S, and the cumulative total for the period specified. Any and all MBE firms that are identified on



Attachment B - MBE Participation Schedule should be included on page 3 of the first and all subsequent requisitions for payment. Any MBEs identified during the life of the project should be added as soon as the contractor engages them.

- g. At the completion of the contract period or the full utilization of the contract's value a report should be prepared by the LEA MBE Liaison and submitted to the PSCP MBE Liaison summarizing the MBE participation in each and all of the task orders or purchase orders issued under the contract. This should include the anticipated MBE participation prior to the issuance of the solicitation, the MBE participation anticipated at the time of contract award and the actual MBE participation at the completion of the contract.

#### 8. Projects Utilizing the Design/Build Delivery Method

- a. The solicitation is for both A/E services and the actual construction of a public school project. The solicitation should be prepared and the MBE goal and subgoals, if applicable, established for the construction work that is anticipated for the project. The goal setting procedures described in Section 4.0 above should be utilized for these types of projects.
- b. The bidders or offerors should be required to submit Attachment A - Certified Minority Business Enterprise Utilization and Fair Solicitation Affidavit on which they would indicate their anticipated MBE participation based upon the construction work anticipated and their understanding of the MBE goal and subgoals, if applicable, the types of work involved, and the availability of certified MBEs for the project. Since there are no detailed plans or designs for the project and there are no contracts or subcontracts for the actual construction work there is no need to submit any other MBE attachments, at this time.
- c. If the bidder or offeror, who is to be awarded this contract has indicated that they do not anticipate achieving the overall MBE participation goal and subgoals, if applicable, for this project on Attachment A, then they are in effect requesting a waiver. They will be required to submit documentation at a later date to justify this request.
- d. As the project proceeds through the design phase and the project is nearing the completion of the construction documents for submission to the State to review, the Design/Build Team (team) in consultation with LEA representatives should discuss the opportunities and potential for certified MBEs to participate in the project.
- e. The team should begin to identify potential contractors and subcontractors, opportunities to segment the project, and MBEs that could participate in the project.
- f. At a point in time that is approximately 30 days prior to the anticipated CD submission to the State, the team should complete and submit Attachment B - MBE Participation Schedule to the LEA for their review and approval.
- g. If the team had indicated on Attachment A that they would meet the goals and the information on Attachment B indicates that they did meet the goals then the team should proceed with the construction of the project.
- h. If the team had indicated on Attachment A that they did not anticipate meeting the overall MBE goal and subgoals, if applicable, or only a portion of the goal and subgoals, if applicable, then Attachment B should be reviewed by the LEA. The team should, at this time, submit their documentation in support of the waiver requested.
- i. The proposed MBE participation should be reviewed and a determination made as to whether the team has made a good faith effort to meet the MBE goals and subgoals, if applicable, established for the project and as stated on Attachment A, previously submitted.
- j. If a request for a waiver is made and approved, Attachment F – MBE Waiver Documentation should be signed by a school system representative and submitted to the PSCP and the Governor's Office of Minority Affairs.
- k. Since there was no MBE participation reported at the time of the award of the Design/Build contract, the LEA would submit the entire package of information, including all of the MBE related attachments to the PSCP within ten (10) days of the team being directed to proceed with the actual construction work.
- l. All other submittals of MBE materials and reporting requirements are applicable for the project, as described above in Section 6.0.

## 7.0

### RECORDS AND REPORTS

1. The MBE Liaison shall maintain such records as are necessary to confirm compliance with its Minority Business Enterprise Procedures and activities. The records shall be maintained until the project is audited by the Public School Construction Program. These records shall include by project:
  - a. The contractor report submitted at the completion of the project;
  - b. The identity of the minority contractors employed on the project;
  - c. The type of work performed;
  - d. The actual dollar value of the work, services, supplies or equipment; and
  - e. The MBE percentage of the total contract.
2. The MBE Liaison will maintain a record of all waivers approved for each project or solicitation package where the prime contractor was unable to achieve the established overall goal or subgoals, if applicable. The MBE Liaison will, however, report to the PSCP all MBE participation by MDOT certified firms who are prime contractors, subcontractors, suppliers, or otherwise making an economically viable contribution to each project. This information shall be reported to PSCP within ten (10) days after approval of the award of the contract by the board of education.
3. The LEA shall submit the “Certified Minority Business Enterprise Participation Standard Monthly Contractor’s Requisition for Payment” (IAC/PSCP Form 306.4 page 3 of 16, located in the Administrative Procedures Guide), which is Attachment G in this procedure, to the PSCP Director of Fiscal Services as part of the regular monthly request for payment for the project.
4. The LEA shall submit the “Close-Out Cost Summary” (IAC/PSCP Form 306.6 located in the Administrative Procedures Guide), which is Attachment H of this procedure, along with the “Certified Minority Business Enterprise Participation Standard Monthly Contractor’s Requisition for Payment” (IAC/PSCP Form 306.4) to the PSCP Director of Fiscal Services within 180 days of completion of the project.
5. Each fiscal year end, PSCP Fiscal Services will create a report “Payments Made To Contractors during The Fiscal Year” and maintain such records as are necessary to confirm compliance with its minority business enterprise procedures and activities.
6. Each fiscal year end, PSCP Fiscal Services will create a report “Projects Completed During the Fiscal Year” and maintain such records as are necessary to confirm compliance with its Minority Business Enterprise Procedures and activities. This report will compare the overall MBE goal and subgoals, if applicable, for each specific project with the MBE participation anticipated at the time of contract award and the actual MBE participation at the completion of the project.

## 8.0

### MONITORING

1. The LEA’s procurement personnel or project staff shall verify that the certified MBE’s listed in the MBE participation schedule are actually performing the work.
2. The LEA’s procurement personnel shall ensure that MBE subcontractors are receiving compensation as set forth in the MBE participation schedule by ensuring that the contractor submits monthly reports, listing any unpaid invoices over 30 days old received from any certified MBE subcontractor, the amount of each invoice, and the reason payment has not been made.
3. The MBE Liaison and/or the Public School Construction Program will conduct reviews as deemed necessary to confirm compliance with the minority business enterprise participation requirements.
4. The MBE Liaison will maintain appropriate records, and shall assist the Public School Construction Program in on-site or post-audit reviews upon request.

5. Auditors from the Public School Construction Program will have access to and the ability to audit MBE participation for specific projects, information retained by the LEA, and/or submitted to the IAC in reports/forms filed by the LEA as referenced above.

## **9.0**

### **MINORITY BUSINESS ENTERPRISE LIAISON**

1. The Superintendent shall designate an individual to be identified as the MBE Liaison for the school system.
2. The MBE Liaison will be the contact person who will work with the Public School Construction Program and the Governor's Office of Minority Affairs to implement the Minority Business Enterprise Program for the school system and the State of Maryland.
3. The Superintendent will immediately notify the Public School Construction Program if there is a change in the MBE Liaison for the school system.

ATTACHMENT A

CERTIFIED MINORITY BUSINESS ENTERPRISE  
UTILIZATION AND FAIR SOLICITATION AFFIDAVIT

**NOTE: You must include this document with your bid or offer. If you do not submit the form with your bid or offer, the procurement officer shall deem your bid non-responsive or your offer not reasonably susceptible of being selected for award.**

\* \* \* \* \*

**Part I.**

I acknowledge the:

- Overall certified MBE subcontract participation goal of 10%, and
- The subgoals, if applicable, of:
- N/A% for certified African American-owned businesses and
- N/A% for certified women-owned businesses.

I have made a good-faith effort to achieve this goal. If awarded the contract, I will continue to attempt to increase MBE participation during the project.

**Part II.**

Check ONE Box

**NOTE: FAILURE TO CHECK ONE OF BOXES 1, 2, or 3 BELOW WILL RENDER A BID NON-RESPONSIVE OR AN OFFER NOT REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD**

**NOTE: INCONSISTENCY BETWEEN THE ASSERTIONS ON THIS FORM AND THE INFORMATION PROVIDED ON THE *MBE PARTICIPATION SCHEDULE* (ATTACHMENT B) MAY RENDER A BID NON-RESPONSIVE OR AN OFFER NOT REASONABLY SUSCEPTIBLE OF BEING SELECTED FOR AWARD**

1 ☐ I have met the overall MBE goal and MBE subgoals for this project. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B], which details how I will reach that goal.

**or**

2 ☐ After having made a good-faith effort to achieve the overall MBE goal and MBE subgoals for this project, I can achieve partial success only. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B], which details the MBE participation I have achieved.

I request a partial waiver as follows:

- Waiver of overall MBE subcontract participation goal: 10%
- Waiver of MBE subcontract participation subgoals, if applicable:
- \_\_\_\_ % for certified African American-owned businesses and
- \_\_\_\_ % for certified women-owned businesses.

Within 10 days of being informed that I am the apparent awardee, I will submit *MBE Waiver Documentation* [Attachment F] (with supporting documentation).

or

- 3 ☐ After having made a good faith effort to achieve the overall MBE goal and MBE subgoals for this project, I am unable to achieve any portion of the goal or subgoals. I submit with this Affidavit [Attachment A] the *MBE Participation Schedule* [Attachment B].

I request a full waiver.

Within 10 days of being informed that I am the apparent awardee, I will submit *MBE Waiver Documentation* [Attachment F] (with supporting documentation).

### Part III.

I understand that if I am the apparent awardee or conditional awardee, I must submit **within 10 working days** after receiving notice of the potential award or within 10 days after the date of conditional award – whichever is earlier – the:

- *Outreach Efforts Compliance Statement* (Attachment C)
- *Subcontractor Project Participation Statement* (Attachment D)
- *Minority Subcontractors Unavailability Certificate* (Attachment E) (if applicable)
- Any other documentation the Procurement Officer requires to ascertain my responsibility in connection with the MBE participation goal and subgoals

I acknowledge that if I fail to timely return complete documents, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has been awarded, the award is voidable.

I acknowledge that the MBE subcontractors/suppliers listed in the *MBE Participation Schedule* and any additional MBE subcontractor/suppliers identified in the *Subcontractor Project Participation Statement* will be used to accomplish the percentage of MBE participation that I intend to achieve.

In the solicitation of subcontract quotations or offers, MBE subcontractors were provided the same information and amount of time to respond as were non-MBE subcontractors.

The solicitation process was conducted in such a manner so as to not place MBE subcontractors at a competitive disadvantage to non-MBE subcontractors.

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

\_\_\_\_\_  
Bidder/Offeror Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address (continued)

\_\_\_\_\_  
Affiant Signature

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Date

September 2008

## Attachment B

1. Prime Contractor's Name		2. LEA and PSC No.	
3. Project/School Name		4. Project/School Location	
5. Prime Contractor's Address/Telephone Number/Email		6. Base Bid Amount      \$ _____ Acceptance Alternates      \$ _____ Total      \$ _____	
7a. Minority Firm Name: _____ Minority Firm Address: _____ MDOT Firm Certification Number: _____ <input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Women <input type="checkbox"/> Hispanic <input type="checkbox"/> Disabled		Telephone Number: _____ NAICS Code: _____	
<i>Subcontractor Firm (Select One)</i>	<i>Allowable Percentage</i>	Percentage of Total Contract	Subcontractor Dollar Amount
MDOT Certified Firm	100%		\$
MDOT Certified Prime Contractor	50% of established goal      OR		\$
	100% of one subgroup contract subgoal		\$
MDOT Certified Supplier, Wholesaler and Regular Dealer	60%		\$
7b. Minority Firm Name: _____ Minority Firm Address: _____ MDOT Firm Certification Number: _____ <input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Women <input type="checkbox"/> Hispanic <input type="checkbox"/> Disabled		Telephone Number: _____ NAICS Code: _____	
<i>Subcontractor Firm (Select One)</i>	<i>Allowable Percentage</i>	Percentage of Total Contract	Subcontractor Dollar Amount
MDOT Certified Firm	100%		\$
MDOT Certified Prime Contractor	50% of established goal      OR		\$
	100% of one subgroup contract subgoal		\$
MDOT Certified Supplier, Wholesaler and Regular Dealer	60%		\$
7c. Minority Firm Name: _____ Minority Firm Address: _____ MDOT Firm Certification Number: _____ <input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Women <input type="checkbox"/> Hispanic <input type="checkbox"/> Disabled		Telephone Number: _____ NAICS Code: _____	
<i>Subcontractor Firm (Select One)</i>	<i>Allowable Percentage</i>	Percentage of Total Contract	Subcontractor Dollar Amount
MDOT Certified Firm	100%		\$
MDOT Certified Prime Contractor	50% of established goal      OR		\$
	100% of one subgroup contract subgoal		\$
MDOT Certified Supplier, Wholesaler and Regular Dealer	60%		\$
8. MBE Total Participation Amount		9. Total MBE Percent of Entire Contract	
10. Form Prepared by: Name: _____ Title: _____ Date: _____		11. Reviewed and Accepted by Board of Edu. MBE Liaison Name: _____ Title: _____ Date: _____	

Total MBE Participation:	\$	_____	_____	%
Total African-American Participation:	\$	_____	_____	%
Total Women-Owned MBE Participation:	\$	_____	_____	%
Total Other Participation:	\$	_____	_____	%

October 1, 2017

**Attachment C**  
**Outreach Efforts Compliance Statement**

**\*\*Complete and submit this form within 10 business days of notification of apparent award \*\***

In conjunction with the bid or offer submitted in response to the solicitation for <<*project name*>> / <<*Solicitation No.*>>, I affirm the following:

1. Bidder/Offeror identified opportunities to subcontract in these specific work categories (extend list as needed):
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
  - d. \_\_\_\_\_
  - e. \_\_\_\_\_
  - f. \_\_\_\_\_
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited certified MBEs (extend list as needed):
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
4. Select ONE of the following:
  - a. ☐ This contract does not involve bonding requirements.

**OR**

  - b. ☐ Bidder/Offeror assisted certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
  - a. ☐ Bidder/Offeror did/did not attend the pre-bid/proposal conference.

**OR**

  - b. ☐ No pre-bid/proposal conference was held.

\_\_\_\_\_  
Bidder/Offeror Printed Name

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## Attachment D

### MINORITY BUSINESS ENTERPRISES SUBCONTRACTOR PROJECT PARTICIPATION STATEMENT

PROJECT/ SCHOOL NAME: \_\_\_\_\_

PROJECT/ SCHOOL LOCATION: \_\_\_\_\_

LEA: \_\_\_\_\_

NAME OF PRIME CONTRACTOR: \_\_\_\_\_

NAME OF MBE SUBCONTRACTOR: \_\_\_\_\_

MDOT Certification Number \_\_\_\_\_ NAICS Code \_\_\_\_\_

1. Work/Services to be performed by MBE Subcontractor: \_\_\_\_\_

2. Subcontract Amount: \$ \_\_\_\_\_ Participation Amount \$ \_\_\_\_\_

3. Bonds - Amount and type required of Subcontractor if any: \_\_\_\_\_

4. MBE Anticipated or Actual Commencement Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

5. This MBE subcontract represents the following percentage of the total contract cost: \_\_\_\_\_

6. This is an African American Firm: Yes \_\_\_\_\_ No \_\_\_\_\_

7. This is a Women Owned Business Firm: Yes \_\_\_\_\_ No \_\_\_\_\_

8. This is a Native American, Hispanic or Disabled Firm: Yes \_\_\_\_\_ No \_\_\_\_\_

**(Circle One)**

\*\*\*\*\*

The undersigned subcontractor and prime contractor will enter into a contract for the work/service indicated above upon the prime contractor's execution of a contract for the above referenced project with the \_\_\_\_\_ Board of Education. The undersigned subcontractor is a MDOT certified Minority Business Enterprise. The terms and conditions stated above are consistent with our agreements.

Signature of Subcontractor: \_\_\_\_\_

Date: \_\_\_\_\_

The term and conditions stated above are consistent with our agreements.

Signature of Prime Contractor: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment E

### MINORITY SUBCONTRACTOR UNAVAILABILITY CERTIFICATE

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of Minority firm)  
located at \_\_\_\_\_  
(Number) (Street)  
\_\_\_\_\_  
(City) (State) (Zip)  
was offered an opportunity to bid on the \_\_\_\_\_ school project  
in \_\_\_\_\_ County by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. The \_\_\_\_\_ (Minority Firm), is either unavailable for the  
work/service or unable to prepare a bid for this project for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Minority Firm's MBE Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
MDOT Certification #

\_\_\_\_\_  
Telephone #

\*\*\*\*\*

3. To be completed by the prime contractor if Section 2 of this form is not completed by the minority firm.

To the best of my knowledge and belief, said Certified Minority Business Enterprise is either unavailable for the work/service for this project, is unable to prepare a bid, or did not respond to a request for a price proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
Signature of Prime Contractor

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# Attachment F

## MBE WAIVER DOCUMENTATION

Project Name: \_\_\_\_\_

PSC. No. \_\_\_\_\_

Base Contract Amount \$ \_\_\_\_\_

Plus Accepted Alternates \_\_\_\_\_

Equals Total Contract Amount \$ \_\_\_\_\_

I have previously requested that a waiver be granted to the overall MBE goal for this project of \_\_\_\_ percent, with a minimum of \_\_\_\_ percent from certified African American-owned businesses, a minimum of \_\_\_\_ percent from certified Asian American-owned businesses, and the balance from all certified minority business enterprises, if applicable. This would include the total dollar value of all materials, supplies, equipment, and services, including construction services directly or indirectly, from Minority Business Enterprises (MBE) which are currently certified by the Maryland Department of Transportation (MDOT).

I \_\_\_\_\_, hereby certify that my position is  
(Name of Company Representative)

\_\_\_\_\_, and I am the duly authorized representative of  
(Position Title)

\_\_\_\_\_  
(Company Name)

I further certify that I have submitted a *Schedule for Participation of Certified Minority Business Enterprises* which reflects the percentage and dollar value of certified Minority Business Enterprise participation which my company expects to achieve for this contract. Therefore, the request for the waiver is as follows:

### Summary MBE Participation Schedule from Attachment B

Minority Group	MBE GOAL		Actual MBE Participation		Request For Waiver	
	Dollar Value of Total Contract	Percent of Total Contract*	Dollar Value	Percent of Total Contract	Dollar Value	Percent of Total Contract
a. Sub Goal African American						
b. Sub Goal Women-owned						
c. Other * in Sub Goal group a/b above						
<b>TOTALS</b>						

\* with accepted/rejected alternates  
June 2011

To support this request for a waiver, I include the following information as attachments which I certify to be true to the best of my knowledge.

1. A detailed statement of the efforts made by the contractor to identify and select portions of the work proposed to be performed by subcontractors in order to increase the likelihood of achieving the stated goal;
11. A detailed statement of the efforts made by the contractor prior to and up to 10 days before the bid opening to solicit minority business enterprises through written notices that describe the categories of work for which subcontracting is being solicited, the type of work to be performed, and specific instructions on how to submit a bid;
12. A detailed statement of the contractor's efforts to make personal contact with MBE firms identified for Item 2. above;
13. A record of the name, address, telephone number, and dates contacted for each MBE identified under items 2. and 3. above;
14. A description of the information provided to MBE's regarding the plans, specifications and the anticipated time schedule for portions of the work to be performed;
15. Information on activities to assist minority business enterprises to fulfill bonding requirements, or to obtain a waiver of these requirements;
16. Information on activities to publicize contracting opportunities to minority business enterprises, attendance at pre-bid meetings, or other meetings scheduled by the MBE Liaison or designated representative;
17. As to each MBE that placed a subcontract quotation or offer which the apparent low bidder or successful offeror considers not to be acceptable, a detailed statement of reasons for this conclusion; and
18. A list of minority subcontractors found to be unavailable. This shall be accompanied by a Minority Subcontractor Unavailability Certificate signed by the minority business enterprise or from the apparent low bidder or successful offeror indicating that the minority business did not provide the written certification.

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_  
 (Company Representative Name)

**Sworn and subscribed before me this** \_\_\_\_\_ **day.**  
**of** \_\_\_\_\_ **in the year** \_\_\_\_\_ **Notary Public** \_\_\_\_\_  
 -----

**Reviewed and accepted by the** \_\_\_\_\_ **County Board of Education MBE Liaison.**  
 (County Name)

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_  
 (County Representative Name)

# New 60% Rule

Presented by GOSBA at 11/16/17 SPAG Meeting

# **Chapter 438, Laws of Maryland 2017 (SB309), Section 2**

- ➡ Effective October 1, 2017
- ➡ Based on Federal Disadvantaged Business Enterprise (DBE) rules regarding counting supplies

# Counting MBE Suppliers – How?

MBE Suppliers Crediting Classifications =

1. MBE Manufacturers
2. Furnish & Install
3. MBE Regular Dealers
4. MBE Brokers (not a manufacturer or regular dealer)

# MANUFACTURERS

➡ If the materials or supplies are obtained from a MBE certified in the appropriate NAICS code(s) to provide products and services as a **manufacturer**, count 100 percent of the cost of the material or supplies toward MBE goals.



# FURNISH & INSTALL

➡ If a vendor is a certified MBE supplier, wholesaler, and/or Regular Dealer certified in the proper NAICS code(s) is a manufacturer or wholesale merchant to **furnishes supplies and install materials** necessary for successful Contract completion, count 100 percent of the cost of the material, supplies and labor toward MBE goals.

# Regular Dealer

- A regular dealer is defined in the statute as: a firm that owns, operates, or maintains a store, a warehouse, or other establishment in which the materials, supplies, articles, or equipment are of the general character described by the specifications required under the Contract are bought, kept in stock, or regularly sold or leased to the public in the usual course of business; and
- Does not include a packager, a broker, a manufacturer's representative, or any other person that arranges or expedites transactions.
- If the materials or supplies are purchased from an **MBE Regular Dealer**, count 60 percent of the material or supplies toward MBE goals.

# Broker

For materials or supplies purchased from a certified MBE that is neither a manufacturer nor a Regular Dealer, but rather a **broker**, count the entire amount of fees or commissions charged for assistance in the procurement of the material and supplies, fees, transportation charges for the delivery of materials and supplies required on a procurement, towards the MBE Contract goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward MBE goals.

# Summary

- ↴ Supplies from MBE **manufacturer** = **Count 100%** of cost of materials towards project MBE goal
- ↴ Supplies from MBE manufacturer or Regular Dealer that **furnishes and installs** = **Count 100%** of cost of materials towards project MBE goal
- ↴ Supplies from MBE **Regular Dealer** = **Count 60%** of cost of materials towards project MBE goal
- ↴ Supplies from MBE **broker** = **Count only the fee or commission** the broker charges for the procurement counts towards the project MBE goal if you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services

## APPENDIX B

### CONTRACTOR'S CERTIFICATION OF RECEIPT OF PAYMENT

#### IAC/PSCP FORM 306.2a

This form must accompany IAC/PSCP Form  
306.2, Request for Reimbursement to LEA, if  
Canceled check(s) are not provided.

LEA:

PROJECT TITLE: \_\_\_\_\_

PSC NO: \_\_\_\_\_

I hereby certify that payment in the amount of \$ \_\_\_\_\_, check number \_\_\_\_\_ dated  
\_\_\_\_\_ has been received from \_\_\_\_\_ Public Schools and deposited  
to \_\_\_\_\_ bank) on \_\_\_\_\_ (date) for capital  
improvements made to \_\_\_\_\_ school/project),

Name of Contractor Firm

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

### NOTARIZATION

County \_\_\_\_\_ to wit:

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ in the year of \_\_\_\_\_.  
before me, a Notary Public for said County, personally appeared \_\_\_\_\_ (name),  
and made oath in due form of law that he/she is \_\_\_\_\_ (title)  
of \_\_\_\_\_ (name of firm), and on behalf of said firm stated that the  
matters and facts set forth in the foregoing verification are true to the best of his/her knowledge, information and belief.  
He/she acknowledged that he/she executed the same purposes herein contained and that they had full authority to  
execute same.

As witness my hand and official seal:

NOTARY PUBLIC

**APPENDIX C**

**STATE PROJECT IDENTIFICATION SIGN**

**AND INSTRUCTIONS**

**(2 Page)**

APPENDIX C

CONSTRUCTION SIGN FOR STATE FUNDED  
SCHOOL CONSTRUCTION PROJECTS

 	
<p><b>Larry Hogan, Governor</b> <b>Boyd Rutherford, Lt. Governor</b></p> <p><b>Building Bright</b> <b>Futures in Maryland</b></p>	
<p>The State of Maryland and the _____ <b>Board of Education are:</b> <small>(Enter Jurisdiction)</small> _____ <b>the</b> _____ <b>SCHOOL</b> <small>(Subject From Page E-1A)</small> _____ <small>(Enter School Name)</small></p>	
<p>Public School Construction Program</p>	<p>Architect: _____ <small>(Name of Firm)</small> Contractor: _____ <small>(Name of Company)</small></p>
<p><b>The Maryland General Assembly</b> Michael E. Busch, Speaker of the House Thomas V. Mike Miller, Jr., President of the Senate</p>	<p><b>Board of Public Works</b> Larry Hogan, Governor Peter Franchot, Comptroller Nancy K. Kopp, Treasurer</p>
<p>72" <span style="float: right;">96"</span></p>	

## **APPENDIX D**

### **MCPS EMERGENCY/CRISIS PROCEDURES, SHELTER/LOCKDOWN**



# ***Emergency Preparedness Procedures***

## ***Key Points for Lockdown-Evacuate-Shelter (Les)***

### ***Lockdown***

This is a term used to describe an emergency at an MCPS facility. Lockdown alerts staff that imminent danger exists inside or outside the building, and requires moving to an immediate lockdown mode. It requires that all students are under supervision. *The on-site emergency team (OSET) is not activated during a Lockdown.*

#### **Persons authorized to call a Lockdown**

School administrators or their designee will notify students, staff and visitors via the PA system and the portable radios when a Lockdown is in effect. Directions should be given to immediately to move to a lockdown mode. Staff should make the announcement and notify 911 and Office of School Performance.

#### ***Lockdown Alert–Staff Guidance***

- When the administrator/designee announces a Lockdown, scan the immediate area outside the classroom or office for any students and staff. Allow them in the classroom/office, and immediately lock or secure the door if possible.
- Make the room look *unoccupied* by turning off the lights, close/cover the windows and blinds, and move away from the line of sight from the doors and windows. Remain silent.
- If staff and students are inside the building but outside a classroom or office when a Lockdown is called, move students to the nearest securable location.
- Staff supervising students outside when a Lockdown alert occurs inside the building should be notified of the Lockdown activation by P.A. or two-way radio. Staff and students should move to a pre-determined safe location identified on the emergency plan away from the building and maintain communication with the command post.
- Ignore the fire alarm system and class change bells.
- Wait for further instructions.

### ***Evacuate***

There are two evacuation alerts, *Fire and Directed*.

#### ***Fire Evacuation***

- Activate Fire Evacuation Alarm
- Students/staff/visitors leave the building by the nearest exit
- Proceed to a point at least 50 feet from the building
- Perform an accountability of the students/staff/visitors

#### ***Directed Evacuation***

- Will be used during possible High Level Bomb threats, an identified Suspicious Package or an Inside Hazardous Material Release
- Notify 911 and OSP
- Determine plan to direct everyone away from the known danger area
- Announce via PA and portable radio
- Students/staff/visitors must evacuate to a point at least 300 feet from the building

### ***Shelter***

This is a term used to alert staff that an emergency exists at or near an MCPS facility. It requires all students to be accounted for and under supervision. Administrators may activate the OSET and set up a command post when appropriate. There are three types of shelters: *Public Safety, Severe Weather and Outside Hazardous Materials Release*.

#### **Persons authorized to call a Shelter alert**

Administrators or their designee will notify students/staff/visitors via the PA system and the portable radios when a Shelter alert is activated. It is recommended that an “age-appropriate” announcement of a Shelter alert include a brief description of the nature and location of the incident.

#### ***Public Safety Shelter Alert- Staff Guidance***

*When the administrator announces a Public Safety Shelter alert:*

- Bring outside students/staff/visitors into the main building, portable classrooms are secured but not evacuated
- Outside doors are locked and kept secured
- Students should be accounted for in an instructional area.
- Classroom instruction should continue
- Staff must document attendance and report any discrepancies to an administrator/designee.
- During a Public Safety Shelter alert, classroom lockdown is not required.
- *The OSET* may be activated by an administrator during a Public Safety Shelter alert via a PA announcement and over the portable radios.
- Depending on the situation (the nature of the emergency or potential threat), it may not be appropriate to change classes. In these situations, class bells should be turned off and students/staff should remain in their classrooms until directed otherwise by the administrator/designee.
- Do not ignore the fire alarm system.

***Severe Weather Shelter*** – A severe thunderstorm or tornado warning is activated for the area near the school.

- Students/staff/visitors must report to identified weather safe areas inside the building.
- Portable classrooms are to be evacuated to the main building.
- Bring emergency kit/phone with Nextel phone and ensure the NOAA weather radio is continually monitored

#### ***Outside Hazardous Material Release Shelter***

***Alert*** is a term used to describe a specific shelter alert due to an outside air contamination emergency at or near the building. This could be the result of a suspected chemical, biological, or radiological incident; or a nearby hazardous materials spill.

## ***Outside Hazardous Material Release Alert-Staff Guidance***

When activating an Outside Hazardous Material Release Shelter alert, take the following steps immediately:

- Announce a *Outside Hazardous Material Release Shelter Alert*
- Bring students/staff/visitors into the main building from outdoor activities
- Evacuate portable classrooms in consultation if safe to do so
- Secure/lock exterior doors and windows
- Hold students in their current locations inside the building until the best course of action can be determined
- Turn off electrical power to ensure immediate shutdown of HVAC
- Ignore fire alarm system—only in this Outside Hazardous Material Release Shelter alert.

### ***Parent/Child Reunification***

All schools have plans in place to reunite students with their parents/guardians in the event of an emergency at a school. This process will ensure the safe and orderly reuniting of students and parents/guardians. Schools will ensure they use a three-step approach.

- Identify parents (using ID)
- Identify student location in the school or PCR location, sign out student
- Unite student and parent/guardian

### ***Firearms***

- Avoid attempts to disarm/subdue an armed subject.
- Notify administrator/designee and school-based security of any firearm incidents immediately, and call 911 with details.
- Determine need to implement a Lockdown or Public Safety Shelter alert.
- Abandoned/discarded firearms should be covered by appropriate means and never left unattended.

### ***Bomb Threat Assessment***

- Factors to consider:
  - Details/specifics provided by the bomb caller
  - Number of prior threats to the school
  - Current events surrounding the school
  - Demeanor of the bomb caller
- Based on an assessment of the situation and input from the administration of the school, the Department of School Safety and Security and the police, the administrator will make a decision on evacuation. If the parties do not agree, this disagreement will be resolved in favor of evacuation. (Refer to MCPS Regulation EKC-RA.) Use a Directed Evacuation to evacuate the school
- Evacuation is warranted **only** if the threat level is high.
- Evacuation **is** not warranted if the threat level is low.
- It is recommended that an activation of a Public Safety Shelter alert and the use of sweep/scan teams be used during a low level threat when the building is not evacuated.

### ***Bomb Threats Call Trace***

- Use “call trace” procedures on the yellow *Telephone Bomb Threat Checklist* card. Follow instructions exactly.
- After hanging up the phone, press \*57 on the same line the call came in on.
- Press \*47 if you have 279 or 517 exchanges on your school phone number.
- Do not dial “9” before you dial \*57 or \*47.
- Notify school administration immediately

- Report the bomb threat to 911 and OSP.
- Inform the 911 operator of “call trace” activation.

### ***Bomb Threat Sweep/Scan***

- In certain circumstances, staff volunteers may be asked to sweep/scan the facility or grounds for any suspicious items.
- A sweep/scan should be conducted in teams and only by visual means (eyes and ears only).
- If a suspicious item is discovered during a sweep/scan, evacuate to a 300-foot safe zone and notify administrator immediately.
- If a suspicious item is located, do not use a radio or cell phone in the immediate area within 25 feet in all directions.
- No suspicious item should be handled in any manner by school staff (do not touch it!).

### ***Hazardous Material Spills***

These guidelines should be followed in the event of a chemical incident in which there is potential for a significant release of hazardous materials. Spill response procedures will vary depending on whether the spill is **small** (less than 18 inches in diameter), **medium** (exceeds 18 inches, but is less than 6 feet), or **large** (exceeds 6 feet in diameter, and any “running” spill that has not been stopped). If a potential biological agent threat or incident is present, follow MCPS Biological Agent Threats/Incidents guidelines.

**General Spill Control Techniques:** Once a spill has occurred, the staff at the spill site must decide whether the spill is small enough to handle without outside assistance. Guidance should be obtained from science resource teachers or staff with a chemistry background. (i.e., in science labs, chemistry labs, automotive shop areas). *Only staff who are properly trained under OSHA Regulation 1910.120 should attempt to contain or clean up a small spill.*

**Small Spill Evacuation:** Evacuate the immediate area and surrounding areas whenever the air is or could become untenable (i.e., experiencing difficulty breathing, watery eyes, upper respiratory congestion or tightness in chest, coughing, runny nose, etc.). Also evacuate the immediate area or building if material is emitting vapors or fumes.

*If a medium or large hazardous chemical/material spill occurs inside your school building—*

- An administrator/designee should call 911 and OSP immediately with detailed information (obtain the chemical MSDS, if available at time of spill incident).
- Evacuate the building immediately using a **Directed Evacuation** to funnel students/staff away from danger area.
- Notify building security and building services staff.
- Secure the area around the spill area.
- Follow instructions from fire and rescue services personnel.

*If a medium or large hazardous chemical/material spills occurs immediately outside your school building—*

- An administrator/designee should call 911 and OSP immediately with detailed information.
- Shut windows and doors and turn off ventilation systems.
- Notify building security and building services staff.
- Turn class-change bells off, if appropriate.
- Follow instructions from fire and rescue services personnel.
- Activate the Outside Hazardous Material Release alert, if appropriate.

**APPENDIX E**

**Montgomery County Public Schools  
Division of Design and Construction**

**CHANGE ORDER FORM**

Facility: \_\_\_\_\_ ☐ New Work ☐ Additional Work

Location of work to be performed: \_\_\_\_\_

Description of work to be performed: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

State Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ Completion Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Total Cost for Change Order: \_\_\_\_\_

**Notice: Acceptance of this change order does not alter the contract completion date. If this change order has any affect on the contract completion date, additional documentation shall be submitted to MCPS as specified.**

\_\_\_\_\_  
(Contractor Representative Acceptance)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(MCPS Consultant Approval)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(MCPS Representative Approval)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(MCPS Contract Supervisor Approval)

\_\_\_\_\_  
(Date)

**APPENDIX F**

**Montgomery County Public Schools  
Division of Design and Construction**

**OVERTIME REIMBURSEMENT AGREEMENT**

Facility: \_\_\_\_\_

Contractor: \_\_\_\_\_

Description of work to be performed: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Hours Required: \_\_\_\_\_

Date: \_\_\_\_\_

Hours Required: \_\_\_\_\_

Date: \_\_\_\_\_

Hours Required: \_\_\_\_\_

Date: \_\_\_\_\_

Hours Required: \_\_\_\_\_

Date: \_\_\_\_\_

Hours Required: \_\_\_\_\_

Date: \_\_\_\_\_

Hours Required: \_\_\_\_\_

Date: \_\_\_\_\_

Hours Required: \_\_\_\_\_

**Notice: The Contractor agrees to pay all overtime costs for building service personnel as required to perform work at a premium rate. These costs will be deducted from the Contractors final invoice.**

\_\_\_\_\_  
(Authorized Contractor Representative Acceptance)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(MCPS Representative Approval)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(MCPS Contract Supervisor Approval)

\_\_\_\_\_  
(Date)

**APPENDIX G**

**ELEVATOR MODERNIZATION SPECIFICATIONS ATTACHED**

**NEW HAMPSHIRE ESTATES ELEMENTARY SCHOOL**

**WATERS LANDING ELEMENTARY SCHOOL**

**APPENDIX H**

**ELEVATOR MODERNIZATION DRAWINGS ATTACHED**

**NEW HAMPSHIRE ESTATES ELEMENTARY SCHOOL**

**WATERS LANDING ELEMENTARY SCHOOL**

## APPENDIX I

### ASBESTOS FREE MATERIAL VERIFICATION FORM

**PRODUCT TYPE:** \_\_\_\_\_

**MANUFACTURER:** \_\_\_\_\_

**MODEL NUMBER TESTED:** \_\_\_\_\_

**SUPPLIER:** \_\_\_\_\_

**LOT/PRODUCTION NUMBER TESTED:** \_\_\_\_\_

The undersigned Contractor certifies that the building materials identified above have been tested in accordance with the bid documents and the EPA requirements. The EPA accredited **laboratory analysis report is attached** that confirms these materials do not contain asbestos.

The laboratory performing the analysis must have received U.S. Environmental Protections Agency (EPA) accreditation and be a member of the National Voluntary Laboratory Accreditation Program (NVLAP). No other form of confirmation such as Material Safety Data Sheets, manufacturer documentation, historical testing, etc. will be accepted. A list of EPA accredited laboratories can be found at <http://ts.nist.gov/standards/scopes/programs.htm>

The Contractor or the manufacturer can have the laboratory testing performed. The cost for testing shall be included in the bid prices offered.

Below is a list of materials of concern that require laboratory analysis.

- |                                  |                                                                                 |
|----------------------------------|---------------------------------------------------------------------------------|
| • Acoustical ceiling tile,       | • Insulation (All types; roof, HVAC, piping, wall, etc.)                        |
| • Adhesives                      | • Mastics                                                                       |
| • Caulking                       | • Plaster                                                                       |
| • Fire Rated Doors               | • Roofing System Components e.g. BUR Asphalt, Felts, Cap Sheets, Shingles, etc. |
| • Fire Board                     | • Spackle                                                                       |
| • Floor tile and sheet flooring, | • Toilet Partitions                                                             |
| • Folding Doors                  | • Window Glazing                                                                |
| • Gypsum Panels (Drywall)        |                                                                                 |

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Contractor Representative

\_\_\_\_\_  
Invitation to Bid #

\_\_\_\_\_  
Date

**APPENDIX J**

**QUOTATION FORM**

**COMPANY NAME:** \_\_\_\_\_

---

Bidder shall supply all required information for each line item. Bidders shall submit a price for each line item. No partial bids will be allowed. DO NOT ALTER THE QUOTATION FORM IN ANY WAY. **Failure to comply with the above will be considered non-responsive and disqualify your bid. Prices below are to be all inclusive, including materials and installation labor cost.**

---

**Elevator Modernization at New Hampshire Estates Elementary School**

**Item #**

**Description**

1. Design and perform the modernization of Passenger elevator at New Hampshire Estate Elementary School as specified herein. Work to begin on site **June 21, 2023** and equipment shall be installed, operational, and State accepted for use by MCPS on or before **August 22, 2023**. This project shall be 100% completed as specified on or before **August 29, 2023**. This includes but not limited to all closeout tasks, punch out corrections, final inspections, demonstrations, training, documentation, equipment, etc., including the two-year maintenance agreement as specified herein.

\$ \_\_\_\_\_  
(See General Conditions B Intent #2 for State Funded project)

**Number work days required to complete replacement:** \_\_\_\_\_



**APPENDIX J**

**QUOTATION FORM – CONTINUE (2 of 7)**

**COMPANY NAME:** \_\_\_\_\_

---

**Item #**      **Description**

**2.**      **Unit Prices**

These unit prices shall be used for change-order work as may be required to address unknown conditions such as re-drilling well hole, providing additional casing etc.

HOURLY RATES: Regular Hourly rate will represent work performed Monday through Friday, 6:00 AM until 5:59 PM. Overtime hourly rate will represent work performed Monday through Friday 6:00 PM until 5:59 AM including weekends and all MCPS holidays.

**a. Unit Price for Elevator Modernization Team per hour**

(Includes 1 mechanic and 1 helper)

**Regular Rate:**      \$ \_\_\_\_\_

**Overtime Rate:**      \$ \_\_\_\_\_

**b. Driller Rate Per Hour: \$ \_\_\_\_\_**

(Includes additional drilling, material and installation of additional casing, and any accessories required for additional casing, and any accessories required for additional casing.)

**Regular Hourly Rate:**      \$ \_\_\_\_\_

**Overtime Hourly Rate:**      \$ \_\_\_\_\_

**3. Monthly Maintenance & Service Agreement Segregated Cost**

The segregated monthly cost is to provide preventive maintenance and service for a period of two-years as specified herein. **(Approved monthly service invoices will be paid monthly by MCPS as services are provided throughout the term.)** Please send all invoices to Division of Maintenance and Operations, Attention: Mr. John Horton, 8301 Turkey Thicket Drive, Building A, 1<sup>st</sup> Floor, Gaithersburg, Maryland 20879

\$ \_\_\_\_\_ per month

**Do not include monthly cost in item #1**

**APPENDIX J**

**QUOTATION FORM – CONTINUE (3 of 7)**

**COMPANY NAME:** \_\_\_\_\_

**Elevator Modernization at Waters Landing Elementary School**

**Item #**

**Description**

4. Design and perform the modernization of Passenger elevator at Waters Landing Elementary School as specified herein. Work to begin on site **June 21, 2023** and equipment shall be installed, operational, and State accepted for use by MCPS on or before **August 22, 2023**. This project shall be 100% completed as specified on or before **August 29, 2023**. This includes but not limited to all closeout tasks, punch out corrections, final inspections, demonstrations, training, documentation, equipment, etc., including the two-year maintenance agreement as specified herein.

\$ \_\_\_\_\_

**Number work days required to complete replacement:** \_\_\_\_\_

5.

**Unit Prices**

These unit prices shall be used for change-order work as may be required to address unknown conditions such as re-drilling well hole, providing additional casing etc.

HOURLY RATES: Regular Hourly rate will represent work performed Monday through Friday, 6:00 AM until 5:59 PM. Overtime hourly rate will represent work performed Monday through Friday 6:00 PM until 5:59 AM including weekends and all MCPS holidays.

**a. Unit Price for Elevator Modernization Team per hour**

**(Includes 1 mechanic and 1 helper)**

**Regular Rate:** \$ \_\_\_\_\_

**Overtime Rate:** \$ \_\_\_\_\_

**b. Driller Rate Per Hour:** \$ \_\_\_\_\_

**(Includes additional drilling, material and installation of additional casing, and any accessories required for additional casing, and any accessories required for additional casing.)**

## **APPENDIX J**

### **QUOTATION FORM – CONTINUE (4 of 7)**

**COMPANY NAME:** \_\_\_\_\_

---

**Item #**

**Description**

**Regular Hourly Rate:** \$ \_\_\_\_\_

**Overtime Hourly Rate:** \$ \_\_\_\_\_

**6.**

**Monthly Maintenance & Service Agreement Segregated Cost**

The segregated monthly cost is to provide preventive maintenance and service for a period of two-years as specified herein. **(Approved monthly service invoices will be paid monthly by MCPS as services are provided throughout the term.) Please send all invoices to Division of Maintenance and Operations, Attention: Mr. John Horton, 8301 Turkey Thicket Drive, Building A, 1<sup>st</sup> Floor, Gaithersburg, Maryland 20879**

**\$\_\_\_\_\_ per month**

**Do not include monthly cost in item #4**

**APPENDIX J**

**QUOTATION FORM - CONTINUED (Page 5 of 7)**

**COMPANY NAME:** \_\_\_\_\_

- **ALL EQUIPMENT AND MATERIALS SHALL BE AVAILABLE FOR COMPLETION PER SCHEDULE. BIDDER HAS WRITTEN CONFIRMATION FROM THE MANUFACTURER THAT THE MATERIALS WILL BE DELIVERED IN TIME TO MEET THE COMPLETION DATE?**

YES \_\_\_\_\_ NO \_\_\_\_\_

- **HAS BIDDER EVER HAD LATE CHARGES DEDUCTED AS A RESULT OF FAILURE TO COMPLETE AS CONTRACTED?**

YES \_\_\_\_\_ NO \_\_\_\_\_

- **HAS THE BIDDER INCLUDED WITH THEIR BID MANUFACTURER'S LITERATURE FOR PRODUCT OFFERED?**

YES \_\_\_\_\_ NO \_\_\_\_\_

- **IS THE BIDDER AN AUTHORIZED REPRESENTATIVE AND INSTALLER OF THE MCPS APPROVED PRODUCT OFFERED?**

YES \_\_\_\_\_ NO \_\_\_\_\_

- **IS A COPY OF THE MARYLAND CONTRACTORS LICENSE SUPPLIED WITH BID SUBMISSION?**

YES \_\_\_\_\_ NO \_\_\_\_\_

- **HAS THE BIDDER SUBMITTED A COPY OF THE MARYLAND MASTER ELECTRICAL LICENSE OF WHO WILL MAINTAIN, INSPECT AND/OR PERFORM ELECTRICAL WORK IF AWARDED.**

YES \_\_\_\_\_ NO \_\_\_\_\_

## **APPENDIX J**

### **QUOTATION FORM – CONTINUED (Page 6 of 7)**

**COMPANY NAME:** \_\_\_\_\_

- **HAS BIDDER INCLUDED WITH THEIR BID SUBMISSION A LETTER CERTIFYING THEY ARE A FULL TIME ELEVATOR COMPANY ENGAGED IN THE REPAIRS, REPLACEMENTS AND NEW INSTALLATION OF ELEVATOR SYSTEMS REQUIRING FULL TIME TECHNICAL PERSONNEL AND THAT THE COMPANY HAS BEEN IN BUSINESS A MINIMUM OF FIVE YEARS AND HAVE A MINIMUM OF FIVE YEARS EXPERIENCE PERFORMING THE TYPE OF WORK SPECIFIED HEREIN.**

**YES \_\_\_\_\_ NO \_\_\_\_\_**

- **HAS THE BIDDER VISITED THE JOB SITE AND PERFORMED A COMPREHENSIVE FIELD INVESTIGATION ALONG WITH TAKING FIELD MEASURES BEFORE SUBMITTING THEIR BID?**

**YES \_\_\_\_\_ NO \_\_\_\_\_**

- **HAS THE BIDDER REVIEWED THE BIDDING DOCUMENT AND DRAWINGS IN DETAIL PRIOR TO SUBMITTING THEIR BID?**

**YES \_\_\_\_\_ NO \_\_\_\_\_**

- **HAS THE BIDDER VERIFIED PRODUCTS OFFERED ARE COMPATIBLE WITH EXISTING PRODUCTS AND THE BIDDER IS AWARE OF THE CONDITIONS UNDER WHICH THE WORK WILL BE PERFORMED?**

**YES \_\_\_\_\_ NO \_\_\_\_\_**

- **HAS BIDDER FAMILIARIZED THEMSELVES WITH THE ANNOTATED CODE OF MARYLAND SECTION 11-722 AND HAVE SCREENED THEIR WORK FORCES, ENSURING NO REGISTERED SEX OFFENDER WILL BE PERFORMING WORK A ANY MCPS FACILITY?**

**YES \_\_\_\_\_ NO \_\_\_\_\_**

## **APPENDIX J**

### **QUOTATION FORM - CONTINUED (Page 7 of 7)**

**COMPANY NAME:** \_\_\_\_\_

- **HAS BIDDER COMPLETED CONTRACTOR OBLIGATION REGARDING CRIMINAL RECORDS OF INDIVIDUALS ASSIGNED TO WORK AT MCPS FACILITIES AND PROPERTIES?**

YES \_\_\_\_\_ NO \_\_\_\_\_

- **IS THE BIDDER A MINORITY BUSINESS ENTERPRISE?**

YES \_\_\_\_\_ NO \_\_\_\_\_

**IF YES, PLEASE PROVIDE MARYLAND DEPARTMENT OF TRANSPORTATION**

**CERTIFICATION NUMBER** \_\_\_\_\_

- **ASBESTOS FREE MATERIALS: THE BIDDER HAS REVIEWED THE MATERIAL LABORATORY TESTING REQUIREMENTS FOR THE LIST OF MATERIAL SPECIFIED HEREIN TO CONFIRM THEY DO NOT HAVE ASBESTOS? THE SUCCESSFUL CONTRACTOR AGREES THEY WILL SUBMIT ASBESTOS FREE VERIFICATION FORM AS SPECIFIED HEREIN.**

YES \_\_\_\_\_ NO \_\_\_\_\_

### **CHECK OFF LIST FOR MANDATORY BID SUBMITTAL**

#### **Mandatory Submittals Check List:**

_____	<b>Signed Invitation for Bid, including Non-Debarment Acknowledgement</b>
_____	<b>Quotation Form (Pages 1-7)</b>
_____	<b>Addenda and Errata (If any, contractor is responsible to confirm)</b>
_____	<b>Licenses: Maryland Construction Business License</b>
_____	<b>State of Maryland Elevator License</b>
_____	<b>Statement of Experience and years in Business</b>
_____	<b>Manufacturer Authorization Letter</b>
_____	<b>MBE Attachment A and B</b>
_____	<b>Bid Bond</b>
_____	<b>Reference</b>