

**MAYOR AND CITY COUNCIL OF BALTIMORE CITY
BALTIMORE CITY CODE, ARTICLE 5, SUBTITLE 28
MINORITY AND WOMEN'S BUSINESS PROGRAM**

PART A: INSTRUCTIONS

The requirements of Article 5, Subtitle 28 of the Baltimore City Code – Minority and Women's Business Program are a part of the requirements of this contract and are incorporated by reference. The failure of any bidder, contractor or subcontractor to comply with Article 5, Subtitle 28 is subject to any or all of the following penalties: (1) suspension of contract; (2) withholding of funds; (3) rescission of contract based on material breach; (4) refusal to accept a bid; (5) disqualification of a bidder, contractor, or other business from eligibility for providing goods or services to the City for a period not to exceed 2 years; and (6) payment of liquidated damages. Art. 5, §28-122.

All bidders are advised to read all instructions and forms carefully. Please follow the instructions for each section of the forms. **Failure to respond or properly execute the forms can result in disqualification and possible rejection of your bid.**

A complete copy of Article 5, Subtitle 28 of the Baltimore City Code is available online at: <https://legislative.reference.baltimorecity.gov/city-codes>

1. BID REQUIREMENTS

Bids must include a commitment to utilize MBEs and WBEs at a percentage that equals or exceeds the contract goals indicated in the contract specifications. **Bidder must submit the following completed documents WITH THE BID:**

- ☐ **Part B: Statement of Intent Form(s)** – to be signed by Bidder and MBE and/or WBE.
 - ☐ **Part D: MBE/WBE Participation Affidavit** – to be completed and signed by Bidder
- Any bid that does not include a signed Statement of Intent Form(s) and the MBE/WBE Participation Affidavit is non-responsive and will be rejected. MBE/WBE MUST be certified with the City of Baltimore.**

ONLY SUBMIT IF APPLICABLE:

- ☐ **Part C: Statement of Self-Performance** – to be signed by Bidder who is certified by the City as MBE and/or WBE. This is only filled out if the prime plans to self-perform to fulfill the MBE/WBE goals.
- ☐ **Part E: MBE/WBE Participation Waiver Request** – to be completed and submitted by Bidder if unable to meet the participation goals. (Please note: Substantial documentation must be provided to justify reasons for not being able to meet goals) Specifically, on Part E numbers one, two, and three must be addressed in detail.

2. VERIFYING CERTIFICATION

- Bidder is responsible for verifying that each MBE and WBE to be used on a contract is certified with Baltimore City by the Small and Minority Business Advocacy &

- Development Office (SMBA&D) at bid opening for the work and/or services to be performed on the contract. Art. 5, §28-48(d).
- The MBEs and WBEs named must be certified for the services they are listed to perform, and the services must be required as part of the Detailed Specifications of the contract.
- A directory of certified MBEs and WBEs is available online at <https://baltimorecity.diversitycompliance.com/>
- County, State, or Federal certification is not acceptable, the MBE and WBE **must** be certified with the City of Baltimore.

3. COUNTING MBE AND WBE PARTICIPATION

a) Participation of M/WBE's

A business enterprise that is certified as both an MBE and WBE (M/WBE) may not be counted toward both the MBE and WBE goals for the same project. The bidder must select the goal to which the business enterprise is to be counted. Art. 5, §28-31(b) and §28-35.

b) Credit for Self-Performance

A bidder that is an MBE or WBE may count up to 50% of the dollar value of the work it intends to perform with its own (prime) forces toward the applicable MBE or WBE goal. The amount of credit may not exceed the MBE's or WBE's available work capacity as calculated with the Contractor Prequalification rules. **Intentions to count self-performance toward the MBE or WBE goal must be indicated on Part C: Statement of Intent to Self-Perform.** Art. 5, §28-31(d).

c) Commercially Useful Function

The bidder may count toward the contract goals only expenditures to MBEs and WBEs that perform a commercially useful function in the execution of the contract. Commercially useful function means the performance of real and distinct work for which the business enterprise has the skill, expertise, and actual responsibility to perform, manage and supervise. Art. 5, §28-32.

d) Joint Ventures

A bidder may count toward the contract goal the portion of its expenditure to a joint venture that is equal to the percentage of the MBE or WBE participation in the joint venture. The MBE or WBE member of the joint venture must have an interest in the control, management, risks and operation of the joint venture commensurate with the member's percentage of ownership. The MBE or WBE member of the joint venture must be responsible for a clearly defined portion of the work to be performed, equal to its share in the ownership, control and management of the joint venture. Art. 5, §28-33.

e) Subcontracting by MBE or WBE

A bidder may not count toward its contract goal any agreement with a certified MBE or WBE subcontractor who intends to subcontract more than 10% of the dollar amount of the services to

be performed under its agreement with the bidder. This restriction does not apply to an MBE's or WBE's contracts for the purchase of materials, equipment or supplies that are incidental to the performance of services under its agreement with the bidder. Art. 5, §28-34.

f) Manufacturers and Suppliers

Manufacturers – A bidder may count toward the contract goal its entire expenditure to a certified MBE or WBE that manufactures the goods supplied. Art. 5, §28-36.

Non-Manufacturers – **Only 25% of each contract goal may be attained by expenditures to MBEs and WBEs that are non-manufacturing suppliers.** Art. 5, §28-37. *Example:* If the bid amount is \$100,000 and the MBE or WBE goal is 15% or \$15,000; then the limit for the MBE or WBE suppliers that are non-manufacturers is \$3,750 or 25% of the 15% goal.

g) Insurance Companies and Travel Agents

A bidder may count toward the contract goals only the fees or commissions charged by an MBE or WBE insurance company or travel agent. Art. 5, §28-38.

h) Financial Institutions

A bidder may count toward the contract goals only the fees charged and earned by an MBE or WBE financial institution. Art. 5, §28-39.

i) Non-Affiliation

A bidder may not use an MBE or WBE to meet a contract goal if the bidder has a financial interest in, has an interest in the ownership or control of, or is significantly involved in the operation of the MBE or WBE. Art. 5, §28-41.

4. **WAIVER REQUESTS**

If a bidder is unable to comply with a contract goal, the bidder may submit a waiver request with the bid. The waiver request must be made on the MBE/WBE Participation Waiver Request Form. A waiver will not be granted unless the waiver request includes documentation that demonstrates good faith efforts to meet the goals. Art. 5, §28-62.

5. **SUBSTITUTION OF MBE OR WBE**

The Small and Minority Business Advocacy & Development Office (SMBA&D) must approve the substitution, after the award of a contract, of any MBE or WBE that is included on a bidder's Statement of Intent at the time of bid opening. Any unjustified failure to comply with this requirement after award of a contract is a material breach of contract. Art. 5, §28-63(a).

6. CONTRACT REQUIREMENTS

During the term of the contract, any unjustified failure to comply with the levels of MBE and WBE participation identified in the bid is a material breach of contract. Art. 5, §28-48 (e).

MBE and WBE participation is monitored using the Diversity Management System. You must log in and enter the needed information for each contract.

<https://baltimorecity.diversitycompliance.com/>

**THIS PACKAGE OF MBE AND WBE PARTICIPATION
COMMITMENT FORMS, AS DETAILED IN INSTRUCTION 1.
BID REQUIREMENTS, ARE DUE WITH THE BID.**



**MBE AND WBE BID PARTICIPATION
COMMITMENT FORMS**

Name of Bidder (Proposer): _____

Address: _____

Contracting Agency: _____

Contract (Project) Title: _____

Contract Number: _____

Total Value of Bid: \$ _____

Bid Due Date: _____

PART B:

MBE/WBE AND PRIME CONTRACTOR'S STATEMENT OF INTENT

COMPLETE A SEPARATE FORM FOR EACH MBE and WBE NAMED IN THIS BID. (You are permitted to make additional copies of this form as needed). FOR GUIDANCE SEE PART A: INSTRUCTIONS SECTIONS 2, 3A and 3F.

Contract Number: _____

Name of Prime Contractor: _____

Name of Baltimore City Certified Subcontractor: _____

City Certification Number: _____ **MBE** _____ **WBE** _____

List the City certified Work and/or Service to be performed by MBE or WBE by NAICS Code:
(The selected MBE and/or WBE above *must* be City certified for the work/service being performed.
Please list each NAICS Code for services to be provided.)

Materials/Supplies to be furnished by MBE or WBE:

Percentage of work to be performed by MBE or WBE: _____ %

ONLY WHOLE NUMBERS ACCEPTED. NO DECIMALS OR FRACTIONS.

The undersigned Prime Contractor and Subcontractor agree to contract for the work/service indicated above for the percentage and corresponding dollar amount listed to meet the MBE/WBE participation goals. This form is subject to the Prime Contractor's execution of a contract with the City of Baltimore. The Subcontractor is currently certified as an MBE or WBE with the City of Baltimore Small and Minority Business Advocacy & Development Office (SMBA&D) to perform the work described above.

Signature of Prime Contractor **(REQUIRED)**

Date

Email Address

Phone

Signature of MBE or WBE **(REQUIRED)**

Date

Email Address

Phone

PLEASE NOTE: CHANGES TO INFORMATION ON PART B: MBE/WBE AND PRIME CONTRACTOR'S STATEMENT OF INTENT THAT ARE MATERIAL TO THE AGREEMENT BETWEEN THE PRIME CONTRACTOR AND MBE OR WBE MUST BE INITIALED BY BOTH PARTIES.

PART C:
PRIME CONTRACTOR'S STATEMENT OF INTENT TO SELF-PERFORM

PART A: INSTRUCTIONS MUST BE REVIEWED BEFORE COMPLETING THIS FORM, WITH PARTICULAR ATTENTION PAID TO SECTION 2, 3a, 3b and 3f.

Name of Prime Contractor: _____

City Certification Number: _____ **MBE** _____ **WBE** _____ **Check one.**

List the City certified Work and/or Service to be self-performed by NAICS Code:
*(The Prime Contractor MBE or WBE above must be City certified for the work/service being performed)
Please list each NAICS Code for services to be provided.)*

Materials/Supplies to be furnished:

Percentage of Work Prime intends to self-perform as the MBE or WBE: _____%

ONLY WHOLE NUMBERS ACCEPTED. NO DECIMALS OR FRACTIONS.

The undersigned Prime Contractor agrees to Self-Perform the Work/Service indicated above for the Percentage indicated to meet the MBE/WBE participation goals, subject to the Prime Contractor's execution of a contract with the City of Baltimore. The Prime Contractor is currently certified as an MBE or WBE with the City of Baltimore Small and Minority Business Advocacy & Development Office (SMBA&D) to perform the work described above.

Signature of Prime Contractor (**REQUIRED**)

Date

Email: _____ Phone: _____

PART D: MBE/WBE BID PARTICIPATION AFFIDAVIT

The Undersigned authorized representative of Contractor does hereby make the following Affidavit: Contractor has read the Bidder Information and Instructions regarding the MBE/WBE Program. Contractor acknowledges **the MBE goal of _____% and the WBE goal of _____%** for this contract. Contractor has achieved the following participation detailed in the executed Statement of Intent Forms:

MBE _____ %

WBE _____ %

ONLY WHOLE NUMBERS ACCEPTED. NO DECIMALS OR FRACTIONS.

My firm has made good faith efforts to achieve the MBE and WBE participation goals for this contract. I understand that, if awarded the contract, my firm must submit to the Small and Minority Business Advocacy & Development Office (SMBA&D) copies of all executed agreements with the MBE and WBE firms being utilized to achieve the participation goals and other requirements of Article 5, Subtitle 28 of the Baltimore City Code. I understand that these documents must be submitted prior to the issuance of a notice to proceed.

I understand that, if awarded the contract, my firm must log all MBE and WBE participation information in the Diversity Management System- <https://baltimorecity.diversitycompliance.com/>.

I understand that, if awarded this contract and I find that I am unable to utilize the MBEs or WBEs identified in my Statements of Intent, I must substitute other certified MBE and WBE firms to meet the participation goals. I understand that I may not make a substitution until I have obtained the written approval of SMBA&D.

I understand that, if awarded this contract, authorized representatives of the City of Baltimore may examine, from time to time, the books, records and files of my firm to the extent that such material is relevant to a determination of whether my firm is complying with the MBE and WBE participation requirements of this contract.

I do solemnly declare and affirm under the penalty of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information, and belief.

Contractor Company Name

Signature

Email Address and Phone

Print Name and Title

PART E: MBE/WBE BID PARTICIPATION GOAL WAIVER REQUEST FORM

Name of Bidder _____

Address _____

Contracting Agency: _____

Contract (Project) Number and Title: _____

Bid Due Date: _____

Goals on this contract..... MBE: _____ % and WBE: _____ %

I have achieved..... MBE: _____ % and WBE: _____ %

I am requesting a waiver of..... MBE: _____ % and WBE: _____ %

ONLY WHOLE NUMBERS ACCEPTED. NO DECIMALS OR FRACTIONS.

I have contacted SMBA&D for assistance: _____ Yes _____ No (Check One)

Number of MBE firms contacted: _____ (Attach a list of names of businesses and detailed efforts taken secure their participation.)

Number of WBE firms contacted: _____ (Attach a list of names of businesses and detailed efforts taken to secure their participation.)

Attach documentation of your good faith efforts to secure, contact and negotiate with MBEs and WBEs, including:

- (1) The reasons your company is unable to secure sufficient MBE/WBE participation to meet the stated goals
- (2) The efforts made by your company to select portions of the contract to be performed by MBEs and WBEs
- (3) For each MBE or WBE that placed a bid that you consider to be unacceptable, a statement that explains the basis for that conclusion
- (4) **Please consult the Bidder Information Guide & SMBA&D FAQ for additional waiver guidance.**

Signature of Authorized Company Representative

Date

BIDDER SUBMISSION CHECKLIST

- ☐ You have reviewed the **Bidder Information Guide** following this checklist
- ☐ You have viewed the Diversity Management System website-
<https://baltimorecity.diversitycompliance.com/>

— **Cover Sheet**

- ☐ Include all requested information.
- ☐ You must include the total value of your bid.

— **Part B: Statement of Intent Form(s)**

- ☐ Name of Bidder and Name of MBE or WBE included at the top of the form.
- ☐ Form is signed by both Bidder and MBE or WBE.
- ☐ Form indicates whether the subcontractor is a MBE or WBE.
- ☐ Checked SMBA&D database to verify MBE and WBE certification.
- ☐ Listed the MBE or WBE subcontractor's City certification number.
- ☐ Checked SDAT database to verify good standing of MBE and WBE.
- ☐ Detailed Brief description of work to be provided.
- ☐ Detailed Materials/supplies to be provided (if applicable).
- ☐ Stated Percentage of Work to be performed.
- ☐ The percentages being performed by the MBE and WBE meet the goals set on the bid solicitation.

— **Part D: MBE/WBE Participation Affidavit**

- ☐ The applicable MBE/WBE goal was entered in the first paragraph (this goal should match the goal stated in the bid solicitation).
- ☐ Stated MBE or WBE percentage (%) of work to be performed (this percentage should match the goals set on the bid solicitation).
- ☐ Completed Company name and address.
- ☐ Signed your name.
- ☐ Printed name and title of the person who signed the form.

OPTIONAL FORMS, these should only be submitted if applicable

— **Part C: Statement of Self-Performance**

- ☐ You are certified MBE/WBE by Baltimore City SMBA&D.
- ☐ Included the percentage of work to be applied to the applicable MBE or WBE participation goal.
- ☐ Self-performing percentage is not over 50% of value of work to be performed by your forces.
- ☐ Detailed Brief description of work to be provided.
- ☐ Detailed Materials/supplies to be provided (if applicable).
- ☐ Stated Percentage of Work the **prime intends to self-perform as the MBE or WBE**.
- ☐ Form is signed by the Bidder.

— **Part E: MBE/WBE Participation Waiver Request**

- ☐ **You submitted an additional document addressing questions one, two and three on Part E.**
- ☐ You exercised good faith efforts to achieve the applicable contract participation goals.
- ☐ You reviewed the Bidder Information Guide for guidance regarding waivers and good faith efforts.
- ☐ You detailed all efforts that were undertaken to secure MBE and/or WBE participation on this contract in the Waiver Request Form and submitted additional documentation of these efforts.
- ☐ **You have double-checked that all bid forms that will be submitted are complete, contain the required information, and are signed and dated.**

Bidder Information Guide

What are some common mistakes or omissions that I should try to avoid and things to keep in mind?

- Any bid that does not include a signed Statement of Intent Form(s) and the MBE/WBE Participation Affidavit is non-responsive and will be rejected.
- Any Statement of Intent Form(s) and/or MBE/WBE Participation Affidavit that are not properly executed or do not contain all required information will result in a finding of non-compliance and will be rejected.
- **Utilizing a business that is not certified with the City of Baltimore or that has an expired certification, without an extension due to a pending application for renewal, will not count towards meeting a MBE/WBE participation goal.** City Code Article 5, §28-41(d) states that each bidder is responsible for verifying that all MBEs and WBEs to be used have been certified by the Office before bid opening.
- The failure to exercise good faith efforts when requesting a waiver and not meeting the applicable MBE/WBE goals for the contract will result in a finding of non-compliance
- A business enterprise that is Baltimore City certified as both an MBE and WBE (M/WBE) may not be counted toward both the MBE and WBE goals for the same project. The bidder must select the goal to which the business enterprise is to be counted. Art. 5, §28-31(b) and §28-35.
- A bidder that is a City certified MBE/WBE may only count up to 50% of the dollar value of the work it intends to perform with its own forces toward the applicable MBE or WBE goal. The amount of credit may not exceed the MBE/WBE's available work capacity as calculated with the Contractor Prequalification rules. Intentions to count self-performance toward the MBE or WBE goal must be indicated on Part C: Statement of Intent to Self-Perform. A bidder's statement that they will self-perform, but the business is not City certified as a MBE/WBE, may result in the bid being found non-compliant.
- A bidder may count toward the contract goal the portion of its expenditure to a joint venture that is equal to the percentage of the MBE or WBE participation in the joint venture. The MBE or WBE member of the joint venture must have an interest in the control, management, risks and operation of the joint venture commensurate with the member's percentage of ownership. The MBE or WBE member of the joint venture must be responsible for a clearly defined portion of the work to be performed, equal to its share in the ownership, control and management of the joint venture. Art. 5, §28-33.

- A bidder may not count toward its contract goal any agreement with a certified MBE or WBE subcontractor who intends to subcontract more than 10% of the dollar amount of the services to be performed under its agreement with the bidder. This restriction does not apply to an MBE/WBE that contracts for the purchase of materials, equipment or supplies that are incidental to the performance of services under its agreement with the bidder. Art. 5, §28-34.
- A bidder may count toward the contract goal its entire expenditure to a certified MBE or WBE that manufactures the goods supplied. Art. 5, §28-36.
- Only 25% of each contract goal may be attained by expenditures to MBEs and WBEs that are non-manufacturing suppliers. Art. 5, §28-37.
- A bidder may count toward the contract goals only the fees or commissions charged by an MBE or WBE insurance company or travel agent. Art. 5, §28-38.
- A bidder may count toward the contract goals only the fees charged and earned by an MBE or WBE financial institution. Art. 5, §28-39.
- A bidder may not use an MBE or WBE to meet a contract goal if the bidder has a financial interest in, has an interest in the ownership or control of, or is significantly involved in the operation of the MBE or WBE. Art. 5§28-41.

Is there any limitation of what services an MBE/WBE can perform that count towards the contract participation goals?

MBE/WBEs subcontractors must perform a commercially useful function. Commercially useful function is defined in the City Code as the performance of real and distinct work for which the business enterprise has the skill, expertise, and actual responsibility to perform, manage and supervise. Art. 5, §28-32. As a result, the bidder should think broadly and consider all functions and services necessary to fully perform the contract.

Can I get a waiver of the contract participation goals?

If a bidder is unable to comply with a contract goal, the bidder may submit a waiver request with the bid. The waiver request must be made on the MBE/WBE Participation Waiver Request Form. A waiver will not be granted unless the waiver request includes documentation that demonstrates good faith efforts to meet the goals. Art. 5, §28-62. The bidder should have previously consulted the SMBA&D certification directory, <https://baltimorecity.diversitycompliance.com/>, and made attempts to secure MBE/WBE subcontractor participation.

Each waiver request **must include documentation** of your good faith efforts to secure, contact and negotiate with MBEs and WBEs, including:

(1) The reasons your company is unable to secure sufficient MBE/WBE participation to meet the stated goals;

(2) The efforts made by your company to select portions of the contract to be performed by MBEs and WBEs; &

(3) For each MBE or WBE that placed a bid that you consider to be unacceptable, a statement that explains the basis for that conclusion.

Each waiver is reviewed individually, highly scrutinized, and will not be granted if the bidder's submission does not evidence that they undertook several steps to secure participation in good faith.

What are "good faith efforts"?

SMBA&D uses the term good faith efforts in several contexts including bid participation forms, waivers, and in evaluating efforts to meet contract participation goals by bidders. All efforts must begin with an evaluation of the availability of certified MBE/WBEs to perform the contract services by consulting the SMBA&D certification directory:
<https://baltimorecity.diversitycompliance.com/>

If there are certified MBE/WBEs that can provide the goods or services under the contract the contractor/vendor must undertake efforts to contact those businesses, secure price quotes, and exercise diligence in determining if they have the capabilities and expertise to perform. The availability of MBE/WBEs strongly undercuts any request for participation goals to be waived.

The following are additional examples of actions that can show that efforts were undertaken in good faith to meet the applicable contract goals, including but not limited to:

- The bidder should solicit interest as early in the acquisition process as practicable to allow the MBE/WBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the MBE/WBEs are interested by taking appropriate steps to follow-up on initial solicitations.
- The bidder should identify portions of the work to be performed by MBE/WBEs in order to increase the likelihood that the MBE/WBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate MBE/WBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates MBE/WBE participation.
- The bidder should provide interested MBE/WBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.
- A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including MBE/WBEs subcontractors, and would take a

firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using MBE/WBEs is not sufficient reason for a bidder's failure to meet the contract MBE/WBEs goal, as long as such costs are reasonable and not excessive.

- The bidder should engage in negotiations in good faith with interested MBE/WBEs. It is the bidder's responsibility to make a portion of the work available to MBE/WBEs subcontractors and suppliers and to select those portions of the work or material needed that is consistent with the available MBE/WBEs subcontractors and suppliers, so as to facilitate MBE/WBEs participation.
- Evidence of such negotiation includes: the names, addresses, and telephone numbers of MBE/WBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for MBE/WBEs to perform the work.
- Bidders should include detailed information regarding their attempts to secure participation. SMBA&D cannot accept unsupported statements about efforts to secure MBE/WBE participation. **All waivers must include documentation of those efforts.** For example: you should include email correspondence with subcontractors to show their response or lack of response.
- It is insufficient to simply state that you contacted a business and provide their directory entry or contact information. It is insufficient to make arguments why you believe the goals should be waived and you should be permitted to perform the entire contract with no participation goals. It is insufficient to detail that the contract was previously granted a waiver or that you were previously awarded this contract. A promise to use MBE/WBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts or to meet the contract MBE/WBE participation goals.
- It is the bidder's responsibility to establish and document the efforts that were undertaken to secure MBE/WBE participation. **Waivers are judged solely based upon the information provided and detailed to SMBA&D in the bid submission.**
- There are numerous ways to identify subcontractors to participate on the contract such as: the SMBA&D certification directory, <https://baltimorecity.diversitycompliance.com/> , attending pre-bid information sessions, business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, and/or written notices or emails to all MBE/WBEs listed in SMBA&D's directory that specialize in the services or goods required to perform the contract.

- MBE/WBEs should not be rejected as unqualified without sound reasons based on a thorough investigation of their capabilities. Factors such as the contractor's standing within their industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- Bidders should make reasonable efforts, if needed, to assist interested MBE/WBEs in obtaining bonding, lines of credit, insurance, or related assistance or services as required by the subcontractor.
- Contacting and utilizing the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices (including SMBA&D); and other organizations as allowed on a case-by-case basis to assist in the recruitment and placement of MBE/WBEs. When considering a waiver, you should contact SMBA&D if you feel as though you have exhausted the ability to identify additional MBE/WBEs who could perform on the contract.

SMBA&D will evaluate all of the detailed efforts in determining if the bidder has exercised good faith efforts.