

Appendix 4A - Instructions for Attachment D-1A

4.1. MBE Goals and Subgoals Established

An overall Minority Business Enterprise (MBE) subcontractor participation goal as identified in the solicitation's Key Information Summary Sheet (KISS) has been established for this procurement, representing a percentage of the total Contract dollar value, including all renewal option terms, if any.

Notwithstanding any subgoals established for this procurement, the Contractor is encouraged to use a diverse group of subcontractors and suppliers from any/all the various MBE classifications to meet the remainder of the overall MBE participation goal.

By submitting a response to this solicitation, the Bidder/Offeror acknowledges the overall MBE participation goal and subgoals, and commits to achieving the overall goal and subgoals by utilizing certified MBEs, or requests a full or partial waiver of the overall goal and/or subgoals.

If a bidder or offeror fails to complete accurately or submit the MBE utilization affidavit or MBE participation schedule, an agency's procurement officer, after consultation with the agency's minority business liaison, shall notify the bidder or offeror of the deficiency and require the bidder or offeror to submit an amended MBE utilization affidavit, MBE participation schedule, or both within three business days.

If, within three business days, the bidder or offeror fails to submit the amended form or forms correcting the deficiency identified, the procurement-officer may determine, in the case of a bid, that the bid is not responsive or, in the case of a proposal, that the proposal is not reasonably susceptible of being selected for award.

A Bidder or Offeror must accurately complete and submit a separate Attachment D-1A, MBE Utilization and Fair Solicitation Affidavit and MBE Participation Schedule, for EACH Functional Area (I and II), if applicable, for which it is submitting a bid or proposal. If a Bidder or Offeror is submitting a bid or proposal for each of Functional Area I and II, the Bidder or Offeror must submit two separate Attachment D-1As, one for each of the two Functional Areas.

A Bidder or Offeror that does not commit to meeting the entire MBE participation goal outlined in the solicitation must select and request a waiver with its bid or proposal submission (see Attachment D for waiver forms).

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4.2. Instructions for Completing Attachment D-1A, MBE Utilization and Fair Solicitation Affidavit & MBE Participation Schedule

1. Introduction to Instructions for Completing Attachment D-1A

These instructions relate to how to complete the Minority Business Enterprise (“MBE”) Utilization and Fair Solicitation Affidavit and the MBE Participation Schedule. These instructions include definitions and other information that will assist with completing the Form. The parts correspond to the Attachment D-1A MBE Utilization and Fair Solicitation Affidavit (Part 1), the MBE Participation Schedule (Part 2), and the Prime Contractor Signature Page (Part 3).

Definitions and Additional Information

- MBE Certification
- MBE Goals and Subgoals
- Category of Work, Materials & Supplies
- MBE Prime Self-Performance

Part 1 - MBE Utilization and Fair Solicitation Affidavit

Part 2 - MBE Participation Schedule

- Part 2, Section A - for Self-Performing MBE Prime Contractors

- Part 2, Section B - for MBE Subcontractors and Third-Tier Subcontractors

Part 3 - Prime Contractor Signature Page

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Definitions and Additional Information

MBE Certification.

MBE Definition. MBE means a minority business enterprise that is certified by the State, through the Office of Minority Business Enterprise (OMBE) within the Department of Social and Economic Mobility (DoSEM). Only MBEs certified by the State may be counted for purposes of achieving the MBE participation goals. In order to be counted for purposes of achieving the MBE participation goals, the MBE firm, including an MBE prime, must be certified for the services, materials or supplies that it is committed to perform on the MBE Participation Schedule. A firm whose MBE certification application is pending may not be counted.

MBE Directory. Please refer to the State MBE Directory to determine if a firm is certified with the appropriate North American Industry Classification System (“NAICS”) Code and the product/services description (specific product that a firm is certified to provide or specific areas of work that a firm is certified to perform). OMBE provides a current directory of certified MBEs, which is accessible online at <https://marylandmdbe.mdbecert.com/>.

Joint Ventures. When a certified MBE performs as a participant in a joint venture, a procurement agency may count a portion of the total dollar value of the Contract equal to the distinct, clearly-defined portion of the work of the Contract that the certified MBE performs with its own forces toward fulfilling the Contract goal, and not more than one of the Contract subgoals, if any.

NAICS Codes. For more general information about NAICS codes, please visit <https://www.census.gov/eos/www/naics/>. Only those specific products and/or services for which a firm is certified in the MBE Directory can be used for purposes of achieving the MBE participation goals. **CAUTION:** If the firm’s NAICS Code is in graduated status, such services/products may not be counted for purposes of achieving the MBE participation goals. A NAICS Code is in the graduated status if the term “Graduated” follows the Code in the MBE Directory.

Prime Contractor. Prime Contractor means a person or firm that has a State procurement contract with a Unit.

Second-Tier Subcontractor. Second-Tier Subcontractor means a subcontractor who participates with the Prime Contractor to perform a portion of the original contract work.

Third-Tier Subcontractor. Third-Tier Subcontractor means a subcontractor who performs a portion of the work awarded to a Second-Tier Subcontractor.

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MBE Goals and subgoals.

Commercially Useful Functions. The work performed by a certified MBE firm, including an MBE Prime Contractor, can only be counted towards the MBE participation goal(s) if the MBE firm is performing a commercially useful function on the Contract. Please refer to COMAR 21.11.03.12-1 for more information regarding these requirements.

New Provision: Dually Certified Firm. An MBE who is dually certified in more than one subgroup may be counted toward goal fulfillment of both subgroups on the same contract.

***Example:** A woman-owned Hispanic American (dually certified) firm may be used to fulfill the Women AND Hispanic American subgoal on the same contract.*

Rounding Percentages. When calculating overall percentage goals and subgoals (Part 1), or percentage goals and subgoals associated with individual Prime Contractors or Subcontractors (Part 2), percentages should never include more than two decimal points.

The form will automatically round goal and subgoal percentages for individual Prime Contractors or Subcontractors (Part 2), it will round according to the "rule of 5"--if the third decimal point is 5 or greater, you round up, if the third decimal point is 4 or lower, you round down. When the individual Prime Contractor or Subcontractor MBE Goals and subgoals in Part 2 are added together to determine the overall MBE Goals and subgoals in Part 1, rounding is not needed.

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Category of Work, Materials & Supplies.

The type of work provided by a certified MBE determines the percentage of that work that can count towards MBE goals and subgoals. A MBE certified firm can be a supplier, wholesaler, and/or regular dealer (and count 60% of that work towards MBE goals); a manufacturer (and count 100% of that work towards MBE goals); a vendor to furnish and install and/or provide other services (and count 100% of that work towards MBE goals); or a broker (and count reasonable fees and commission towards MBE goals).

Supplier, Wholesaler, and/or Regular Dealer (generally identified as a wholesaler or supplier in the MBE Directory). Up to 60% of the costs of materials and supplies provided by a certified MBE may be counted towards the MBE participation goal(s) if such MBE is a Regular Dealer of such materials and supplies. Regular Dealer is defined as a firm 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 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; and does not include a packager, a broker, a manufacturer's representative, or any other person that arranges or expedites transactions.

Example for illustrative purposes of applying the 60% rule:

Overall contract value: \$2,000,000

Total value of supplies: \$100,000

Calculate Percentage of Supplies to overall contract value: \$100,000 divided by \$2,000,000 = 5%

Apply 60% Rule - Total percentage of Supplies/Products 5% x 60% = 3%

3% would be counted towards achieving the MBE Participation Goal and Subgoal, if any, for the MBE supplier in this example.

Manufacturer. A certified MBE firm's participation may be counted in full if the MBE is certified in the appropriate NAICS code(s) to provide products and services as a manufacturer.

Furnish and Install and other Services. The participation of a certified MBE supplier, wholesaler, and/or regular dealer certified in the proper NAICS code(s) to furnish and install materials necessary for successful contract completion may be counted in full. The participation of other MBE service providers in the proper NAICS code(s) may be counted in full.

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Broker. With respect to materials or supplies purchased from a certified MBE that is neither a manufacturer nor a regular dealer, a unit may apply the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, fees, or transportation charges for the delivery of materials and supplies required on a procurement toward the MBE contract goals, provided a unit determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. A unit may not apply any portion of the costs of the materials and supplies toward MBE goals.

MBE Prime Self-Performance.

Please note that when a certified MBE firm participates as a Prime Contractor on a Contract, a procurement agency may count the distinct, clearly defined portion of the work of the Contract that the certified MBE firm performs with its own workforce toward fulfilling up to, but no more than, fifty-percent (50%) of the overall MBE participation goal, including up to one hundred percent (100%) of not more than one of the MBE participation subgoals, if any, established for the Contract.

MBE Prime NAICS Certification. In order to receive credit for self-performance, an MBE prime must be certified in the appropriate NAICS code to do the work and must list its firm in the MBE Participation Schedule, including the certifying category under which the MBE prime is self-performing and include information regarding the work it will self-perform. NAICS codes that MBEs are certified for can be found in the MBE Directory.

Reporting MBE Subcontractors. For the remaining portion of the overall goal and the remaining subgoals, the MBE prime must also identify in Part 2B of the MBE Participation Schedule the other certified MBE subcontractors used to meet those goals or request a waiver.

MBE Prime Work Not Counting Towards MBE Goals. These guidelines apply to the work performed by the MBE Prime that can be counted for purposes of meeting the MBE participation goals. These requirements do not affect the MBE Prime's ability to self-perform a greater portion of the work in excess of what is counted for purposes of meeting the MBE participation goals.

Distinct MBE Goals and Subgoals. Please note that the requirements to meet the MBE participation overall goal and subgoals are distinct and separate. If the contract has subgoals, regardless of MBE Prime's ability to self-perform up to 50% of the overall goal (including up to 100% of any subgoal), the MBE Prime must either commit to use other MBEs for each of any remaining subgoals or request a waiver. As set forth in the Waiver Guidance, the MBE Prime's ability to self-perform certain portions of the work of the Contract will not be deemed a substitute for the good faith efforts to meet any remaining

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subgoal or the balance of the overall goal.

Instances When MBE Prime Contractor Self-performance May Be Limited. In certain instances, if the percentages allocated to MBE participation subgoals for a contract add up to more than 50% of the overall goal, the portion of self-performed work that the MBE Prime Contractor may count toward the overall goal may be limited to less than 50%. The MBE Prime must first meet all subgoals they will not self-perform by using other certified MBE subcontractors. Only after addressing all the subgoals can the MBE prime count its own self-performed work toward the remaining portion of the overall goal, and the amount may be capped at less than 50%. Please refer to the Office of Small Minority & Women Business Affairs' website for tools, resources and sample forms: <https://gomdsmallbiz.maryland.gov/Pages/Business-Resources>.

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Part 1 - MBE Utilization and Fair Solicitation Affidavit

Introduction. Part 1 of this Form is the MBE Utilization and Fair Solicitation Affidavit, which is where the Contractor should show the total MBE Goal and the total subgoals associated with their bid or proposal—a summation of any individual MBE Goals and subgoals identified in Part 2 of the Form.

Screenshot from the Form

Solicitation Number:

Solicitation MBE Goal:

Solicitation Subgoals (If subgoals do not apply, please input 'NA' for each field):

% African American-Owned MBE Firms

% Hispanic American-Owned MBE Firms

% Asian American-Owned MBE Firms

% Women-Owned MBE Firms

Solicitation Number. Enter the Solicitation Number that is located on the first page of the solicitation. Specific terminology may vary from “Solicitation Number,” for example, it may be called the “RFP Number” or the “IFB Number”.

MBE Goal and Subgoals. The MBE Goal and any subgoals are located in the solicitation’s Key Information Summary Sheet (KISS).

Enter the MBE Goal and subgoals the Contractor is committing to achieve during the contract.

To determine the percentage to enter for the MBE Goal and any subgoals, add the percentages for the MBE Goal entered in Part 2 of the Form and enter the total percentages in the MBE Goal, and add the percentages for each of the subgoals entered in Part 2 of the Form and enter the total of subgoals for each of the subgoals. Subgoal categories include African American-Owned MBE Firms, Asian American-Owned MBE Firms, Hispanic American-Owned MBE Firms, Women-Owned MBE Firms, and Other MBE Classifications.

A full or partial waiver request must be submitted for review if the MBE Goal or subgoals specified on the solicitation’s Key Information Summary Sheet (KISS) will not be met (see Attachment D for waiver forms).

MBE Goal: Enter the percentage of MBE participation from the solicitation or if you are committing to a percentage that exceeds the solicitation MBE goal, enter the percentage that you are committing to achieve during the contract. If the Contractor is not committing to achieving a MBE Goal or any Subgoal, enter “0” next to the relevant field.

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Subgoals: If applicable, enter the percentage of MBE Subgoal participation from the solicitation, or if you are committing to a percentage that exceeds the solicitation MBE Subgoal, enter the percentage that you are committing to achieve during the contract. If the Contractor is not committing to achieving any of the subgoals, enter "0" next to that category.

Screenshot from the Form

IN CONNECTION WITH THE BID/PROPOSAL SUBMITTED IN RESPONSE TO THE SOLICITATION INDICATED ABOVE, I AFFIRM THE FOLLOWING :



I acknowledge and intend to **MEET IN FULL OR EXCEED both the overall certified Minority Business Enterprise (MBE) participation goal and all applicable subgoals**. Therefore, I am not seeking a waiver pursuant to COMAR 21.11.03.11. I acknowledge that by selecting and agreeing to meet the stated goal and all applicable subgoals (if any), I must complete the MBE Participation Schedule (Part 2) and the Signature Page (Part 3) to be considered for award.

OR



After making good faith outreach efforts prior to making this submission, I conclude that I am **unable to achieve the MBE participation goal and/or subgoals**. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. [Access Waiver Guidance here.](#)

I acknowledge that by requesting a *partial* waiver of the stated goal and/or one or more of the stated subgoals (if any), I must complete the MBE Participation Schedule (Part 2) and the Signature Page (Part 3) for the portion of the goal and/or subgoal for which I am not seeking a waiver in order to be considered for award. Similarly, I acknowledge that by requesting a *full* waiver of the stated goal and the stated subgoals (if any), I must complete the Signature Page (Part 3) to be considered for award.

Acknowledge to meet or exceed goals or request a full or partial waiver. Either check the box that you are committing to meet in full or exceed the overall certified MBE Goal and any applicable subgoals, or check the box that are unable to meet those goals in full and are requesting a full or partial waiver.

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Part 2 - MBE Participation Schedule

Screenshot from Form

Prime Contractor	
Project/Solicitation Number	
Project Description	

The following identifying information should match what is included with the bid or proposal, as well as, the information in the MBE Directory.

Prime Contractor. Enter the name of the prime contractor, as displayed next to “Business Name” in the MBE Directory.

Solicitation Number. Enter the solicitation number, which should match the solicitation number entered in Part 1.

Project Description. Enter a brief description of the work intending to be performed under the overall contract.

Part 2 - Section A: MBE Participation Schedule for MBE Primes ONLY (including MBE Primes in a Joint Venture)

Complete Part 2, Section A when the Prime Contractor is a certified MBE firm at the time of submitting a bid or proposal, and is counting a portion of its own work towards MBE Goals and subgoals. A self-performing certified MBE Prime may only count its own work up to 50% of the total MBE Goal; the other 50% must be performed by MBE subcontractors.

MBE Prime Name:

MBE Certification Number:

NAICS:

MBE Prime Classification:

If the MBE Prime is counting its self-promoting work towards any subgoal, select the appropriate classification for the subgoal:

- ☒ African American
- ☐ Hispanic American
- ☐ Asian American
- ☐ Native American
- ☐ Women-Owned
- ☐ Other MBE Classification

Brief description of the work to be performed by MBE Prime Contractor:

MBE Prime Name. Enter the name of the Prime Contractor as used throughout the bid or proposal and as displayed next to “Business Name” in MBE Directory.

MBE Certification Number. Enter the Prime Contractor’s MBE Certification Number as displayed next to “Certification Number” in the MBE Directory.

NAICS. Enter the appropriate NAICS code for the type of work the Prime Contractor commits to perform and count towards any MBE Goals and/or subgoals. The Prime

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Contractor must be certified to perform work under this NAICS code as displayed in the “Commodity Codes” section of MBE Directory in order to be counted toward the MBE Goals or subgoals.

MBE Prime Classification. If the MBE Prime is counting its self-performing work towards any subgoal, select the appropriate classification for the subgoal. Work performed by the MBE Prime can only count towards **one** subgoal. The Prime Contractor must be certified as an MBE for this subgoal as displayed next to “Minority Status” in the “Additional Information” section of the MBE Directory.

Brief Description of MBE Prime Contractor Work. Enter a brief description of the work to be performed by the MBE Prime Contractor that will count towards MBE Goals and subgoals under the Contract.

Percentage of Total Contract Value to Be Performed by MBE Prime (auto-calculation):

Overall Participation Goal 0.00 %

✕ % (50% max) = 0.00

Percentage of Total Contract Value to be Performed by MBE Prime. In A1, enter the overall MBE Goal that is being committed to in this bid or proposal, which should match the Solicitation MBE Goal entered in Part 1. The Form will automatically calculate a value that is 50% of that overall goal—the maximum amount of work the MBE Prime can perform contributing to the overall MBE goal.

Category of Work and Calculations. Select the type of work the MBE Prime will perform that counts towards the Contract’s MBE Goal and subgoals. Only one category can be selected. Enter the percentage of work to be performed under the Contract for that category, and determine the total percentage of work that will be counted towards the MBE Goal and subgoals.

When performing these calculations, percentages should never include more than three decimal points. If you need to round MBE Goal and MBE Subgoal percentages in Part 2, you should round according to the “rule of 5”—if the fourth decimal point is 5 or greater, you round up, if the fourth decimal point is 4 or lower, you round down.

Category of Work and Calculations:

Select one category that applies to the type of work your firm is self-performing to calculate the amount being counted towards achieving the MBE Participation Goal(s):

☒ **Supplier, Wholesaler, and/or Regular Dealer** (count 60%)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. The percentage entered should match that of the 50% maximum overall participation goal computed in Section A1.
[\[Details\]](#)

Total Percentage as Supplier: 0.00 % x 60% = 0.00 %

☐ **Manufacturer** (count 100%)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. The percentage entered should match that of the 50% maximum overall participation goal computed in Section A1.
[\[Details\]](#)

Total Percentage as Manufacturer: %

☐ **Furnish & Install and/or Other Services** (count 100%)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. The percentage entered should match that of the 50% maximum overall participation goal computed in Section A1.
[\[Details\]](#)

Total Percentage as Furnish & Install/Other Services: %

☐ **Broker** (count reasonable fees / commission only)
Enter the percentage amount for work in which the MBE Prime is being utilized in this category. [\[Details\]](#)

Total Percentage as a Broker: %

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Part 2 - Section B: For all Contractors (For ALL MBE Subcontractors and Third-Tier Contractors) - Determining MBE Percentage Goals and Subgoals

A separate Part 2, Section B should be completed for each MBE certified firm that the Prime Contractor is committing to use to count towards the overall MBE Goal and subgoals. Part 2, Section B does not need to be completed for the Prime Contractor.

The following identifying information should match what is included with the bid or proposal, as well as the information in the MBE Directory.

MBE Firm Name. Enter the name of the MBE Subcontractor as displayed next to “Business Name” in the MBE Directory.

MBE Certification Number. Enter the MBE Subcontractor’s MBE Certification Number as displayed next to “Certification Number” in the MBE Directory of Certified Firms.

NAICS. Enter the appropriate NAICS code for the type of work the MBE Subcontractor commits to perform and count towards any MBE Goals and/or subgoals. The MBE Subcontractor must be certified to perform work under this NAICS code as displayed in the “Commodity

Codes” section of the MBE Directory in order to be counted toward the MBE Goals or subgoals.

MBE Firm Name:	
MBE Certification Number:	
NAICS:	
MBE Firm Email Address:	
MBE Classification (Select All That Apply):	
☐	African American-Owned
☐	Hispanic American-Owned
☐	Asian American-Owned
☐	Native American-Owned
☐	Women-Owned
☐	Other MBE Classification
Brief description of the work to be performed by MBE Firm:	

MBE Classification. Select all MBE designations that apply to the MBE subcontractors certification status. If the MBE Subcontractor’s work is being counted towards any subgoal, select the appropriate subgoal. The MBE Subcontractor must be certified as an MBE for this subgoal as displayed next to “Minority Status” in the “Additional Information” section of the MBE Directory.

Brief Description of MBE Firm Work. Enter a brief description of the work to be performed by the MBE Subcontractor that will count towards MBE Goals and subgoals under the Contract.

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Indicate Subcontractor Type:

- ☐ This MBE firm is a subcontractor
- ☐ This MBE firm is a third-tier contractor
Third-tier subcontracting requires either preapproval as specified in the solicitation or separate written approval in accordance with policy. [\[Details\]](#)
- This third-tier contractor will be working with this subcontractor:

Subcontractor Type. Select whether this firm is a Subcontractor or a Third-Tier Contractor. A Third-Tier Contractor is a subcontractor of another subcontractor that will perform work on the Contract counting towards MBE Goals.

Percentage of Total Contract Value to be Performed by MBE Firm. Enter the percent of the total contract value that will be performed by the MBE Subcontractor and counted towards the Contract's MBE Goal and subgoals.

Percentage of Total Contract Value to Be Performed by MBE Firm:

Participation Goal for MBE Firm: %

Category of Work and Calculations. Select the type of work the MBE Subcontractor will perform that counts towards the Contract's MBE Goal and Subgoals. Only one category can be selected. Enter the percentage of work to be performed by the MBE Subcontractor under the Contract for that category, and determine the total percentage of work that will be counted towards the MBE Goal and subgoals.

When performing these calculations, percentages should never include more than three decimal points. If you need to round MBE Goal and MBE Subgoal percentages in Part 2, you should round according to the "rule of 5"--if the fourth decimal point is 5 or greater, you round up, if the fourth decimal point is 4 or lower, you round down. See Definitions and Additional Information for additional guidance starting on page 3.

Category of Work and Calculations:

Select one category that applies to the type of work this subcontractor is performing to calculate the amount being counted towards achieving the MBE Participation Goal(s):

- ☐ **Supplier, Wholesaler, and/or Regular Dealer** (count 60%)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [\[Details\]](#)
Total Percentage as Supplier: % x 60% = %
- ☐ **Manufacturer** (count 100%)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [\[Details\]](#)
Total Percentage as Manufacturer: %
- ☐ **Furnish & Install and/or Other Services** (count 100%)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. The percentage entered should match that of the participation goal entered for this MBE Firm above. [\[Details\]](#)
Total Percentage as Furnish & Install/Other Services: %
- ☒ **Broker** (count reasonable fees / commission only)
Enter the percentage amount for work in which the subcontractor is being utilized in this category. [\[Details\]](#)
Total Percentage as a Broker: %

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Prime Contractor's Attestation to Subcontractor Engagement:

☐ As Prime Contractor, I acknowledge and attest to having engaged with the listed MBE and intend to continue engagement if this solicitation results in the award of a contract. As Prime Contractor, I agree to State check-ins to verify subcontractor engagement.

Prime Contractor Attestation to Subcontractor Engagement.

Fill the circle to acknowledge and attest.

Part 3 - Signature Page

When the Contractor has completed Part 1, Part 2 Section A, and Part 2 Section B to the extent required by their bid or proposal, complete Part 3—the signature page—to complete the Form.

Please be sure to confirm that the directions for rounding percentages were followed correctly and that any MBE Goals and subgoals listed in Part 2 add up to the overall MBE Goals and subgoals listed in Part 1.