

**FULL OR PARTIAL WAIVER REQUESTS MUST BE SUBMITTED WITHIN  
10 DAYS OF RECEIVING A LETTER OF INTENT TO AWARD**

**MBE Attachment E**

**STATE OF MARYLAND  
MARYLAND ENVIRONMENTAL SERVICE**

**FULL/PARTIAL MBE GOAL WAIVER REQUEST INSTRUCTIONS**

If the apparent awardee believes a waiver (**in whole or in part**) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11. The instructions for requesting a full/partial waiver are as follows:

- A. If for any, reason, the apparent successful bidder or offeror is unable to achieve the contract goal for certified MBE participation, the bidder or offeror may request, in writing, a *waiver* (an exception to the goal with justification) to include the following:
- (1) A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBEs in order to increase the likelihood of achieving the stated goal;
  - (2) A detailed statement of the efforts made to contact and negotiate with certified MBEs including:
    - (a) The names, addresses, dates, and telephone numbers of certified MBEs contacted and
    - (b) A description of the information provided to certified MBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;
  - (3) As to each certified MBE that placed a subcontract quotation or offer that the apparent successful bidder or offeror considers not to be acceptable, a detailed statement of the reasons for this conclusion;
  - (4) A list of minority subcontractors found to be unavailable. This list should be accompanied by an MBE unavailability certification (MBE Attachment F) signed by the minority business enterprise, or a statement from the apparent successful bidder or offeror that it was unable to obtain the written certification from the MBE; and
  - (5) The record of the apparent successful bidder's or offeror's compliance with the outreach efforts required under COMAR 21.11.03.09.
- B. A waiver of a certified MBE contract goal may be granted only upon a reasonable demonstration by the bidder or offeror that certified MBE participation was unable to be obtained or was unable to be obtained at a reasonable price and if the Director or designee determines that the public interest is served by a waiver. In making a determination under this section, the Director or designee may consider engineering estimates, catalogue prices, general market availability, and availability by certified MBEs in the area in which the work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between certified MBE and non-MBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.
- C. The Director or designee may waive any of the provisions of COMAR 21.11.03.09-.10 for a sole source, expedited, or emergency procurement in which the public interest cannot reasonably accommodate use of those procedures.

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- D. When a waiver is granted, except waivers under §C, one copy of the waiver determination and the reasons for the determination shall be kept by the MBE Liaison Officer with another copy forwarded to the Office of Minority Affairs.

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MBE Attachment F

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**STATE OF MARYLAND  
MINORITY CONTRACTOR UNAVAILABILITY CERTIFICATE**

1. It is hereby certified that the firm of

\_\_\_\_\_  
Prime Contractor Name

\_\_\_\_\_, on \_\_\_\_\_ contacted the  
Address: Number, Street, City, State, Zip Date

Minority Business Enterprise: \_\_\_\_\_  
MBE Name

\_\_\_\_\_  
Address: Number, Street, City, State, Zip

seeking to obtain a bid for the work/service in relation to project number:  
\_\_\_\_\_or \_\_\_\_\_ project name:  
\_\_\_\_\_

2. List the type of work/service required: \_\_\_\_\_  
\_\_\_\_\_

3. Indicate the form of bid sought: \_\_\_\_\_

4. To the best of our knowledge and belief, said Minority Business Enterprise is unavailable for the work/service relation to the project number: \_\_\_\_\_; or, is unable to prepare a bid for the following reason(s):

Reason(s): \_\_\_\_\_  
\_\_\_\_\_

Printed MBE Name:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of MBE

\_\_\_\_\_  
Date

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5. It is hereby certified the above Minority Business Enterprise was offered an opportunity to bid on project:

\_\_\_\_\_ on \_\_\_\_\_ by the above  
Name and Number Date

named prime contractor. The above statement is a true account of why the above MBE firm did not submit a bid on the project.

6. Reason why Prime Contractor was unable to obtain MBE signature.

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

\_\_\_\_\_  
Prime Printed Name

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date