

EXPLANATION: CAPITALS indicate matter added to existing law.

[Brackets] indicate matter deleted from existing law.

Underlining indicates matter added to the bill by amendment.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

**CITY OF BALTIMORE  
ORDINANCE 0-98  
Council Bill 00-0211**

Introduced by: Sheila Dixon, President  
At the request of: The Administration (Law Department)  
Introduced and read first time: June 12, 2000  
Assigned to: Labor and Economic Development Subcommittee  
\_Committee Report: Favorable with amendments  
Council action: Adopted  
Read second time: October 30, 2000

**AN ORDINANCE CONCERNING**

**Minority and ~~Small Women=s~~ Business Opportunity**

FOR the purpose of making certain findings and affirming certain policies; establishing governing law as necessary and appropriate under those findings; providing for a new Minority and ~~Small Women=s~~ Business Opportunity Program; imposing certain requirements; defining certain terms; providing certain exceptions; providing for the automatic termination of this Ordinance; and generally relating to equal business opportunity in the City=s contracting program.

BY repealing

Article 5 - Finance, Property, and Procurement  
Sections 28-1 through 28-19, inclusive, ~~and the~~  
~~subtitle designation AMinority and Women=s Business Enterprises=~~  
Baltimore City Code  
(Edition 2000)

BY adding

Article 5 - Finance, Property, and Procurement  
Sections 28-1 through ~~28-21 28-98, inclusive, to be under the new~~  
~~subtitle designation AMinority and Small Business Opportunity=~~

1 Baltimore City Code  
2 (Edition 2000)

3  
4 **Recitals**

5  
6 In response to the United States Supreme Court decision in *City of Richmond v. J.A. Croson*  
7 *Company*, the City of Baltimore appointed an independent task force to review and make an  
8 assessment of the constitutional validity of its Minority Business Enterprise (MBE) and  
9 Women=s Business Enterprise (WBE) Program that was established under Ordinance 86-790.

10 The study was completed in 1990 and a report was issued (A 1990 Millemann Report=) after  
11 the task force spent over 600 hours compiling data and examining the basic constitutional  
12 structure of Ordinance 86-790. The report revealed evidence of race- and gender-based  
13 discrimination against minority and women=s business enterprises in the construction,  
14 professional design, and service industries in the City and also in the Washington Metropolitan  
15 Area and other portions of the State of Maryland involving private contractors who have  
16 received City contract awards.

17  
18 In 1990, as a result of the findings and recommendations of the 1990 Millemann Report,  
19 Ordinance 90-610 was enacted. Ordinance 90-610 modified and continued the City=s MBE  
20 and WBE program in accordance with the recommendations of the 1990 Millemann Report  
21

22 In 1999, the City hired consultants to perform a second generation study to examine whether  
23 previously identified patterns of discrimination against minority- and women-owned business  
24 enterprises continued to persist and presently affected City procurement and to determine  
25 whether race- and gender-neutral programs, in and of themselves, would be sufficient to  
26 remedy the ongoing effects of identified discrimination in the award of construction,  
27 architectural and engineering, service, and commodity contracts by the City. This study,  
28 completed in 2000 (the A 2000 Disparity Study=), included:

- 29
- 30 (1) a rigorous examination of over 14,000 City contracting and purchasing records and  
31 contract files;
  - 32
  - 33 (2) an in-depth review of the city=s contracting, purchasing, and remedial policies,  
34 procedures, and practices;
  - 35
  - 36 (3) an examination of City contracting to determine whether there exists a history or  
37 pattern of behavior demonstrating that the City has declined or refused to award  
38 contracts or subcontracts for purchases of goods and services to minorities and that  
39 such decisions by the City cannot be explained by any legitimate reason;
  - 40
  - 41 (4) an examination of City contracting to determine whether the City has been a passive  
42 participant in a system of racial exclusion practiced by local businesses;
  - 43
  - 44 (5) a statistical analysis of the disparity between utilization and availability of MBE and  
45 WBE companies, controlling for such factors as firm size, age, and bonding capacity,

1 as well as race/gender factors;

2  
3 (6) a review of firms, identified by name, address, and types of services, that were  
4 qualified, willing, and able to conduct business with the City;

5  
6 (7) input from personal interviews and analysis of 403 responses to a mail survey of  
7 minority and majority vendors;

8  
9 (8) personal interviews with City staff, and with 63 owners of businesses representing  
10 subcontractors, prime contractors, business leaders; and

11  
12 (9) identification and examination of specific problems that affect both minority vendors  
13 and other firms in their attempts to obtain City contracts, subcontracts, and purchase  
14 orders.

15  
16 The 2000 Study produced evidence of a substantial disparity in the utilization of minority- and  
17 women-owned businesses in the construction, commodity, architectural and engineering, and  
18 services industries in the Baltimore City market area. The consultants who conducted the  
19 2000 Disparity Study also evaluated the existing MBE/WBE Program under Ordinance 90-  
20 610 and recommended the creation of a new program that includes race- and gender-neutral  
21 and race- and gender-specific goals. The 2000 Disparity Study concluded, among other  
22 things, that:

23  
24 (1) while the City has made gains, there remain significant disparities between the  
25 availability of minority- and women-owned businesses and the utilization of these  
26 businesses to perform contracts in the construction, commodity, architectural and  
27 engineering, and service industries;

28  
29 (2) the previously identified patterns of discrimination against MBEs and WBEs persist in  
30 the relevant market area; and

31  
32 (3) efforts by the City to increase participation in public contracting through the use of  
33 race-and gender-neutral remedial assistance programs have not succeeded in  
34 eliminating the past patterns of discrimination against minority- and women-owned  
35 enterprises and the City should create an annual goals program for these targeted  
36 groups; and

37  
38 ~~———— (4) a need exists in the City's contracting program for the establishment of a Small~~  
39 ~~Business Enterprise program as another race-neutral means of remedying the identified~~  
40 ~~disparity.~~

41  
42 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That  
43 Article 5, §§ 28-1 through 28-19, inclusive, and the subtitle designation ~~A Minority and Women's~~  
44 ~~Business Enterprises~~, are repealed.

1 SECTION 2. AND BE IT ORDAINED, That the Laws of Baltimore City read as follows:  
2

3 **Baltimore City Code**  
4

5 **Article 5 - Finance, Property, and Procurement**  
6

7 ~~—————~~ **SUBTITLE 28 - MINORITY AND SMALL BUSINESS OPPORTUNITY**  
8

9 ~~—~~ **28-1. LEGISLATIVE FINDINGS, ETC.**  
10

11 ~~—~~ (A) *FINDINGS:*  
12

13 ~~—————~~ (1) THE MAYOR AND CITY COUNCIL MAKES THE FOLLOWING FINDINGS, ON FULL  
14 CONSIDERATION OF:

15  
16 ~~—————~~ (I) THE EXTENSIVE FINDINGS MADE BY AN INDEPENDENT TASK FORCE PRIOR TO THE  
17 ENACTMENT OF ORDINANCE 90-610;

18  
19 ~~—————~~ (II) THE EVIDENCE OF SIGNIFICANT LEVELS OF UTILIZATION DISPARITY IDENTIFIED  
20 ~~—————~~ BY THE 2000 DISPARITY STUDY;

21  
22 ~~—————~~ (III) HEARINGS HELD BY THE CITY COUNCIL; AND

23  
24 ~~—————~~ (IV) ALL OTHER RELEVANT FACTS:  
25

26 ~~—————~~ (1) PAST DISCRIMINATION IN THE CITY'S CONTRACTING PROCESS BY PRIME CONTRACTORS  
27 AGAINST MINORITY AND WOMEN'S BUSINESS ENTERPRISES HAS RESULTED IN  
28 SIGNIFICANT UNDERUTILIZATION OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES  
29 IN CONTRACTS AWARDED BY THE CITY OF BALTIMORE. AS DETERMINED BY THE 2000  
30 DISPARITY STUDY, THIS DISPARITY HAS BEEN PERSISTENT, PERVASIVE, AND  
31 STATISTICALLY SIGNIFICANT BASED ON AVAILABLE VENDOR DATA.  
32

33 ~~—————~~ (2) THIS DISCRIMINATION HAS OCCURRED IN THE MAJOR CITY CONTRACTING MARKETS  
34 (CONSTRUCTION, COMMODITIES, ARCHITECTURAL AND ENGINEERING, AND SERVICES);  
35 WITH THE EFFECT OF SIGNIFICANT UNDERUTILIZATION OF MINORITY AND WOMEN'S  
36 BUSINESS ENTERPRISES.  
37

38 ~~—————~~ (3) THE PROVISIONS OF THIS SUBTITLE ARE NECESSARY TO OVERCOME THE EFFECTS OF  
39 PAST DISCRIMINATION AND TO PREVENT ONGOING DISCRIMINATION IN THE CITY'S  
40 CONTRACTING PROCESS, WHILE ASSURING THAT HIGH QUALITY GOODS AND SERVICES  
41 ARE OBTAINED THROUGH THE COMPETITIVE BIDDING PROCESS.  
42

43 ~~—————~~ (4) A GENERAL GOAL OF THIS SUBTITLE IS TO PROVIDE A NARROWLY TAILORED REMEDY TO  
44 PAST DISCRIMINATION, A GOAL THAT IS ADVANCED BY:  
45

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1 ~~(I) CREATING A RACE- AND GENDER-NEUTRAL PROGRAM THAT INCLUDES RACE-~~  
2 ~~AND GENDER-SPECIFIC GOALS;~~

3  
4 ~~(II) SETTING SMALL BUSINESS ENTERPRISE, MINORITY BUSINESS ENTERPRISE, AND~~  
5 ~~WOMEN=S BUSINESS ENTERPRISE GOALS THAT ARE FLEXIBLE AND RATIONALLY~~  
6 ~~RELATED TO THE DISPARITY IDENTIFIED IN THE CITY=S CONTRACTING MARKETS;~~

7  
8 ~~(III) INSTITUTING RACE- AND GENDER-NEUTRAL REMEDIES IN CONJUNCTION WITH~~  
9 ~~THE MBE/WBE PROGRAM;~~

10  
11 ~~(IV) SETTING SEPARATE ANNUAL GOALS FOR DIFFERENT CATEGORIES OF~~  
12 ~~CONTRACTS;~~

13  
14 ~~(V) SETTING GOALS ON A CONTRACT-BY-CONTRACT BASIS;~~

15  
16 ~~(VI) PROVIDING CRIMINAL PENALTIES FOR FRAUDULENT MISUSE OF THIS SUBTITLE;~~

17  
18 ~~(VII) REQUIRING REGULAR REVIEW OF THE NECESSITY FOR THE PROVISIONS OF THIS~~  
19 ~~SUBTITLE;~~

20  
21 ~~(VIII) LIMITING THOSE SMALL, MINORITY, AND WOMEN=S BUSINESSES THAT~~  
22 ~~QUALIFY UNDER THIS SUBTITLE TO THOSE THAT DO BUSINESS IN THE CITY=S~~  
23 ~~CONTRACTING MARKETS;~~

24  
25 ~~(IX) REQUIRING REGULAR REVIEW OF THE CATEGORIES INCLUDED IN THE~~  
26 ~~DEFINITION OF MINORITY GROUP MEMBERS; AND~~

27  
28 ~~(X) PROVIDING FOR POST-BID SUBMISSION OF REQUIRED INFORMATION ABOUT~~  
29 ~~MINORITY AND WOMEN=S BUSINESS ENTERPRISES AS WELL AS OTHER~~  
30 ~~SUBCONTRACTORS.~~

31  
32 ~~(B) POLICY:~~

33  
34 ~~IT IS THE POLICY OF THE CITY OF BALTIMORE TO PROMOTE EQUAL BUSINESS OPPORTUNITY~~  
35 ~~IN THE CITY=S CONTRACTING PROCESS BY ENCOURAGING FULL AND EQUITABLE~~  
36 ~~PARTICIPATION BY SMALL, MINORITY, AND WOMEN=S BUSINESS ENTERPRISES IN THE~~  
37 ~~PROVISION OF GOODS AND SERVICES TO THE CITY ON A CONTRACTUAL BASIS.~~

38  
39 ~~(C) APPLICATION AND CONSTRUCTION:~~

40  
41 ~~THE PROVISIONS OF THIS SUBTITLE:~~

42  
43 ~~(1) APPLY TO ALL CONTRACTS AWARDED BY THE CITY, EXCEPT AS OTHERWISE~~  
44 ~~SPECIFICALLY EXEMPTED FROM THIS SUBTITLE; AND~~

1 ~~\_\_\_\_\_ (2) ARE TO BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS POLICIES AND PURPOSES.~~

2  
3 ~~1-28-2. DEFINITIONS.~~

4  
5 ~~\_\_\_\_\_ (A) *IN GENERAL.*~~

6  
7 ~~\_\_\_\_\_ IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED UNLESS THE~~  
8 ~~CONTEXT CLEARLY REQUIRES A DIFFERENT MEANING.~~

9  
10 ~~\_\_\_\_\_ (B) *AFRICAN AMERICAN.*~~

11  
12 ~~\_\_\_\_\_ A *AFRICAN AMERICAN*  $\equiv$  MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT~~  
13 ~~RESIDENT HAVING AN ORIGIN IN ANY OF THE BLACK RACIAL GROUPS OF AFRICA.~~

14  
15 ~~\_\_\_\_\_ (C) *ASIAN AMERICAN.*~~

16  
17 ~~\_\_\_\_\_ A *ASIAN AMERICAN*  $\equiv$  MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT~~  
18 ~~RESIDENT WHO ORIGINATES FROM THE FAR EAST, SOUTHEAST ASIA, THE INDIAN~~  
19 ~~SUBCONTINENT, OR THE PACIFIC ISLANDS.~~

20  
21 ~~\_\_\_\_\_ (D) *BALTIMORE CITY MARKET AREA (BCMA).*~~

22  
23 ~~\_\_\_\_\_ A *BALTIMORE CITY MARKET AREA*  $\equiv$  OR A *BCMA*  $\equiv$  MEANS THE RELEVANT GEOGRAPHIC~~  
24 ~~REGIONS FOR EACH BUSINESS CATEGORY AS DETERMINED BY THE 2000 STUDY AND AS~~  
25 ~~DEFINED IN  $\S$  28-5 OF THIS SUBTITLE.~~

26  
27 ~~\_\_\_\_\_ (E) *BIDDER.*~~

28  
29 ~~\_\_\_\_\_ A *BIDDER*  $\equiv$  MEANS ONE WHO SUBMITS A BID TO THE CITY IN RESPONSE TO AN INVITATION~~  
30 ~~TO BID OR TO A REQUEST FOR PROPOSALS.~~

31  
32 ~~\_\_\_\_\_ (F) *BUSINESS ENTERPRISE.*~~

33  
34 ~~\_\_\_\_\_ A *BUSINESS ENTERPRISE*  $\equiv$  MEANS A CORPORATION, LIMITED LIABILITY COMPANY,~~  
35 ~~PARTNERSHIP, INDIVIDUAL, SOLE PROPRIETORSHIP, JOINT STOCK COMPANY, JOINT~~  
36 ~~VENTURE, PROFESSIONAL ASSOCIATION, OR ANY OTHER LEGAL ENTITY OPERATED FOR~~  
37 ~~PROFIT THAT IS PROPERLY LICENSED, AS APPLICABLE, AND OTHERWISE AUTHORIZED TO DO~~  
38 ~~BUSINESS IN THE STATE OF MARYLAND.~~

39  
40 ~~\_\_\_\_\_ (G) *CERTIFIED BUSINESS ENTERPRISE.*~~

41  
42 ~~\_\_\_\_\_ A *CERTIFIED BUSINESS ENTERPRISE*  $\equiv$  MEANS A SMALL BUSINESS ENTERPRISE, MINORITY~~  
43 ~~BUSINESS ENTERPRISE, OR WOMEN'S BUSINESS ENTERPRISE THAT HAS MET THE CRITERIA~~  
44 ~~FOR CERTIFICATION ESTABLISHED BY THIS SUBTITLE AND HAS BEEN CERTIFIED BY THE~~  
45 ~~MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE.~~

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1  
2 ~~(H) CHIEF:~~

3  
4 ~~A CHIEF  $\equiv$  MEANS THE CHIEF OF THE MINORITY AND SMALL BUSINESS OPPORTUNITY~~  
5 ~~OFFICE.~~

6  
7 ~~(I) CONTRACTING AGENCY:~~

8  
9 ~~A CONTRACTING AGENCY  $\equiv$  MEANS THE CITY AGENCY, DEPARTMENT, OR AUTHORIZED~~  
10 ~~REPRESENTATIVE THAT ISSUES INVITATIONS TO BID OR REQUESTS FOR PROPOSALS.~~

11  
12 ~~(J) CONTRACTOR:~~

13  
14 ~~A CONTRACTOR  $\equiv$  MEANS THE PERSON, FIRM, OR LEGAL ENTITY WITH WHICH THE CITY HAS~~  
15 ~~ENTERED INTO AN AGREEMENT.~~

16  
17 ~~(K) COMMERCIALY USEFUL FUNCTION:~~

18  
19 ~~A COMMERCIALY USEFUL FUNCTION  $\equiv$  MEANS THE PERFORMANCE OF REAL AND ACTUAL~~  
20 ~~SERVICES IN THE DISCHARGE OF ANY CONTRACTUAL ENDEAVOR. THE BUSINESS~~  
21 ~~ENTERPRISE MUST PERFORM A DISTINCT ELEMENT OF WORK FOR WHICH THE BUSINESS HAS~~  
22 ~~THE SKILL AND EXPERTISE, AS WELL AS THE RESPONSIBILITY OF ACTUALLY PERFORMING,~~  
23 ~~MANAGING, AND SUPERVISING THE WORK.~~

24  
25 ~~(L) CONSTRUCTION:~~

26  
27 ~~A CONSTRUCTION  $\equiv$  MEANS BUILDING, ALTERING, REPAIRING, IMPROVING, OR~~  
28 ~~DEMOLISHING ANY STRUCTURE, BUILDING, OR OTHER IMPROVEMENT TO REAL PROPERTY,~~  
29 ~~INCLUDING:~~

30  
31 ~~(1) BUILDING CONSTRUCTION;~~

32  
33 ~~(2) HEAVY CONSTRUCTION (ROAD CONSTRUCTION AND BRIDGE CONSTRUCTION); AND~~

34  
35 ~~(3) SPECIALTY TRADES CONSTRUCTION (E.G., CARPENTRY, ELECTRICAL, AND~~  
36 ~~PLUMBING).~~

37  
38 ~~(M) CONTROL:~~

39  
40 ~~(1) A CONTROL  $\equiv$ , FOR PURPOSES OF DETERMINING WHETHER A BUSINESS IS A MINORITY~~  
41 ~~BUSINESS ENTERPRISE OR WOMEN  $\equiv$ S BUSINESS ENTERPRISE, MEANS THAT THE~~  
42 ~~MINORITY GROUP MEMBER OWNERS OR WOMEN OWNERS:~~

43  
44 ~~(1) POSSESS AND EXERCISE THE LEGAL AUTHORITY AND POWER TO MANAGE~~  
45 ~~BUSINESS ASSETS, GOODWILL, AND DAILY OPERATIONS OF THE BUSINESS; AND~~

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1  
2 ~~—————(2) ACTIVELY AND CONTINUOUSLY EXERCISE THIS MANAGERIAL AUTHORITY AND~~  
3 ~~POWER IN DETERMINING THE POLICIES AND DIRECTING THE OPERATIONS OF THE~~  
4 ~~BUSINESS.~~

5  
6 ~~—————(2) IF OWNERS WHO ARE NOT MINORITY GROUP MEMBERS OR WOMEN ARE RESPONSIBLE~~  
7 ~~FOR THE OPERATION OF THE BUSINESS OUT OF PROPORTION TO THEIR MINORITY~~  
8 ~~OWNERSHIP INTEREST, THEN THE BUSINESS IS NOT CONTROLLED BY MINORITY GROUP~~  
9 ~~MEMBERS OR WOMEN.~~

10  
11 ~~—————(N) *HISPANIC AMERICAN*.~~

12  
13 ~~—————A *HISPANIC AMERICAN* ≡ MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT~~  
14 ~~RESIDENT OF MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICAN, OR~~  
15 ~~OTHER SPANISH OR PORTUGUESE CULTURE OR ORIGIN REGARDLESS OF RACE.~~

16  
17 ~~—————(O) *JOINT VENTURE*.~~

18  
19 ~~—————A *JOINT VENTURE* ≡ MEANS AN ASSOCIATION BETWEEN BUSINESS ENTERPRISES THAT~~  
20 ~~PROVIDES FOR THE SHARING OF ECONOMIC INTEREST.~~

21  
22 ~~—————(P) *LOCAL*.~~

23  
24 ~~—————A *LOCAL* ≡ MEANS THAT THE PRINCIPAL OPERATING OFFICE OF THE BUSINESS ENTERPRISE IS~~  
25 ~~PHYSICALLY LOCATED WITHIN BALTIMORE CITY.~~

26  
27 ~~—————(Q) *MANUFACTURER*.~~

28  
29 ~~—————A *MANUFACTURER* ≡ MEANS A BUSINESS ENTERPRISE THAT:~~

30  
31 ~~—————(1) PRODUCES GOODS FROM RAW MATERIALS OR SUBSTANTIALLY ALTERS OR~~  
32 ~~FABRICATES THEM BEFORE RESALE; AND~~

33  
34 ~~—————(2) ASSUMES THE ACTUAL AND CONTRACTUAL RESPONSIBILITY FOR PROVIDING THE~~  
35 ~~MATERIALS AND SUPPLIES.~~

36  
37 ~~—————(R) *MINORITY BUSINESS ENTERPRISE (MBE)*.~~

38  
39 ~~—————A *MINORITY BUSINESS ENTERPRISE* ≡ OR A *MBE* ≡ MEANS A BUSINESS ENTERPRISE:~~

40  
41 ~~—————(1) THAT IS OWNED, OPERATED, AND CONTROLLED BY 1 OR MORE MINORITY GROUP~~  
42 ~~MEMBERS WHO HAVE AT LEAST 51% OWNERSHIP;~~

43  
44 ~~—————(2) IN WHICH THE MINORITY GROUP MEMBERS HAVE OPERATIONAL AND MANAGERIAL~~  
45 ~~CONTROL, INTEREST IN CAPITAL, AND EARNINGS COMMENSURATE WITH THEIR~~



1 PERCENTAGE OF OWNERSHIP; AND

2  
3 ~~———— (3) THAT IS LOCATED IN THE BALTIMORE CITY MARKET AREA.~~

4  
5 ~~———— (S) MINORITY GROUP MEMBER.~~

6  
7 ~~———— A MINORITY GROUP MEMBER ≡ MEANS A MEMBER OF A MINORITY GROUP, SUCH AS~~  
8 ~~AFRICAN AMERICAN, HISPANIC AMERICAN, ASIAN AMERICAN, OR NATIVE AMERICAN,~~  
9 ~~FOR WHICH A UTILIZATION DISPARITY HAS BEEN IDENTIFIED.~~

10  
11 ~~———— (T) NATIVE AMERICAN.~~

12  
13 ~~———— A NATIVE AMERICAN ≡ MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT~~  
14 ~~RESIDENT WHO ORIGINATES FROM ANY OF THE ORIGINAL PEOPLES OF NORTH AMERICA AND~~  
15 ~~WHO MAINTAINS CULTURAL IDENTIFICATION THROUGH TRIBAL AFFILIATION OR OTHER~~  
16 ~~SUITABLE AUTHORITY IN THE COMMUNITY.~~

17  
18 ~~———— (U) OWNED.~~

19  
20 ~~———— A OWNED ≡, FOR PURPOSES OF DETERMINING WHETHER A BUSINESS IS A MINORITY~~  
21 ~~BUSINESS ENTERPRISE OR WOMEN'S BUSINESS ENTERPRISE, MEANS THAT:~~

22  
23 ~~———— (1) THE MINORITY GROUP MEMBER OR FEMALE OWNER, AS THE CONTEXT REQUIRES,~~  
24 ~~POSSESSES AN OWNERSHIP INTEREST OF AT LEAST 51% OF THE BUSINESS;~~

25  
26 ~~———— (2) THIS OWNERSHIP IS REAL AND CONTINUING AND GOES BEYOND THE MERE INDICIA~~  
27 ~~OF OWNERSHIP REFLECTED IN THE OWNERSHIP DOCUMENTS; AND~~

28  
29 ~~———— (3) THE MINORITY GROUP MEMBER OR WOMAN OWNER ENJOYS THE CUSTOMARY~~  
30 ~~INCIDENTS OF OWNERSHIP AND SHARES IN THE RISKS AND PROFITS COMMENSURATE~~  
31 ~~WITH HIS OR HER OWNERSHIP INTERESTS, AS DEMONSTRATED BY AN EXAMINATION~~  
32 ~~OF THE SUBSTANCE, RATHER THAN THE FORM OF OWNERSHIP ARRANGEMENTS.~~

33  
34 ~~———— (V) PUBLIC WORKS.~~

35  
36 ~~———— A PUBLIC WORKS ≡ MEANS THE CONSTRUCTION, REPAIR, RENOVATION, OR MAINTENANCE~~  
37 ~~OF ANY PROPERTY OWNED BY THE CITY OF BALTIMORE OR FINANCED, IN WHOLE OR IN~~  
38 ~~PART, BY THE CITY OF BALTIMORE.~~

39  
40 ~~———— (W) PURCHASING.~~

41  
42 ~~———— A PURCHASING ≡ MEANS THE BUYING, RENTING, LEASING, OR OTHERWISE OBTAINING OR~~  
43 ~~ACQUIRING ANY SUPPLIES, MATERIALS, EQUIPMENT, OR SERVICES.~~

44  
45 ~~———— (X) SEGMENTATION.~~

1  
2 ~~— A SEGMENTATION ≡ MEANS THE SUBDIVISION OF A CONTRACT TO PROVIDE MBES, WBES,~~  
3 ~~AND SBEs WITH A REASONABLE CONTRACTING OPPORTUNITY.~~

4  
5 ~~— (Y) SMALL BUSINESS ENTERPRISE (SBE):~~

6  
7 ~~— A SMALL BUSINESS ENTERPRISE ≡ OR A SBE ≡ MEANS A BUSINESS ENTERPRISE THAT:~~

8  
9 ~~— (1) IS AN INDEPENDENT AND CONTINUING ENTERPRISE FOR PROFIT;~~

10  
11 ~~— (2) PERFORMS A COMMERCIALY USEFUL FUNCTION;~~

12  
13 ~~— (3) MEETS THE SIZE AND INCOME CRITERIA ESTABLISHED ANNUALLY BY THE CITY; AND~~

14  
15 ~~— (4) IS LOCATED IN THE BALTIMORE CITY MARKET AREA.~~

16  
17 ~~— (Z) SMALL LOCAL BUSINESS ENTERPRISE (SLBE):~~

18  
19 ~~— A SMALL LOCAL BUSINESS ENTERPRISE ≡ OF A SLBE ≡ MEANS A BUSINESS ENTERPRISE~~  
20 ~~THAT:~~

21  
22 ~~— (1) IS AN INDEPENDENT AND CONTINUING ENTERPRISE FOR PROFIT;~~

23  
24 ~~— (2) PERFORMS A COMMERCIALY USEFUL FUNCTION;~~

25  
26 ~~— (3) MEETS THE SIZE AND INCOME CRITERIA ESTABLISHED ANNUALLY BY THE CITY;~~  
27 ~~— AND~~

28  
29 ~~— (2) IS LOCATED WITHIN THE LIMITS OF BALTIMORE CITY.~~

30  
31 ~~— (AA) MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE (MSBOO):~~

32  
33 ~~— A MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE ≡ OR AMSBOO ≡ MEANS THE~~  
34 ~~SECTION IN THE DEPARTMENT OF LAW THAT IS RESPONSIBLE FOR THE OVERALL~~  
35 ~~ADMINISTRATION OF THIS SUBTITLE.~~

36  
37 ~~— (BB) SOLE PROPRIETORSHIP:~~

38  
39 ~~— A SOLE PROPRIETORSHIP ≡ MEANS A BUSINESS ENTERPRISE THAT IS 100% OWNED,~~  
40 ~~OPERATED, AND CONTROLLED BY 1 PERSON.~~

41  
42 ~~— (CC) SUBCONTRACTOR:~~

43  
44 ~~— A SUBCONTRACTOR ≡ MEANS A BUSINESS ENTERPRISE THAT HAS A DIRECT CONTRACT WITH~~  
45 ~~A CONTRACTOR FOR THE PERFORMANCE OF A PART OF THE WORK ON A CONTRACT.~~

1  
2 ~~(DD) SUPPLIER:~~

3  
4 ~~A SUPPLIER MEANS A BUSINESS ENTERPRISE THAT:~~

5  
6 ~~(1) FURNISHES NEEDED ITEMS TO A CONTRACTOR;~~

7  
8 ~~(2) PERFORMS A COMMERCIALY USEFUL FUNCTION IN THE SUPPLY PROCESS; AND~~

9  
10 ~~(3) EITHER:~~

11  
12 ~~(1) IS INVOLVED IN THE MANUFACTURE OR DISTRIBUTION OF THE SUPPLIES OR~~  
13 ~~MATERIALS; OR~~

14  
15 ~~(2) OTHERWISE WAREHOUSES AND SHIPS THE SUPPLIES.~~

16  
17 ~~(EE) WOMEN'S BUSINESS ENTERPRISE (WBE):~~

18  
19 ~~A WOMEN'S BUSINESS ENTERPRISE OR A WBE MEANS A BUSINESS ENTERPRISE:~~

20  
21 ~~(1) THAT IS OWNED, OPERATED, AND CONTROLLED BY 1 OR MORE NON-HISPANIC,~~  
22 ~~WHITE WOMEN WHO HAVE 51% OWNERSHIP;~~

23  
24 ~~(2) IN WHICH THE WOMEN HAVE OPERATIONAL AND MANAGERIAL CONTROL, INTEREST~~  
25 ~~IN CAPITAL, AND EARNINGS COMMENSURATE WITH THEIR PERCENTAGE OF~~  
26 ~~OWNERSHIP; AND~~

27  
28 ~~(3) THAT IS DOING BUSINESS WITHIN THE BALTIMORE CITY MARKET AREA.~~

29  
30 ~~**28-3. PROGRAM GOALS:**~~

31  
32 ~~(A) ANNUAL PARTICIPATION GOALS:~~

33  
34 ~~(1) THE BOARD OF ESTIMATES SHALL, ON AN ANNUAL BASIS, ESTABLISH PARTICIPATION~~  
35 ~~GOALS FOR SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND~~  
36 ~~WOMEN'S BUSINESS ENTERPRISES IN EACH AREA OF CONTRACTING AND~~  
37 ~~PROCUREMENT.~~

38  
39 ~~(2) THE ANNUAL PARTICIPATION GOALS SHALL BE ESTABLISHED BASED ON, BUT NOT~~  
40 ~~LIMITED TO:~~

41  
42 ~~(i) THE PRESENT AVAILABILITY OF QUALIFIED SBES, MBES, AND WBES;~~

43  
44 ~~(ii) THE UTILIZATION OF QUALIFIED SBES, MBES, AND WBES ON PAST CONTRACTS~~  
45 ~~AWARDED BY THE CITY;~~

1  
2  
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~~(III) A FORECAST OF ELIGIBLE CONTRACTS TO BE AWARDED WITHIN THE FISCAL YEAR; AND~~

~~(IV) REVIEW AND ANALYSIS OF THE REPORTS GENERATED BY THE MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE IN ACCORDANCE WITH THIS SUBTITLE.~~

~~(B) FLEXIBILITY OF GOALS:~~

~~(1) ANNUAL PARTICIPATION GOALS ARE NOT AND MAY NOT BE QUOTAS.~~

~~(2) ON INDIVIDUAL CONTRACTS OR PROJECTS, ANNUAL GOALS MAY BE INAPPLICABLE OR MAY BE ADJUSTED DEPENDING ON:~~

~~(1) THE AVAILABILITY OF QUALIFIED SBES, MBES, AND WBES;~~

~~(2) THE NATURE OF THE PROJECT;~~

~~(3) THE ADVERSE IMPACT ON NON-SBES, -MBES, AND -WBES;~~

~~(4) THE GOOD FAITH EFFORTS OF CONTRACTORS; AND~~

~~(5) OTHER FACTORS, AS DETERMINED BY THE MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE.~~

~~(C) BASIS FOR ANNUAL GOALS:~~

~~(1) THE ANNUAL GOALS SHALL BE DIRECTLY RELATED TO THE AVAILABILITY OF QUALIFIED SBES, MBES, AND WBES AND THE IDENTIFIED DISPARITY IN THE UTILIZATION OF MBES AND WBES.~~

~~(2) THE ANNUAL GOAL FOR A SBES, WBES, OR MBES MAY BE NO HIGHER THAN THE PERCENTAGE OF AVAILABILITY OF SBES, WBES, OR MBES.~~

~~(3) THE ANNUAL GOALS FOR SBES SHALL BE DIRECTLY RELATED TO THE EXTENT OF UTILIZATION OF MBES AND WBES.~~

~~(D) ANNUAL GOALS:~~

~~THE ANNUAL PARTICIPATION GOALS SHALL BE AS FOLLOWS:~~

~~(1) COMMODITIES~~

~~SBE 9%~~

~~AFRICAN AMERICAN MBE 6%~~

1	<del>HISPANIC AMERICAN MBE</del>	<del>1%</del>
2	<del>ASIAN AMERICAN MBE</del>	<del>0%</del>
3	<del>NATIVE AMERICAN MBE</del>	<del>1%</del>
4	<del>WBE</del>	<del>0%</del>

5

6 ~~(2) CONSTRUCTION~~

7

8	<del>SBE</del>	<del>19%</del>
9	<del>AFRICAN AMERICAN MBE</del>	<del>14%</del>
10	<del>HISPANIC AMERICAN MBE</del>	<del>0%</del>
11	<del>ASIAN AMERICAN MBE</del>	<del>0%</del>
12	<del>NATIVE AMERICAN MBE</del>	<del>1%</del>
13	<del>WBE</del>	<del>5%</del>

14

15 ~~(3) ARCHITECTURAL AND ENGINEERING~~

16

17	<del>SBE</del>	<del>24%</del>
18	<del>AFRICAN AMERICAN MBE</del>	<del>1%</del>
19	<del>HISPANIC AMERICAN MBE</del>	<del>1%</del>
20	<del>ASIAN AMERICAN MBE</del>	<del>0%</del>
21	<del>NATIVE AMERICAN MBE</del>	<del>0%</del>
22	<del>WBE</del>	<del>5%</del>

23

24 ~~(4) SERVICES~~

25

26	<del>SBE</del>	<del>17%</del>
27	<del>AFRICAN AMERICAN MBE</del>	<del>0%</del>
28	<del>HISPANIC AMERICAN MBE</del>	<del>1%</del>
29	<del>ASIAN AMERICAN MBE</del>	<del>1%</del>
30	<del>NATIVE AMERICAN MBE</del>	<del>1%</del>
31	<del>WBE</del>	<del>0%</del>

32

33 ~~(E) ANNUAL REVIEW~~

34

35 ~~THE ANNUAL PARTICIPATION GOALS FOR EACH PROCUREMENT AND CONTRACTING AREA~~  
36 ~~SHALL BE IN EFFECT FOR A PERIOD OF 5 YEARS, SUBJECT TO ANNUAL REVIEW TO BE~~  
37 ~~CONDUCTED BY THE MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE.~~

38

39 ~~(F) CONSIDERATION:~~

40

41 ~~THE ANNUAL GOALS WILL BE TAKEN INTO CONSIDERATION WHEN THE MINORITY AND~~  
42 ~~SMALL BUSINESS OPPORTUNITY OFFICE SETS GOALS ON INDIVIDUAL CONTRACTS.~~

43

44 ~~28-4. CONTRACT PARTICIPATION GOALS.~~

45

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~~(A) IN GENERAL.~~

~~(1) THE APPLICABILITY OF ANNUAL PARTICIPATION GOALS TO ANY SPECIFIC CONTRACT SHALL BE EVALUATED BY THE MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE. IF THE ANNUAL GOAL IS NOT APPROPRIATE FOR A SPECIFIC CONTRACT, THE MSBOO SHALL SET AN APPROPRIATE GOAL FOR THE CONTRACT.~~

~~(2) IN DETERMINING THE GOAL ON A CONTRACT-BY-CONTRACT BASIS, THE MSBOO SHALL CONSIDER:~~

~~(i) THE AVAILABILITY IN VARIOUS INDUSTRY CLASSIFICATIONS AND PROFESSIONS OF SBES, MBES, AND WBES THAT ARE QUALIFIED AND WILLING TO PROVIDE GOODS, EXPERTISE, AND SERVICES ON THE PARTICULAR CONTRACT, AS IDENTIFIED IN THE OFFICE OF CONTRACT COMPLIANCE DATABASE;~~

~~(ii) THE LEVEL OF UTILIZATION OF THESE FIRMS IN PAST CONTRACTS AWARDED BY THE CITY;~~

~~(iii) THE CONTRACT SPECIFICATIONS; AND~~

~~(iv) ANY OTHER RELEVANT FACTORS.~~

~~(B) MINIMUM AVAILABILITY.~~

~~FOR A GOAL TO BE APPLICABLE TO A CONTRACT, AT LEAST 2 SBES, MBES, OR WBES MUST BE AVAILABLE FOR THAT GOAL.~~

~~(C) CONSULTATION.~~

~~IN ESTABLISHING GOALS ON EACH CONTRACT, THE MSBOO SHALL CONSULT WITH THE CONTRACTING AGENCY, THE CITY PURCHASING AGENT, OR BOTH.~~

~~(D) PUBLICATION OF GOALS.~~

~~THE CONTRACT GOALS SHALL BE CLEARLY PUBLISHED AS PART OF THE CONTRACT SPECIFICATIONS IN THE NOTIFICATION OF BID OR REQUEST FOR PROPOSALS.~~

~~(E) APPLICABILITY.~~

~~THE CONTRACT GOALS SHALL APPLY TO THE INITIAL CONTRACT AWARD AMOUNTS AND ALL SUBSEQUENT CONTRACT MODIFICATIONS AND CHANGE ORDERS THAT SERVE TO INCREASE THE DOLLAR VALUE OF THE INITIAL CONTRACT TO THE EXTENT THAT THE MODIFICATIONS OR CHANGE ORDERS ARE APPLICABLE TO SBE, MBE, OR WBE PARTICIPATION.~~

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~~(F) ANNUAL REVIEW.~~

~~(1) ANNUALLY, THE MSBOO SHALL REVIEW SBE, MBE, AND WBE PARTICIPATION ON ALL CONTRACTS AND PROCUREMENT TO EVALUATE THE RESULTS OF THIS SUBTITLE.~~

~~(2) THE REPORT SHALL BE SUBMITTED TO THE BOARD OF ESTIMATES.~~

~~**28-5. BALTIMORE CITY MARKET AREA**~~

~~THE BALTIMORE CITY MARKET AREA FOR EACH BUSINESS CATEGORY IS AS FOLLOWS (ALL LOCATIONS BEING MARYLAND EXCEPT AS SPECIFIED):~~

~~(1) CONSTRUCTION CONTRACTS:~~

- ~~————— BALTIMORE CITY~~
- ~~————— BALTIMORE COUNTY~~
- ~~————— HOWARD COUNTY.~~

~~(2) ARCHITECTURAL AND ENGINEERING CONTRACTS:~~

- ~~————— BALTIMORE CITY~~
- ~~————— BALTIMORE COUNTY~~
- ~~————— ANNE ARUNDEL COUNTY.~~

~~(3) SERVICE CONTRACTS:~~

- ~~————— BALTIMORE CITY~~
- ~~————— BALTIMORE COUNTY~~
- ~~————— ANNE ARUNDEL COUNTY.~~

~~(4) COMMODITY CONTRACTS:~~

- ~~————— BALTIMORE CITY~~
- ~~————— BALTIMORE COUNTY~~
- ~~————— ANNE ARUNDEL COUNTY~~
- ~~————— HOWARD COUNTY~~
- ~~————— MONTGOMERY COUNTY~~
- ~~————— PRINCE GEORGE=S COUNTY~~
- ~~————— COOK COUNTY, ILLINOIS~~
- ~~————— MECKLENBURG COUNTY, NORTH CAROLINA~~
- ~~————— ALLEGHENY COUNTY, PENNSYLVANIA~~
- ~~————— PHILADELPHIA, PENNSYLVANIA~~
- ~~————— FULTON COUNTY, GEORGIA~~
- ~~————— HARRIS COUNTY, TEXAS.~~

1  
2 ~~28-6. STANDARDS FOR MEASURING PARTICIPATION.~~

3  
4 ~~(A) IN GENERAL.~~

5  
6 ~~———— SBE, MBE, AND WBE PARTICIPATION MUST BE COUNTED TOWARD MEETING CONTRACT~~  
7 ~~GOALS IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:~~

8  
9 ~~(B) COMMERCIALLY USEFUL FUNCTION.~~

10  
11 ~~———— (1) THE BIDDER MAY COUNT TOWARD THE CONTRACT GOALS ONLY EXPENDITURES TO~~  
12 ~~CERTIFIED BUSINESS ENTERPRISES THAT PERFORM COMMERCIALLY USEFUL FUNCTIONS~~  
13 ~~IN THE EXECUTION OF THE CONTRACT.~~

14  
15 ~~———— (2) TO DETERMINE WHETHER A CERTIFIED BUSINESS ENTERPRISE IS PERFORMING A~~  
16 ~~COMMERCIALLY USEFUL FUNCTION, THE CITY MUST EVALUATE THE AMOUNT OF WORK~~  
17 ~~SUBCONTRACTED, INDUSTRY PRACTICES, AND OTHER RELEVANT FACTORS.~~

18  
19 ~~(C) JOINT VENTURES.~~

20  
21 ~~———— (1) A BIDDER MAY COUNT TOWARD THE CONTRACT GOAL THE PORTION OF ITS~~  
22 ~~EXPENDITURE TO A JOINT VENTURE THAT IS EQUAL TO THE PERCENTAGE OF CERTIFIED~~  
23 ~~BUSINESS ENTERPRISES PARTICIPATION IN THE JOINT VENTURE.~~

24  
25 ~~———— (2) THE SBE, WBE, OR MBE MEMBER OF THE JOINT VENTURE MUST HAVE AN INTEREST IN~~  
26 ~~THE CONTROL, MANAGEMENT, AND OPERATION OF THE JOINT VENTURE~~  
27 ~~COMMENSURATE WITH ITS PERCENTAGE OF OWNERSHIP.~~

28  
29 ~~———— (3) THE CERTIFIED BUSINESS ENTERPRISE THAT IS A MEMBER OF THE JOINT VENTURE MUST~~  
30 ~~BE RESPONSIBLE FOR A CLEARLY DEFINED PORTION OF THE WORK TO BE PERFORMED,~~  
31 ~~EQUAL TO ITS SHARE IN THE OWNERSHIP, CONTROL, AND MANAGEMENT OF THE JOINT~~  
32 ~~VENTURE.~~

33  
34 ~~(D) SBE, MBE, OR WBE MANUFACTURERS.~~

35  
36 ~~———— A BIDDER MAY COUNT TOWARDS THE CONTRACT GOAL ITS ENTIRE EXPENDITURE TO A~~  
37 ~~CERTIFIED BUSINESS ENTERPRISE MANUFACTURER.~~

38  
39 ~~(E) SBE, MBE, OR WBE SUPPLIERS.~~

40  
41 ~~———— (1) IF A BIDDER USES 1 OR MORE SUPPLIERS TO SATISFY A CONTRACT GOAL, IN WHOLE OR~~  
42 ~~IN PART, THE CERTIFIED BUSINESS ENTERPRISE SUPPLIER PARTICIPATION MAY BE~~  
43 ~~CREDITED TOWARDS THE APPLICABLE GOAL AS PROVIDED IN THIS SUBSECTION.~~

44  
45 ~~———— (2) A BIDDER MAY COUNT 100% OF ITS EXPENDITURE TO A CERTIFIED BUSINESS~~



1 ENTERPRISE SUPPLIER WHO MANUFACTURES THE GOODS SUPPLIED.

2  
3 ~~———— (3) A BIDDER MAY COUNT 100% OF ITS EXPENDITURE TO A CERTIFIED BUSINESS~~  
4 ~~ENTERPRISE SUPPLIER WHO IS A WHOLESALER WAREHOUSING THE GOODS SUPPLIED OR~~  
5 ~~WHO IS A MANUFACTURER'S REPRESENTATIVE, BUT ONLY 25 % OF THE APPLICABLE~~  
6 ~~CONTRACT GOAL MAY BE ATTAINED BY EXPENDITURES TO CERTIFIED BUSINESS~~  
7 ~~ENTERPRISES THAT ARE NON-MANUFACTURING SUPPLIERS.~~

8  
9 ~~———— (4) FOR CONTRACTS WHERE AN EXTRAORDINARILY LARGE PROPORTION OF THE CONTRACT~~  
10 ~~PRICE IS FOR EQUIPMENT OR SUPPLIES:~~

11  
12 ~~———— (i) A LOWER PROJECT GOAL MAY BE SET THAN OTHERWISE WOULD BE REQUIRED;~~

13  
14 ~~———— (ii) THE 25% LIMIT FOR SUPPLIERS MAY BE INCREASED; OR~~

15  
16 ~~———— (iii) A COMBINATION OF THESE TWO METHODS MAY BE USED.~~

17  
18 ~~— (F) *SBE, MBE, OR WBE INSURANCE COMPANIES OR TRAVEL AGENTS.*~~

19  
20 ~~———— (1) A BIDDER MAY COUNT TOWARDS THE CONTRACT GOALS ONLY 15% OF ITS~~  
21 ~~EXPENDITURE TO A CERTIFIED BUSINESS ENTERPRISE INSURANCE COMPANY OR TRAVEL~~  
22 ~~AGENT.~~

23  
24 ~~———— (2) THIS PARTICIPATION MAY BE CREDITED ONLY IF THE INSURANCE COMPANY OR TRAVEL~~  
25 ~~AGENT PERFORMS A COMMERCIALY USEFUL FUNCTION IN THE EXECUTION OF THE~~  
26 ~~CONTRACT.~~

27  
28 ~~— (G) *SBE, MBE, OR WBE FINANCIAL INSTITUTIONS.*~~

29  
30 ~~———— (1) A BIDDER MAY COUNT TOWARDS THE CONTRACT GOALS ONLY THE FEES CHARGED AND~~  
31 ~~EARNED BY A CERTIFIED BUSINESS ENTERPRISE FINANCIAL INSTITUTION.~~

32  
33 ~~———— (2) THIS PARTICIPATION MAY BE CREDITED ONLY IF THE FINANCIAL INSTITUTION PERFORMS~~  
34 ~~A COMMERCIALY USEFUL FUNCTION IN THE EXECUTION OF THE CONTRACT.~~

35  
36 ~~— (H) *SUBCONTRACTING BY SBE, MBE, OR WBE*~~

37  
38 ~~———— (1) A BIDDER MAY NOT COUNT TOWARD ITS CONTRACT GOAL ANY AGREEMENTS WITH~~  
39 ~~CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTORS WHO INTEND TO SUBCONTRACT~~  
40 ~~MORE THAN 10% OF THE DOLLAR AMOUNT OF THE SERVICES TO BE PERFORMED UNDER~~  
41 ~~THE AGREEMENT BETWEEN THE BIDDER AND THE CERTIFIED BUSINESS ENTERPRISE.~~

42  
43 ~~———— (2) THIS SUBSECTION DOES NOT APPLY TO A SUBCONTRACTOR'S CONTRACTS FOR THE~~  
44 ~~PURCHASE OF MATERIALS, EQUIPMENT, OR SUPPLIES AS AN INCIDENT TO THE~~  
45 ~~PERFORMANCE OF SERVICES UNDER ITS CONTRACT.~~

1  
2 ~~28-7. NON-AFFILIATION:~~

3  
4 ~~(A) AFFILIATION DISALLOWED:~~

5  
6 ~~A BIDDER IS PRECLUDED FROM USING A CERTIFIED BUSINESS ENTERPRISE TO MEET A~~  
7 ~~CONTRACT GOAL IF THE BIDDER HAS A FINANCIAL INTEREST IN, HAS AN INTEREST IN THE~~  
8 ~~OWNERSHIP OR CONTROL OF, OR IS SIGNIFICANTLY INVOLVED IN THE OPERATION OF THE~~  
9 ~~CERTIFIED BUSINESS ENTERPRISE.~~

10  
11 ~~(B) MSBOO CRITERIA TO BE FOLLOWED:~~

12  
13 ~~IN ORDER FOR A BIDDER TO USE A CERTIFIED BUSINESS ENTERPRISE TO MEET A CONTRACT~~  
14 ~~GOAL, THE NON-AFFILIATION CRITERIA ESTABLISHED BY THE MINORITY AND SMALL~~  
15 ~~BUSINESS OPPORTUNITY OFFICE MUST BE MET.~~

16  
17 ~~28-8. SLBE PROGRAM GOALS, CRITERIA, ETC.~~

18  
19 ~~(A) ESTABLISHMENT OF GOALS:~~

20  
21 ~~(1) WITH THE ADVICE OF THE MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE AND~~  
22 ~~CITY CONTRACTING AGENCIES AND SUBJECT TO THE APPROVAL OF THE BOARD OF~~  
23 ~~ESTIMATES, THE MAYOR MAY ESTABLISH ANNUAL GOALS FOR THE UTILIZATION OF~~  
24 ~~SMALL LOCAL BUSINESS ENTERPRISES.~~

25  
26 ~~(2) THESE GOALS:~~

27  
28 ~~(i) SHALL BE EXPRESSED IN TERMS OF A PERCENTAGE OF THE TOTAL DOLLAR~~  
29 ~~VALUE OF ALL CONTRACTS TO BE AWARDED BY THE CITY DURING A FISCAL~~  
30 ~~YEAR; AND~~

31  
32 ~~(ii) MAY BE ESTABLISHED SEPARATELY FOR CATEGORIES OF CONTRACTING, SUCH~~  
33 ~~AS CONSTRUCTION, COMMODITIES, ARCHITECTURAL AND ENGINEERING, AND~~  
34 ~~SERVICE CONTRACTS, AS WELL AS ANY OTHER CATEGORIES THAT THE MAYOR~~  
35 ~~DETERMINES APPROPRIATE.~~

36  
37 ~~(B) TERMS:~~

38  
39 ~~(1) THE MAYOR MAY ESTABLISH AN ANNUAL PERCENTAGE GOAL FOR SLBE~~  
40 ~~PARTICIPATION.~~

41  
42 ~~(2) THE MAYOR MAY ESTABLISH A THRESHOLD DOLLAR AMOUNT, OVER WHICH A~~  
43 ~~CONTRACT GOAL FOR SLBE PARTICIPATION WILL APPLY.~~

44  
45 ~~(C) CRITERIA:~~

1  
2 ~~IN DETERMINING WHETHER TO SET SLBE PARTICIPATION GOALS, THE MAYOR MUST~~  
3 ~~CONSIDER:~~

4  
5 ~~(1) THE AVAILABILITY OF CERTIFIED SLBES IN VARIOUS INDUSTRY CLASSIFICATIONS;~~  
6 ~~AND~~

7  
8 ~~(2) ANY OTHER RELEVANT FACTORS;~~

9  
10 ~~(D) NON-AFFILIATION:~~

11  
12 ~~(1) A BIDDER IS PRECLUDED FROM USING AN SLBE TO MEET AN SLBE GOAL IF THE~~  
13 ~~BIDDER HAS A FINANCIAL INTEREST IN, HAS AN INTEREST IN THE OWNERSHIP OR~~  
14 ~~CONTROL OF, OR IS SIGNIFICANTLY INVOLVED IN THE OPERATION OF THE SLBE~~

15  
16 ~~(1) IN ORDER FOR A BIDDER TO USE AN SLBE TO MEET AN SLBE GOAL, THE NON-~~  
17 ~~AFFILIATION CRITERIA ESTABLISHED BY THE MINORITY AND SMALL BUSINESS~~  
18 ~~OPPORTUNITY OFFICE MUST BE MET.~~

19  
20 ~~**28-9. UTILIZATION REQUIREMENTS.**~~

21  
22 ~~(A) CONTRACTS BETWEEN \$1,000 - \$4,999.~~

23  
24 ~~(1) THE FOLLOWING STANDARDS AND PROCEDURES APPLY TO EVERY CONTRACT FOR~~  
25 ~~WHICH THE ESTIMATED COST IS FROM \$1,000 TO \$4,999.~~

26  
27 ~~(2) THE CONTRACTING AGENCY MUST SOLICIT BIDS FROM CERTIFIED BUSINESS~~  
28 ~~ENTERPRISES THAT ARE CERTIFIED TO SUPPLY THE REQUIRED MATERIALS, EQUIPMENT,~~  
29 ~~SUPPLIES, OR SERVICES.~~

30  
31 ~~(3) THE MSBOO MUST PROVIDE THE CONTRACTING AGENCY WITH A LIST OF CERTIFIED~~  
32 ~~BUSINESS ENTERPRISES QUALIFIED TO PROVIDE EACH OF THE COMMODITIES THAT THE~~  
33 ~~CONTRACTING AGENCY INDICATES ARE REQUIRED BY THE CITY.~~

34  
35 ~~(4) IF NO QUALIFIED CERTIFIED BUSINESS ENTERPRISE IS AVAILABLE:~~

36  
37 ~~(i) THE CONTRACTING AGENCY MUST SO NOTIFY THE MSBOO BEFORE THE~~  
38 ~~SOLICITATION OF BIDS; AND~~

39  
40 ~~(ii) THE MSBOO MUST ATTEMPT TO IDENTIFY QUALIFIED BUSINESSES AND, IF~~  
41 ~~SUCCESSFUL, NOTIFY THE CONTRACTING AGENCY OF THEIR AVAILABILITY.~~

42  
43 ~~(5) THE CONTRACTING AGENCY MUST PROVIDE CERTIFIED BUSINESS ENTERPRISES EVERY~~  
44 ~~PRACTICAL OPPORTUNITY TO SUBMIT BIDS.~~

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1  
2 ~~(B) CONTRACTS BETWEEN \$5,000 - \$25,000.~~

3  
4 ~~(1) THE FOLLOWING PROCEDURES APPLY TO EVERY CONTRACT FOR WHICH THE ESTIMATED~~  
5 ~~COST IS BETWEEN \$5,000 AND \$25,000.~~

6  
7 ~~(2) BEFORE THE SOLICITATION OF BIDS OR PROPOSALS FOR THE CONTRACT:~~

8  
9 ~~(i) THE CONTRACTING AGENCY MUST FURNISH THE MSBOO WITH AN~~  
10 ~~INFORMATIONAL COPY OF ALL BID CONDITIONS AND REQUESTS FOR PROPOSALS;~~  
11 ~~AND~~

12  
13 ~~(ii) THE MSBOO MAY RECOMMEND TO THE CONTRACTING AGENCY CERTIFIED~~  
14 ~~BUSINESS ENTERPRISES THAT CAN BE SOLICITED DIRECTLY TO SUBMIT BIDS.~~

15  
16 ~~(C) CONTRACTS EXCEEDING \$25,000.~~

17  
18 ~~(1) THE FOLLOWING PROCEDURES APPLY TO EVERY CONTRACT FOR WHICH THE ESTIMATED~~  
19 ~~COST EXCEEDS \$25,000.~~

20  
21 ~~(2) IN ADDITION TO ANY OTHER APPLICABLE REQUIREMENTS, THE BID CONDITIONS AND~~  
22 ~~REQUESTS FOR PROPOSALS MUST REQUIRE BIDDERS TO INCLUDE IN THEIR BID OR~~  
23 ~~PROPOSAL A CERTIFIED BUSINESS ENTERPRISE UTILIZATION AFFIDAVIT IN WHICH THE~~  
24 ~~BIDDER MAKES A COMMITMENT TO UTILIZE CERTIFIED BUSINESS ENTERPRISES IN A~~  
25 ~~PERCENTAGE THAT EQUALS OR EXCEEDS THE APPLICABLE CONTRACT GOAL. ANY BID~~  
26 ~~OR PROPOSAL THAT DOES NOT INCLUDE THE UTILIZATION AFFIDAVIT IS~~  
27 ~~NONRESPONSIVE.~~

28  
29 ~~(3) (i) WITHIN 7 DAYS AFTER THE BIDS ARE DUE, BIDDERS MUST SUBMIT TO THE CITY~~  
30 ~~SPECIFIED DOCUMENTATION, INCLUDING EXECUTED STATEMENTS OF INTENT, THAT~~  
31 ~~IDENTIFY THE PARTICULAR CERTIFIED BUSINESS ENTERPRISES AND OTHER~~  
32 ~~SUBCONTRACTORS TO BE UTILIZED IN PERFORMING THE CONTRACT, SPECIFYING FOR~~  
33 ~~EACH THE DOLLAR VALUE OF THE PARTICIPATION, THE SCOPE OF WORK TO BE~~  
34 ~~PERFORMED, AND ANY OTHER INFORMATION REQUIRED TO DETERMINE WHETHER~~  
35 ~~THE CONTRACT GOALS HAVE BEEN SATISFIED.~~

36  
37 ~~(ii) DURING THE 7 DAY PERIOD AFTER BIDS HAVE BEEN SUBMITTED AND BEFORE~~  
38 ~~SUBMISSION OF THE REQUIRED INFORMATION ON SUBCONTRACTOR PARTICIPATION;~~  
39 ~~THE BIDS MUST REMAIN SEALED. THEY MAY BE OPENED ONLY AFTER THE 7-DAY~~  
40 ~~PERIOD HAS EXPIRED. ANY BID OR PROPOSAL THAT IS NOT SUPPLEMENTED WITHIN~~  
41 ~~THE 7-DAY PERIOD BY THE REQUIRED INFORMATION ON SUBCONTRACTOR~~  
42 ~~PARTICIPATION IS NONRESPONSIVE.~~

43  
44 ~~(4) DURING THE TERM OF THE CONTRACT, ANY UNJUSTIFIED FAILURE TO COMPLY WITH THE~~  
45 ~~LEVELS OF CERTIFIED BUSINESS ENTERPRISE PARTICIPATION IDENTIFIED IN THE BID OR~~

1 PROPOSAL IS A MATERIAL BREACH OF CONTRACT.

2  
3 ~~(D) LEASES AND CONCESSIONS:~~

4  
5 ~~(1) THE FOLLOWING PROCEDURES APPLY TO EVERY LEASE IN WHICH THE CITY IS THE~~  
6 ~~LESSEE AND EVERY CONTRACT FOR A CONCESSION.~~

7  
8 ~~(2) CITY AGENCIES MUST SOLICIT PROPOSALS FROM MINORITY, WOMEN=S, AND SMALL~~  
9 ~~BUSINESS ENTERPRISES QUALIFIED TO ENTER INTO LEASES OR CONCESSION CONTRACTS.~~

10  
11 ~~(3) IF, AFTER INVESTIGATION, A CONTRACTING AGENCY DETERMINES THAT NO QUALIFIED~~  
12 ~~CERTIFIED BUSINESS ENTERPRISE IS AVAILABLE:~~

13  
14 ~~(i) THE CONTRACTING AGENCY MUST SO NOTIFY THE MSBOO BEFORE SIGNING A~~  
15 ~~LEASE OR AWARDED A CONCESSION CONTRACT, UNLESS THE MSBOO HAS~~  
16 ~~WAIVED NOTIFICATION BASED ON THE KNOWN UNAVAILABILITY OF QUALIFIED~~  
17 ~~BUSINESSES TO PERFORM A PARTICULAR CONTRACT; AND~~

18  
19 ~~(ii) THE MSBOO MAY ATTEMPT TO IDENTIFY QUALIFIED CERTIFIED BUSINESS~~  
20 ~~ENTERPRISES AND, IF SUCCESSFUL, MUST NOTIFY THE CONTRACTING AGENCY~~  
21 ~~OF THEIR AVAILABILITY.~~

22  
23 ~~(4) THE CONTRACTING AGENCY MUST PROVIDE THE MINORITY, WOMEN=S, AND SMALL~~  
24 ~~BUSINESS ENTERPRISES EVERY PRACTICAL OPPORTUNITY TO SUBMIT BIDS OR~~  
25 ~~PROPOSALS.~~

26  
27 ~~(5) ALL REQUESTS FOR CONCESSION PROPOSALS MUST REQUIRE CONCESSIONAIRES TO~~  
28 ~~MAKE EVERY GOOD FAITH EFFORT TO UTILIZE MINORITY, WOMEN=S, AND SMALL~~  
29 ~~BUSINESS ENTERPRISES AS SUBCONTRACTORS AND SUPPLIERS, WHENEVER POSSIBLE, IF~~  
30 ~~SUBCONTRACTORS ARE USED. CONCESSION PROPOSERS MUST BE REQUIRED TO SUBMIT~~  
31 ~~THEIR PROJECTED UTILIZATION OF MINORITY, WOMEN=S, AND SMALL BUSINESS~~  
32 ~~ENTERPRISES ALONG WITH A DESCRIPTION OF THE EFFORTS MADE TO UTILIZE THOSE~~  
33 ~~BUSINESSES.~~

34  
35 ~~(E) OTHER CONTRACTS:~~

36  
37 ~~(1) ALL CITY AGENCIES, COMMISSIONS, AND BOARDS, IN THE DEPOSIT OF FUNDS AND~~  
38 ~~PERFORMANCE OF THEIR OTHER OFFICIAL DUTIES, MUST MAKE EVERY GOOD FAITH~~  
39 ~~EFFORT TO EQUITABLY UTILIZE THE SERVICES OF MINORITY, WOMEN=S, AND SMALL~~  
40 ~~BUSINESS ENTERPRISES.~~

41  
42 ~~(2) THE SERVICES TO WHICH THIS SUBSECTION APPLIES INCLUDE, BUT ARE NOT LIMITED TO:~~

43  
44 ~~(i) THE FINANCIAL SERVICES OF BANKS, SAVINGS AND LOAN COMPANIES;~~  
45 ~~INSURANCE COMPANIES, AND OTHER COMMERCIAL FINANCIAL INSTITUTIONS;~~

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~~(II) ARRANGEMENTS FOR TRAVEL AND ACCOMMODATIONS WHEN TRAVELING ON OFFICIAL CITY BUSINESS; AND~~

~~(III) LEGAL SERVICES;~~

~~(3) ALL CITY AGENCIES MUST SUBMIT TO THE MSBOO, ON AN ANNUAL BASIS, A WRITTEN REPORT ON THE EFFORTS MADE UNDER THIS SUBSECTION;~~

~~(4) THE CITY FINANCE DEPARTMENT, CITY COMPTROLLER, AND RETIREMENT BOARDS MUST REPORT ANNUALLY TO THE MAYOR AND CITY COUNCIL ON THEIR UTILIZATION OF FINANCIAL INSTITUTIONS THAT ARE MINORITY, WOMEN=S, OR SMALL BUSINESS ENTERPRISES;~~

~~(F) GENERAL.~~

~~(1) IN ADDITION TO ANY OTHER APPLICABLE REQUIREMENTS, THE FOLLOWING REQUIREMENTS APPLY TO ALL CONTRACTS AWARDED BY THE CITY;~~

~~(2) BID CONDITIONS, REQUESTS FOR PROPOSALS, AND ALL OTHER SPECIFICATIONS FOR CONTRACTS AWARDED BY THE CITY MUST REQUIRE THAT WHERE A CONTRACT GOAL IS APPLICABLE, THE BIDDER OR PROPOSER, BEFORE THE OPENING OF BIDS OR PROPOSALS, MUST MAKE EVERY EFFORT TO MEET THE CONTRACT GOAL. THESE SPECIFICATIONS MUST REQUIRE THE BIDDER TO KEEP RECORDS OF ITS EFFORTS, ADEQUATE TO PERMIT A DETERMINATION OF COMPLIANCE WITH THE SPECIFICATIONS;~~

~~(3) EACH CONTRACT MUST INCORPORATE THIS SUBTITLE BY REFERENCE AND PROVIDE THAT THE FAILURE OF ANY BIDDER, CONTRACTOR, OR SUBCONTRACTOR TO COMPLY WITH THIS SUBTITLE IS A MATERIAL BREACH OF CONTRACT;~~

~~(4) EACH CONTRACT MUST REQUIRE THAT, DURING ITS TERM, THE CONTRACTOR WILL:~~

~~(I) FULFILL THE CERTIFIED BUSINESS ENTERPRISE PARTICIPATION COMMITMENTS SUBMITTED WITH THE BIDS OR PROPOSALS;~~

~~(II) CONTINUE TO MAKE EVERY EFFORT TO UTILIZE SMALL, MINORITY, AND WOMEN=S BUSINESS ENTERPRISES; AND~~

~~(III) MAINTAIN RECORDS REASONABLY NECESSARY FOR MONITORING COMPLIANCE WITH THIS SUBTITLE;~~

~~(5) WHENEVER CONTRACT ALTERNATIVES, AMENDMENTS, OR EXTRA WORK ORDERS, WHETHER MADE INDIVIDUALLY OR IN THE AGGREGATE, INCREASE THE TOTAL VALUE OF THE CONTRACT BY MORE THAN 10% OF THE ORIGINAL DOLLAR VALUE, THE CONTRACTOR MUST COMPLY WITH THE PROVISIONS OF THIS SUBTITLE WITH RESPECT TO~~

1 THE ALTERNATE, AMENDMENT, OR EXTRA WORK ORDER.  
2

3 ~~28-10. THIRD PARTY CONTRACTS.~~  
4

5 ~~EVERY CONTRACT OR OTHER AGREEMENT BETWEEN THE CITY OF BALTIMORE AND ANY~~  
6 ~~GOVERNMENTAL AGENCY, QUASI-GOVERNMENTAL AGENCY, CORPORATION, OR CONTRACTOR,~~  
7 ~~UNDER WHICH THE AGENCY, CORPORATION, OR CONTRACTOR RECEIVES ANY FISCAL~~  
8 ~~ASSISTANCE FROM OR THROUGH THE CITY FOR THE PURPOSE OF CONTRACTING WITH~~  
9 ~~BUSINESSES TO PERFORM REAL ESTATE DEVELOPMENT, RENOVATION, MAINTENANCE, OR~~  
10 ~~OTHER SERVICES MUST REQUIRE THE AGENCY, CORPORATION, OR CONTRACTOR TO COMPLY~~  
11 ~~WITH THIS SUBTITLE IN AWARDING AND ADMINISTERING THAT CONTRACT OR AGREEMENT.~~  
12

13 ~~28-11. WAIVERS OF CONTRACT GOALS.~~  
14

15 ~~(A) PRE-AWARD REQUEST BY BIDDER.~~  
16

17 ~~(1) IF A BIDDER IS UNABLE TO COMPLY WITH THE CONTRACT GOAL, THE BIDDER MAY~~  
18 ~~SUBMIT A REQUEST FOR A WAIVER AT THE TIME OF BID OPENING.~~  
19

20 ~~(2) THE REQUEST FOR A WAIVER MUST INCLUDE DOCUMENTATION THAT DEMONSTRATES A~~  
21 ~~GOOD FAITH EFFORT TO COMPLY WITH THE GOAL REQUIREMENTS.~~  
22

23 ~~(B) POST-AWARD REQUEST BY CONTRACTOR.~~  
24

25 ~~(1) IF, AFTER AWARD OF A CONTRACT, THE CONTRACTOR IS UNABLE TO MEET ANY~~  
26 ~~CONTRACT GOAL BY UTILIZING THE CERTIFIED BUSINESS ENTERPRISES SPECIFIED AT BID~~  
27 ~~OPENING, THE CONTRACTOR MUST SEEK A SUBSTITUTE CERTIFIED BUSINESS ENTERPRISE~~  
28 ~~TO FULFILL ITS COMMITMENT. THE SUBSTITUTION MUST BE APPROVED BY THE~~  
29 ~~MSBOO.~~  
30

31 ~~(2) IF, AFER REASONABLE GOOD FAITH EFFORTS, THE CONTRACTOR IS UNABLE TO FIND A~~  
32 ~~SUBSTITUTE, A POST-AWARD WAIVER MAY BE REQUESTED.~~  
33

34 ~~(3) THE REQUEST MUST DOCUMENT THE REASONS FOR THE CONTRACTOR'S INABILITY TO~~  
35 ~~MEET THE CONTRACT GOAL.~~  
36

37 ~~(C) PRE-SOLICITATION REQUEST BY CONTRACTING AGENCY.~~  
38

39 ~~(1) A CONTRACTING AGENCY MAY REQUEST THAT THE MSBOO WAIVE OR REDUCE THE~~  
40 ~~CONTRACT GOALS BY SUBMITTING THE REASONS FOR THE REQUEST IN WRITING BEFORE~~  
41 ~~BIDS OR PROPOSALS ARE SOLICITED.~~  
42

43 ~~(2) THE MSBOO MAY GRANT THE WAIVER OR REDUCTION IF THE MSBOO DETERMINES~~  
44 ~~THAT.~~  
45

~~(I) THE REASONABLE AND NECESSARY REQUIREMENTS OF THE CONTRACT RENDER SUBCONTRACTING OR OTHER PARTICIPATION OF BUSINESSES OTHER THAN THE BIDDER OR PROPOSER INFEASIBLE; OR~~

~~(II) AT LEAST 2 QUALIFIED CERTIFIED BUSINESS ENTERPRISES CAPABLE OF PROVIDING THE GOODS OR SERVICES REQUIRED BY THE CONTRACT ARE UNAVAILABLE IN THE BALTIMORE CITY MARKET AREA DESPITE EVERY FEASIBLE ATTEMPT TO LOCATE THEM.~~

~~(3) ANY REDUCTION IN THE CONTRACT GOAL GRANTED BY THE MSBOO MUST SPECIFY THE AMOUNT TO WHICH THE GOAL HAS BEEN REDUCED.~~

~~(4) WHENEVER THE MSBOO DENIES A REQUEST TO WAIVE OR REDUCE A GOAL, THE CONTRACTING AGENCY MAY APPEAL THAT DENIAL TO THE BOARD OF ESTIMATES, WHOSE DECISION ON THE REQUEST IS FINAL.~~

~~(D) WAIVER BY CONTRACTING AGENCY.~~

~~A CONTRACTING AGENCY MAY WAIVE THE UTILIZATION REQUIREMENTS OF THIS SUBTITLE FOR A SPECIFIC CONTRACT UNDER THE FOLLOWING CIRCUMSTANCES:~~

~~(1) WHENEVER THE CONTRACTING AGENCY FINDS, WITH THE ADVICE OF THE MSBOO, THAT NEEDED GOODS OR SERVICES ARE AVAILABLE ONLY FROM A SOLE SOURCE AND THE PROSPECTIVE CONTRACTOR IS NOT CURRENTLY DISQUALIFIED FROM DOING BUSINESS WITH THE CITY; OR~~

~~(2) IF THE CONTRACTING AGENCY CERTIFIES IN WRITING TO THE MSBOO THAT:~~

~~(I) AN EMERGENCY EXISTS THAT REQUIRES GOODS OR SERVICES TO BE PROVIDED WITH SUCH AN IMMEDIACY THAT IT IS UNABLE TO COMPLY WITH THE REQUIREMENTS OF THIS SUBTITLE; AND~~

~~(II) THE PROSPECTIVE CONTRACTOR WILL MAKE EVERY GOOD FAITH EFFORT TO SUBCONTRACT TO SMALL BUSINESS ENTERPRISES, MINORITY BUSINESS ENTERPRISES, AND WOMEN-S BUSINESS ENTERPRISES IF SUBCONTRACTING IS UTILIZED.~~

~~**28-12. MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE.**~~

~~(A) MSBOO ESTABLISHED.~~

~~THERE IS A MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE IN THE DEPARTMENT OF LAW, TO BE ADMINISTERED AND CONTROLLED BY THE CHIEF OF THE MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE, WHO REPORTS DIRECTLY TO THE CITY SOLICITOR.~~



~~(B) FUNCTION AND DUTIES:~~

~~(1) THE MINORITY AND SMALL BUSINESS OPPORTUNITY OFFICE IS RESPONSIBLE FOR THE OVERALL ADMINISTRATION OF THIS SUBTITLE.~~

~~(2) ITS DUTIES AND RESPONSIBILITIES INCLUDE:~~

~~(I) DEVELOPING AND, WITH THE APPROVAL OF THE BOARD OF ESTIMATES, ADOPTING RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE;~~

~~(II) CERTIFICATION OF SBEs, SLBEs, MBEs, AND WBEs;~~

~~(III) DEVELOPING AND DISTRIBUTING A DIRECTORY OF CERTIFIED BUSINESS ENTERPRISES;~~

~~(IV) PROVIDING INFORMATION AND NEEDED ASSISTANCE TO MBEs, WBEs, SBEs, AND SLBEs TO INCREASE THEIR ABILITY TO COMPETE EFFECTIVELY FOR THE AWARD OF CITY CONTRACTS;~~

~~(V) INVESTIGATING ALLEGED VIOLATIONS OF THIS SUBTITLE AND MAKING WRITTEN RECOMMENDATIONS FOR REMEDIAL ACTION WHEN APPROPRIATE;~~

~~(VI) DEVELOPING AND DISTRIBUTING ALL NECESSARY FORMS, APPLICATIONS, AND DOCUMENTS NECESSARY TO COMPLY WITH THIS SUBTITLE;~~

~~(VII) MAINTAINING STATISTICS ON AND REVIEWING REGULARLY THE PROGRESS OF AGENCIES TOWARDS ACHIEVING THE ANNUAL GOALS FOR THE UTILIZATION OF SMALL, SMALL LOCAL, MINORITY, AND WOMEN'S BUSINESS ENTERPRISES;~~

~~(VIII) RECOMMENDING TO APPROPRIATE CITY OFFICIALS METHODS TO FURTHER THE POLICIES AND GOALS OF THIS SUBTITLE;~~

~~(IX) MONITORING CONTRACTORS THROUGHOUT THE DURATION OF THEIR CONTRACTS TO ENSURE THAT ALL EFFORTS ARE MADE TO COMPLY WITH THIS SUBTITLE; AND~~

~~(X) CERTIFYING COMPLIANCE WITH THIS SUBTITLE BEFORE CONTRACTS ARE SUBMITTED TO THE BOARD OF ESTIMATES FOR AWARD.~~

~~28-13. CONTRACTING AGENCY'S DUTIES AND RESPONSIBILITIES.~~

~~(A) ADHERENCE TO PROCEDURES, ETC.~~

~~EVERY CONTRACTING AGENCY MUST ENSURE THAT REQUESTS FOR BIDS OR PROPOSALS EMANATING FROM THE AGENCY ADHERE TO THE REQUIREMENTS OF THIS SUBTITLE.~~

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~~(B) RESPONSIBILITY FOR ACHIEVING GOALS:~~

~~THE AGENCY HEAD OR DESIGNEE MUST:~~

~~(i) ASSUME PRIMARY RESPONSIBILITY FOR ACHIEVING THE GOALS OF THIS PROGRAM;  
AND~~

~~(ii) ON A CONTINUING BASIS, REVIEW ALL ASPECTS OF THE PROGRAM'S OPERATIONS TO  
ASSURE THAT THE PURPOSE IS BEING ATTAINED.~~

~~(C) REQUIRED ACTIONS:~~

~~(1) EACH CONTRACTING AGENCY MUST TAKE THE FOLLOWING ACTIONS TO ENSURE THAT  
SBES, MBES, AND WBES HAVE MAXIMUM OPPORTUNITY TO PARTICIPATE ON CITY  
CONTRACTS:~~

~~(1) ADVERTISEMENTS FOR BIDS MUST APPEAR IN MINORITY-OWNED MEDIA NO LESS THAN  
10 DAYS BEFORE BIDS ARE DUE FOR SPECIFIC CONTRACTING OPPORTUNITIES.~~

~~(1) A WRITTEN NOTIFICATION MUST BE SENT TO SMALL, MINORITY, AND WOMEN'S  
BUSINESS TRADE ASSOCIATIONS AND CONTRACTOR'S ASSOCIATIONS ABOUT THE  
AVAILABILITIES OF CONTRACTING OPPORTUNITIES NO LESS THAN 10 DAYS BEFORE BIDS  
ARE DUE.~~

~~(1) ALL CONTRACT SOLICITATIONS MUST INCLUDE THE SBE/MBE/WBE POLICY AND ANY  
RELATED MATERIALS REQUIRED BY THE BID DOCUMENTS;~~

~~(1) ALL CONTRACTING OPPORTUNITIES MUST BE EVALUATED IN AN EFFORT TO DIVIDE THE  
TOTAL REQUIREMENTS OF A CONTRACT TO PROVIDE REASONABLE OPPORTUNITIES FOR  
SMALL, MINORITY, AND WOMEN'S BUSINESS ENTERPRISES.~~

~~(1) PROCEDURES MUST BE ESTABLISHED TO ENSURE THAT:~~

~~(i) ALL CONTRACTORS WHO SUBMIT CORRECT INVOICES ARE PAID WITHIN 30 DAYS;  
AND~~

~~(ii) ALL SUBCONTRACTORS ARE PAID WITHIN 7 DAYS AFTER THE CITY PAYS THE  
GENERAL CONTRACTOR.~~

~~(1) GUIDELINES MUST BE ESTABLISHED TO ENSURE THAT A NOTICE TO PROCEED IS NOT  
ISSUED UNTIL THE CONTRACTING AGENCY HAS RECEIVED COPIES OF EXECUTED  
AGREEMENTS FULFILLING THE CONTRACTOR'S SBE, MBE, AND WBE COMMITMENTS  
SPECIFIED IN ITS BID AT TIME OF AWARD.~~

~~(1) ALL REQUIRED STATISTICS AND DOCUMENTATION MUST BE SUBMITTED TO THE MSBOO AS REQUESTED.~~

~~**28-14. BIDDER'S DUTIES AND RESPONSIBILITIES.**~~

~~(A) COMMITMENT.~~

~~(1) TO HAVE ITS BID DECLARED RESPONSIVE, A BIDDER MUST:~~

~~(i) COMMIT IN ITS BID TO UTILIZE CERTIFIED BUSINESS ENTERPRISE IN AN AMOUNT THAT EQUALS OR EXCEEDS THE CONTRACT GOALS (EXCLUSIVE OF RETAIL SALES TAX COLLECTED SEPARATELY BY THE CONTRACTOR FROM THE CITY IN ACCORDANCE WITH THE EXISTING LAWS OF THE STATE OF MARYLAND.); AND~~

~~(ii) COMPLETE THE INFORMATION AND UTILIZATION COMMITMENT FORM AND IDENTIFY IN THE FORM THE BIDDER'S COMMITMENT TO UTILIZE CERTIFIED BUSINESS ENTERPRISES IN AN AMOUNT THAT EQUALS OR EXCEEDS THE CONTRACT GOALS.~~

~~(2) ANY FAILURE TO COMPLETE AND SIGN THE COMMITMENT FORM OR OTHERWISE COMPLY WITH THIS SECTION RENDERS THE BID NONRESPONSIVE.~~

~~(B) BIDDING ON ALTERNATES.~~

~~IN BIDDING ON ALTERNATES, BIDDERS SHOULD BE AWARE THAT THE CONTRACT GOALS MUST BE COMMITTED FOR THE TOTAL DOLLAR AMOUNT OF THE AWARD MADE, WHICH INCLUDES ANY ALTERNATES INCLUDED IN THE BID PROPOSAL.~~

~~(C) VERIFYING CERTIFICATION.~~

~~EACH BIDDER IS RESPONSIBLE FOR VERIFYING THAT ALL SBES, MBES, AND WBEs TO BE USED HAVE BEEN CERTIFIED BY THE MSBOO BEFORE BID OPENING.~~

~~(D) CONTRACT SUPPLEMENTS, CHANGE ORDERS, ETC.~~

~~WHENEVER ADDITIONAL CONTRACT SUPPLEMENTS, EXTRA WORK ORDERS, OR CHANGE ORDERS ARE MADE THAT, WHETHER INDIVIDUALLY OR IN THE AGGREGATE, INCREASE THE TOTAL DOLLAR VALUE OF THE ORIGINAL CONTRACT BY MORE THAN 10%, THE CONTRACTOR MUST INCREASE ITS CERTIFIED BUSINESS UTILIZATION AS APPLICABLE TO INSURE THAT THE AMOUNTS SUBCONTRACTED ARE CONSISTENT WITH THE CONTRACT GOALS.~~

~~(E) MSBOO APPROVAL REQUIRED.~~

~~A BIDDER MAY NOT BE AWARDED A CONTRACT UNLESS THE MSBOO HAS APPROVED THE~~

1 ~~BIDDER'S PLAN TO MEET THE CONTRACT GOALS.~~

2  
3 ~~(F) DOCUMENTATION OF SUBCONTRACTORS.~~

4  
5 ~~(1) IN ITS DOCUMENTATION THAT IDENTIFIES ALL SUBCONTRACTORS TO BE UTILIZED, THE~~  
6 ~~BIDDER MUST SPECIFY:~~

7  
8 ~~(I) THE NAME OF EACH SUBCONTRACTOR TO WHOM IT INTENDS TO AWARD A~~  
9 ~~SUBCONTRACT;~~

10  
11 ~~(II) WHETHER THAT SUBCONTRACTOR IS:~~

12  
13 ~~(A) A SMALL BUSINESS ENTERPRISE;~~

14  
15 ~~(B) A MINORITY BUSINESS ENTERPRISE;~~

16  
17 ~~(C) A WOMEN'S BUSINESS ENTERPRISE; OR~~

18  
19 ~~(D) OTHER;~~

20  
21 ~~(III) THE DOLLAR VALUE OF EACH SUBCONTRACT; AND~~

22  
23 ~~(IV) THE SCOPE OF THE WORK TO BE PERFORMED UNDER THAT SUBCONTRACT.~~

24  
25 ~~(1) THE BIDDER MUST ALSO INCLUDE COPIES OF SIGNED LETTERS OF INTENT OR SIGNED~~  
26 ~~AGREEMENTS WITH EACH OF THE SUBCONTRACTORS.~~

27  
28 ~~(G) WAIVER REQUESTS.~~

29  
30 ~~IF THE BIDDER IS UNABLE TO ACHIEVE A CONTRACT GOAL, THE BIDDER MAY REQUEST AN~~  
31 ~~EXCEPTION.~~

32  
33 ~~(H) CONTRACTS, REPORTS, AND DOCUMENTATION.~~

34  
35 ~~(1) THE AWARDEE OF A CONTRACT MUST SUBMIT COPIES OF SIGNED AGREEMENTS WITH~~  
36 ~~THE CERTIFIED BUSINESS ENTERPRISES BEING UTILIZED TO ACHIEVE THE CONTRACT~~  
37 ~~GOALS.~~

38  
39 ~~(2) THE AWARDEE OF A CONTRACT MUST SUBMIT REPORTS AND DOCUMENTATION, AS~~  
40 ~~REQUIRED BY THE MSBOO, VERIFYING PAYMENTS TO THE CERTIFIED BUSINESS~~  
41 ~~ENTERPRISES BEING USED TO ACHIEVE THE CONTRACT GOALS.~~

42  
43 ~~(I) ANNUAL REPORT ON OTHER MINORITY SUBCONTRACTING.~~

44  
45 ~~TO BE CONSIDERED RESPONSIBLE, A BIDDER MUST DISCLOSE ANNUALLY, AS REQUIRED BY~~

1 THE CITY, INFORMATION THAT DEMONSTRATES THE EXTENT TO WHICH IT HAS AWARDED  
2 SUBCONTRACTS TO SMALL, MINORITY, AND WOMEN'S BUSINESS ENTERPRISES UNDER  
3 CONTRACTS THAT ARE NOT AFFECTED BY THIS SUBTITLE.  
4

5 ~~(J) PROMPT PAYMENT TO SUBCONTRACTORS.~~

6  
7 ~~(1) A CONTRACTOR MUST PAY ITS SUBCONTRACTORS IN A TIMELY FASHION FOR  
8 SATISFACTORY WORK.~~

9  
10 ~~(2) A PAYMENT IS TIMELY IF IT IS MAILED, DELIVERED, OR TRANSFERRED TO A  
11 SUBCONTRACTOR NO LATER THAN 7 DAYS AFTER THE CONTRACTOR RECEIVES  
12 PAYMENT FROM THE CITY.~~

13  
14 ~~(3) BEGINNING WITH THE SECOND PAY REQUEST FROM A CONTRACTOR TO THE CITY, THE  
15 CONTRACTOR MUST PROVIDE THE CITY WITH EVIDENCE THAT ALL SUBCONTRACTORS  
16 HAVE BEEN PAID OUT OF THE PROCEEDS OF THE PRIOR PAYMENT, UNLESS A BONA FIDE  
17 DISPUTE, DOCUMENTED IN WRITING, EXISTS BETWEEN THE CONTRACTOR AND THE  
18 UNPAID SUBCONTRACTOR.~~

19  
20 ~~28-15. CERTIFICATION.~~

21  
22 ~~(A) REQUIRED BEFORE BID OPENING.~~

23  
24 ~~(1) FOR THE PURPOSES OF DETERMINING COMPLIANCE WITH CONTRACT GOALS, A BUSINESS  
25 ENTERPRISE MAY BE COUNTED AS AN SBE, MBE, OR WBE ONLY IF IT HAS BEEN SO  
26 CERTIFIED BY THE MSBOO BEFORE BID OPENING.~~

27  
28 ~~(2) IF A BUSINESS LISTED IN A BIDDER'S INFORMATION AND UTILIZATION COMMITMENT  
29 FORM HAS NOT BEEN CERTIFIED, THE AMOUNT OF PARTICIPATION WILL BE DEDUCTED  
30 FROM THE TOTAL SBE, MBE, OR WBE UTILIZATION IN DETERMINING WHETHER THE  
31 BIDDER IS RESPONSIVE.~~

32  
33 ~~(B) MBEs' MINORITY GROUP ELIGIBILITY.~~

34  
35 ~~(1) FOR A BUSINESS ENTERPRISE TO BE ELIGIBLE FOR CERTIFICATION AS A MINORITY  
36 BUSINESS ENTERPRISE, THE MINORITY GROUP MEMBERS WHO OWN AND CONTROL THE  
37 BUSINESS ENTERPRISE MUST BE FROM 1 OR MORE MINORITY GROUPS FOR WHICH A  
38 UTILIZATION DISPARITY HAS BEEN IDENTIFIED.~~

39  
40 ~~(2) ANNUALLY, THE MSBOO MUST REVIEW THE RELEVANT DATA AND DETERMINE WHICH  
41 MINORITY GROUPS ARE ELIGIBLE.~~  
42

~~(A) MBES AND WBES - GENERAL CRITERIA.~~

~~(1) TO BE ELIGIBLE FOR CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE OR WOMEN'S BUSINESS ENTERPRISE, THE BUSINESS ENTERPRISE MUST:~~

~~(i) BE AN INDEPENDENT, OPERATING BUSINESS;~~

~~(ii) HAVE BEEN IN OPERATION FOR AT LEAST 12 MONTHS BEFORE APPLYING FOR CERTIFICATION;~~

~~(iii) HAVE BEEN MINORITY- OR WOMEN-OWNED FOR AT LEAST 12 MONTHS BEFORE APPLYING FOR CERTIFICATION; AND~~

~~(iv) HAVE AN OPERATING OFFICE IN THE BALTIMORE CITY MARKET AREA FOR AT LEAST 6 MONTHS BEFORE APPLYING FOR CERTIFICATION.~~

~~(2) TO DETERMINE WHETHER THE BUSINESS ENTERPRISE HAS THE REQUIRED OPERATING OFFICE, THE MSBOO WILL CONSIDER THE OFFICE ARRANGEMENTS, INDUSTRY PRACTICES, AND OTHER RELEVANT FACTORS.~~

~~(D) MBES AND WBES - CONTROL.~~

~~(1) THE OWNERSHIP AND CONTROL BY MINORITIES OR WOMEN MUST BE:~~

~~(i) REAL AND SUBSTANTIAL; AND~~

~~(ii) INDICATED BY THE CUSTOMARY INCIDENTS OF OWNERSHIP, AS DEMONSTRATED BY AN EXAMINATION OF THE SUBSTANCE RATHER THAN THE FORM OF OWNERSHIP AND OPERATING ARRANGEMENTS.~~

~~(2) THE MINORITY OR WOMEN OWNERS MUST POSSESS THE POWER:~~

~~(i) TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THE BUSINESS ENTERPRISE; AND~~

~~(ii) TO MAKE DAY-TO-DAY DECISIONS, AS WELL AS DECISIONS ON MATTERS OF MANAGEMENT, POLICY, AND OPERATIONS.~~

~~(3) THE BUSINESS ENTERPRISE MAY NOT BE SUBJECT TO ANY FORMAL OR INFORMAL RESTRICTIONS THAT LIMIT THE CUSTOMARY DISCRETION OF THE MINORITY OR WOMEN OWNERS. THERE MAY NOT BE ANY RESTRICTION, WHETHER BY PARTNERSHIP AGREEMENT, CHARTER REQUIREMENTS, OR OTHER ARRANGEMENT, THAT PREVENTS THE MINORITY OR WOMEN OWNERS FROM MAKING BUSINESS DECISIONS WITHOUT THE COOPERATION OR VOTE OF ANY OWNER WHO IS NOT A MINORITY OR A WOMAN.~~

1 ~~(4) THE OPERATING ARRANGEMENTS AND THE OWNERSHIP AND CONTROL BY THE~~  
2 ~~MINORITY GROUP MEMBERS MUST HAVE BEEN IN OPERATION FOR AT LEAST 12 MONTHS~~  
3 ~~BEFORE APPLYING FOR CERTIFICATION.~~

4  
5 ~~(E) *MBEs AND WBEs B*- SIZE STANDARDS:~~

6  
7 ~~(1) WITH THE ADVICE OF THE MSBOO, THE BOARD OF ESTIMATES MUST ESTABLISH A~~  
8 ~~MAXIMUM SIZE STANDARD FOR MINORITY AND WOMEN'S BUSINESS ENTERPRISES:~~

9  
10 ~~(2) A BUSINESS ENTERPRISE MAY NOT BE CERTIFIED AS AN MBE OR WBE OR, ONCE~~  
11 ~~CERTIFIED, HAVE ITS CERTIFICATION RENEWED IF, ON THE EFFECTIVE DATE OF THE~~  
12 ~~APPLICATION OR RENEWAL, THE MBE OR WBE EXCEEDS THE SIZE STANDARD~~  
13 ~~ESTABLISHED BY THE BOARD OF ESTIMATES UNDER THIS SUBSECTION~~

14  
15 ~~(F) *SBEs C* GENERAL CRITERIA:~~

16  
17 ~~(1) TO BE ELIGIBLE FOR CERTIFICATION AS A SMALL BUSINESS ENTERPRISE, THE~~  
18 ~~ENTERPRISE MUST:~~

19  
20 ~~(i) BE AN INDEPENDENT, OPERATING BUSINESS;~~

21  
22 ~~(ii) HAVE BEEN IN OPERATION FOR AT LEAST 12 MONTHS BEFORE APPLYING FOR~~  
23 ~~CERTIFICATION;~~

24  
25 ~~(iii) MEET THE SIZE AND INCOME CRITERIA ESTABLISHED BY THE MAYOR AND~~  
26 ~~APPROVED BY THE BOARD OF ESTIMATES;~~

27  
28 ~~(iv) HAVE AN OPERATING OFFICE IN THE BALTIMORE CITY MARKET AREA FOR AT~~  
29 ~~LEAST 6 MONTHS BEFORE APPLYING FOR CERTIFICATION.~~

30  
31 ~~(2) TO DETERMINE WHETHER THE BUSINESS ENTERPRISE HAS THE REQUIRED OPERATING~~  
32 ~~OFFICE, THE MSBOO WILL CONSIDER THE OFFICE ARRANGEMENTS, INDUSTRY~~  
33 ~~PRACTICES, AND OTHER RELEVANT FACTORS.~~

34  
35 ~~(G) *SLBE B* GENERAL CRITERIA:~~

36  
37 ~~(1) TO BE ELIGIBLE FOR CERTIFICATION AS A SMALL LOCAL BUSINESS ENTERPRISE, THE~~  
38 ~~ENTERPRISE MUST:~~

39  
40 ~~(i) BE AN INDEPENDENT, OPERATING BUSINESS;~~

41  
42 ~~(ii) HAVE BEEN IN OPERATION FOR AT LEAST 12 MONTHS BEFORE APPLYING FOR~~  
43 ~~CERTIFICATION;~~

44  
45 ~~(iii) MEET THE SIZE AND INCOME CRITERIA ESTABLISHED BY THE MAYOR AND~~

1 APPROVED BY THE BOARD OF ESTIMATES; AND

2  
3 ~~(IV) HAVE AN OPERATING OFFICE IN BALTIMORE CITY FOR AT LEAST 6 MONTHS~~  
4 ~~BEFORE APPLYING FOR CERTIFICATION.~~

5  
6 ~~(2) TO DETERMINE WHETHER THE BUSINESS ENTERPRISE HAS THE REQUIRED OPERATING~~  
7 ~~OFFICE, THE MSBOO WILL CONSIDER THE OFFICE ARRANGEMENTS, INDUSTRY~~  
8 ~~PRACTICES, AND OTHER RELEVANT FACTORS.~~

9  
10 ~~(H) SETTING SIZE STANDARDS:~~

11  
12 ~~(1) THE MAYOR AND THE BOARD OF ESTIMATES SHALL ESTABLISH SIZE STANDARDS FOR~~  
13 ~~MBES, WBES, SBES, AND SLBES.~~

14  
15 ~~(2) THERE SHALL BE SEPARATE SIZE STANDARDS FOR SEPARATE BUSINESS CATEGORIES.~~

16  
17 ~~(3) THE MAYOR AND THE BOARD OF ESTIMATES SHALL REVIEW THE SIZE STANDARDS~~  
18 ~~ANNUALLY.~~

19  
20 ~~(I) CERTIFICATION INVESTIGATIONS:~~

21  
22 ~~(1) THE MSBOO MAY INVESTIGATE A BUSINESS ENTERPRISE'S OWNERSHIP,~~  
23 ~~MANAGEMENT, QUALIFICATIONS, AND OTHER RELEVANT MATTERS BEYOND FORMAL~~  
24 ~~DOCUMENTATION:~~

25  
26 ~~(I) AT THE INITIAL CERTIFICATION; AND~~

27  
28 ~~(II) DURING CERTIFICATION OR RECERTIFICATION.~~

29  
30 ~~(2) TO THE EXTENT REASONABLY NECESSARY TO ENSURE COMPLIANCE, THESE~~  
31 ~~INVESTIGATIONS MAY INCLUDE, BUT ARE NOT LIMITED TO:~~

32  
33 ~~(I) PERSONAL INTERVIEWS WITH PERSONS HAVING KNOWLEDGE OR RELEVANT~~  
34 ~~INFORMATION RELATING TO A BUSINESS ENTERPRISE'S ELIGIBILITY,~~  
35 ~~CERTIFICATION, OR DECERTIFICATION;~~

36  
37 ~~(II) PERSONAL INTERVIEWS WITH BIDDERS, CONTRACTORS, VENDORS, OR~~  
38 ~~SUPPLIERS INVOLVED IN A JOINT VENTURE OR CONTRACTUAL RELATIONSHIP~~  
39 ~~WITH THE BUSINESS ENTERPRISE;~~

40  
41 ~~(III) REVIEWING RECORDS PERTAINING TO CERTIFICATION; AND~~

42  
43 ~~(IV) CONDUCTING RANDOM, ON-SITE VISITS, AUDITS, OR RELEVANT INQUIRIES.~~

44  
45 ~~(J) DECERTIFICATION:~~



1  
2 ~~THE MSBOO MAY DECERTIFY A BUSINESS THAT IT DETERMINES NO LONGER MEETS THE~~  
3 ~~CERTIFICATION CRITERIA.~~

4  
5 ~~(K) CERTIFICATION APPEALS:~~

6  
7 ~~(1) ALL ADVERSE CERTIFICATION DETERMINATIONS MADE BY THE MSBOO SHALL BE~~  
8 ~~MADE IN WRITING AND SHALL INCLUDE THE REASONS FOR THE DETERMINATION. THE~~  
9 ~~NOTICE SHALL BE SENT TO THE AFFECTED BUSINESS ENTERPRISE AND THE BUSINESS~~  
10 ~~ENTERPRISE IS ENTITLED TO SEEK ADMINISTRATIVE REVIEW AS PROVIDED IN THIS~~  
11 ~~SUBSECTION~~

12  
13 ~~(2) (i) ON CERTIFICATION, RECERTIFICATION, OR DECERTIFICATION AN AGGRIEVED~~  
14 ~~APPLICANT HAS A RIGHT TO PROTEST.~~

15  
16 ~~(ii) AN AGGRIEVED APPLICANT MAY SUBMIT A PROTEST IN WRITING TO THE CHIEF~~  
17 ~~WITHIN 7 DAYS OF THE RECEIPT OF THE ADVERSE DECISION NOTICE. THE PROTEST~~  
18 ~~MUST INCLUDE THE REASONS AND FACTUAL GROUNDS OF THE PROTEST WITH ANY~~  
19 ~~SUPPORTING DOCUMENTS.~~

20  
21 ~~(iii) WITHIN 15 DAYS OF RECEIPT OF THE PROTEST, THE CHIEF SHALL REVIEW THE~~  
22 ~~PROTEST AND ALL RELEVANT SUPPORTING DOCUMENTS AND RENDER A DECISION~~  
23 ~~NOTICE IN WRITING THAT INCLUDES THE REASONS FOR THE DECISION.~~

24  
25 ~~(3) AFTER ALL DEPARTMENTAL REMEDIES HAVE BEEN EXHAUSTED, THE AGGRIEVED~~  
26 ~~APPLICANT MAY REQUEST A HEARING BEFORE A PANEL OF INDEPENDENT HEARING~~  
27 ~~OFFICERS WHO SHALL BE RETAINED BY THE CITY SOLICITOR. THE HEARING OFFICERS~~  
28 ~~MUST BE KNOWLEDGEABLE OF BALTIMORE CITY PROCUREMENT LAWS AND~~  
29 ~~PROCEDURES, INCLUDING THIS SUBTITLE.~~

30  
31 ~~**28-16. MONITORING, REPORTING, AND COMPLIANCE.**~~

32  
33 ~~(A) MSBOO TO MONITOR COMPLIANCE:~~

34  
35 ~~DURING THE TERM OF A CONTRACT SUBJECT TO THIS SUBTITLE, THE MSBOO MUST~~  
36 ~~MONITOR CONTINUED COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE.~~

37  
38 ~~(B) NONCOMPLIANCE BY CONTRACTOR OR SUBCONTRACTOR:~~

39  
40 ~~(1) IF THE MSBOO FINDS CAUSE TO BELIEVE THAT A CONTRACTOR OR SUBCONTRACTOR~~  
41 ~~HAS FAILED TO COMPLY WITH ANY OF THE REQUIREMENTS OF THIS SUBTITLE OR WITH~~  
42 ~~ANY CONTRACT PROVISIONS RELATING TO UTILIZATION UNDER THIS SUBTITLE, THE~~  
43 ~~MSBOO MUST SO NOTIFY THE CONTRACTING AGENCY AND THE CONTRACTOR.~~

44  
45 ~~(2) THE MSBOO MUST ATTEMPT TO RESOLVE THE NONCOMPLIANCE THROUGH~~



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~~\_\_\_\_\_ (III) NAME OF CONTRACTOR;~~

~~\_\_\_\_\_ (IV) EFFORTS EMPLOYED TO SOLICIT BIDS FROM CERTIFIED SMALL, MINORITY, AND  
WOMEN=S BUSINESS ENTERPRISES.; AND~~

~~\_\_\_\_\_ (V) ALL SUBCONTRACTS AWARDED BY CONTRACTOR, IDENTIFYING FOR EACH:~~

~~\_\_\_\_\_ (A) DOLLAR VALUE;~~

~~\_\_\_\_\_ (B) NATURE OF GOODS OR SERVICES PROVIDED; AND~~

~~\_\_\_\_\_ (C) NAME OF SUBCONTRACTOR.~~

~~\_\_\_\_\_ (F) ANNUAL REPORT.~~

~~\_\_\_\_\_ (1) THE MSBOO MUST SUBMIT AN ANNUAL REPORT TO THE MAYOR AND THE CITY  
COUNCIL ON THE CITY=S PROGRESS TOWARD THE UTILIZATION GOALS ESTABLISHED  
UNDER THIS SUBTITLE.~~

~~\_\_\_\_\_ (2) THE REPORT MUST INCLUDE:~~

~~\_\_\_\_\_ (I) ANY PROBLEMS; AND~~

~~\_\_\_\_\_ (II) SPECIFIC RECOMMENDATIONS FOR IMPROVING THE CITY=S PERFORMANCE.~~

~~**28-17. PROHIBITIONS; SANCTION.**~~

~~\_\_\_\_\_ (A) ADMINISTRATIVE PENALTIES.~~

~~\_\_\_\_\_ A CONTRACTOR WHO FAILS TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE 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 PROPOSAL;~~

~~\_\_\_\_\_ (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~~

1 ~~—————(G) PAYMENT OF LIQUIDATED DAMAGES:~~

2

3 ~~——(B) *PROHIBITED CONDUCT.*~~

4

5 ~~—————IT IS A VIOLATION OF THIS SUBTITLE TO:~~

6

7 ~~—————(1) FRAUDULENTLY OBTAIN, RETAIN, ATTEMPT TO OBTAIN OR RETAIN, OR AID~~  
8 ~~ANOTHER IN FRAUDULENTLY OBTAINING, RETAINING, OR ATTEMPTING TO OBTAIN~~  
9 ~~OR RETAIN CERTIFICATION UNDER THIS SUBTITLE AS A SMALL, MINORITY, OR~~  
10 ~~WOMEN=SBUSINESS ENTERPRISE;~~

11

12 ~~—————(2) IN ANY MATTER ADMINISTERED UNDER THIS SUBTITLE, WILLFULLY FALSIFY,~~  
13 ~~CONCEAL, OR COVER UP BY A TRICK, SCHEME, OR DEVICE A MATERIAL FACT OR~~  
14 ~~MAKE ANY FALSE WRITING OR DOCUMENT KNOWING THAT IT CONTAINS ANY FALSE,~~  
15 ~~FICTITIOUS, OR FRAUDULENT STATEMENT OR ENTRY;~~

16

17 ~~—————(3) WILLFULLY OBSTRUCT, IMPEDE, OR ATTEMPT TO OBSTRUCT OR IMPEDE AN~~  
18 ~~AUTHORIZED OFFICIAL OR EMPLOYEE WHO IS INVESTIGATING THE QUALIFICATIONS~~  
19 ~~OF A BUSINESS ENTERPRISE THAT HAS REQUESTED CERTIFICATION UNDER THIS~~  
20 ~~SUBTITLE;~~

21

22 ~~—————(4) FRAUDULENTLY OBTAIN, ATTEMPT TO OBTAIN, OR AID ANOTHER IN FRAUDULENTLY~~  
23 ~~OBTAINING OR ATTEMPTING TO OBTAIN PUBLIC MONEY TO WHICH THE PERSON IS~~  
24 ~~NOT ENTITLED UNDER THIS SUBTITLE; OR~~

25

26 ~~—————(5) MAKE A FALSE STATEMENT TO ANY PERSON OR ENTITY THAT ANOTHER PERSON OR~~  
27 ~~ENTITY IS OR IS NOT CERTIFIED UNDER THIS SUBTITLE AS A SMALL, MINORITY, OR~~  
28 ~~WOMEN=SBUSINESS ENTERPRISE.~~

29

30 ~~——(E) *CRIMINAL PENALTIES.*~~

31

32 ~~—————ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A~~  
33 ~~MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN~~  
34 ~~1 YEAR, TO A FINE OF NOT MORE THAN \$1,000, OR TO BOTH IMPRISONMENT AND FINE.~~

35

36 ~~**1-28-18. MINORITY AND SMALL BUSINESS ADVISORY COMMITTEE.**~~

37

38 ~~——(A) *COMMITTEE ESTABLISHED.*~~

39

40 ~~—————(1) THERE IS A MINORITY AND SMALL BUSINESS OPPORTUNITY ADVISORY COMMITTEE.~~

41

42 ~~—————(2) THE COMMITTEE IS AN ADVISORY GROUP ONLY, ESTABLISHED TO:~~

43

44 ~~—————(i) ASSIST THE MAYOR AND CITY COUNCIL IN REVIEWING THE CONTINUING~~  
45 ~~PROGRAMS OF CONTRACTORS AND SUBCONTRACTORS CONCERNING SMALL,~~

1 MINORITY, AND WOMEN=S BUSINESS PARTICIPATION; AND

2  
3 ~~(II) MAKE RECOMMENDATIONS TO THE MAYOR AND CITY COUNCIL CONCERNING~~  
4 ~~THOSE PROGRAMS.~~

5  
6 ~~(B) MEMBERS, TERM.~~

7  
8 ~~(1) THE COMMITTEE CONSISTS OF 9 MEMBERS.~~

9  
10 ~~(2) OF THESE:~~

11  
12 ~~(I) THE MAYOR APPOINTS THE CHAIR AND 3 MEMBERS; AND~~

13  
14 ~~(II) THE CITY COUNCIL APPOINTS 5 MEMBERS.~~

15  
16 ~~(3) COMMITTEE MEMBERS SERVE 2-YEAR TERMS.~~

17  
18 ~~(4) THE MEMBERSHIP OF THE COMMITTEE MUST INCLUDE REPRESENTATIVES OF THE CITY,~~  
19 ~~CONTRACTORS, TRADE ASSOCIATIONS, AND PRIVATE NONPROFIT AND PROFIT-MAKING~~  
20 ~~ORGANIZATIONS CONCERNED WITH SMALL, MINORITY, AND WOMEN=S BUSINESS~~  
21 ~~ENTERPRISES.~~

22  
23 ~~28-19. BOARD OF ESTIMATES= AUTHORITY.~~

24  
25 ~~(A) AUTHORITY OF BOARD NOT ABROGATED.~~

26  
27 ~~NOTHING IN THIS SUBTITLE ABROGATES THE AUTHORITY OF THE BOARD OF ESTIMATES TO~~  
28 ~~AWARD CONTRACTS UNDER ARTICLE VI, 311 OF THE CITY CHARTER.~~

29  
30 ~~(B) BOARD MAY WAIVE MINOR DEFECTS.~~

31  
32 ~~AT ITS DISCRETION, THE BOARD OF ESTIMATES MAY WAIVE MINOR DEFECTS AND ERRORS~~  
33 ~~IN A BIDDER=S SBE, MBE, OR WBE SUBMISSION.~~

34  
35 ~~28-20. SHORT TITLE.~~

36  
37 ~~THIS SUBTITLE SHALL BE KNOWN AS A THE BALTIMORE CITY MINORITY AND SMALL BUSINESS~~  
38 ~~OPPORTUNITY ORDINANCE=.~~

39  
40 ~~28-21. AUTOMATIC TERMINATION.~~

41  
42 ~~THIS SUBTITLE AUTOMATICALLY EXPIRES ON JUNE 30, 2005, UNLESS THE CITY COUNCIL,~~  
43 ~~AFTER CAUSING AN APPROPRIATE STUDY TO BE UNDERTAKEN, CONDUCTING PUBLIC HEARINGS,~~  
44 ~~AND HEARING TESTIMONIAL EVIDENCE, FINDS THAT THE PURPOSES IDENTIFIED IN THIS SUBTITLE~~  
45 ~~HAVE NOT YET BEEN ACHIEVED, IN WHICH CASE THIS SUBTITLE MAY BE EXTENDED FOR 5~~

1 ADDITIONAL YEARS.

2  
3 **Subtitle 28 - Minority and Women=s Business Opportunity**

4  
5 **PART I. DEFINITIONS; GENERAL PROVISIONS**

6  
7 **' 28-1. DEFINITIONS C A TO H.**

8  
9 (A) IN GENERAL.

10  
11 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED UNLESS THE  
12 CONTEXT CLEARLY REQUIRES A DIFFERENT MEANING.

13  
14 (B) AFRICAN AMERICAN.

15  
16 A AFRICAN AMERICAN MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT  
17 RESIDENT WHO ORIGINATES FROM ANY OF THE BLACK RACIAL GROUPS OF AFRICA.

18  
19 (C) ASIAN AMERICAN.

20  
21 A ASIAN AMERICAN MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT  
22 RESIDENT WHO ORIGINATES FROM THE FAR EAST, SOUTHEAST ASIA, THE INDIAN  
23 SUBCONTINENT, OR THE PACIFIC ISLANDS.

24  
25 (D) BALTIMORE CITY MARKET AREA.

26  
27 A BALTIMORE CITY MARKET AREA MEANS THE FOLLOWING GEOGRAPHIC REGIONS OF  
28 MARYLAND FOR THE INDICATED BUSINESS CATEGORY:

29  
30 (1) CONSTRUCTION CONTRACTS:

31  
32 BALTIMORE CITY  
33 BALTIMORE COUNTY  
34 HOWARD COUNTY.

35  
36 (2) ARCHITECTURAL AND ENGINEERING CONTRACTS:

37  
38 BALTIMORE CITY  
39 BALTIMORE COUNTY  
40 ANNE ARUNDEL COUNTY.

41  
42 (3) SERVICE CONTRACTS:

43  
44 BALTIMORE CITY  
45 BALTIMORE COUNTY

1 ANNE ARUNDEL COUNTY.

2  
3 (4) COMMODITY CONTRACTS:

4  
5 BALTIMORE CITY  
6 BALTIMORE COUNTY  
7 ANNE ARUNDEL COUNTY  
8 HOWARD COUNTY  
9 MONTGOMERY COUNTY  
10 PRINCE GEORGE=S COUNTY.

11  
12 (E) BID.

13  
14 A BID ≡ MEANS A RESPONSE TO :

15  
16 (1) AN INVITATION TO BID; OR

17  
18 (2) A REQUEST FOR PROPOSALS.

19  
20 (F) BUSINESS ENTERPRISE.

21  
22 A BUSINESS ENTERPRISE ≡ MEANS A CORPORATION, LIMITED LIABILITY COMPANY,  
23 PARTNERSHIP, INDIVIDUAL, SOLE PROPRIETORSHIP, JOINT STOCK COMPANY, JOINT  
24 VENTURE, PROFESSIONAL ASSOCIATION, OR ANY OTHER LEGAL ENTITY OPERATED FOR  
25 PROFIT THAT IS PROPERLY LICENSED AND OTHERWISE AUTHORIZED TO DO BUSINESS IN  
26 THE STATE OF MARYLAND.

27  
28 (G) CERTIFIED BUSINESS ENTERPRISE.

29  
30 A CERTIFIED BUSINESS ENTERPRISE ≡ MEANS A MINORITY OR WOMEN=S BUSINESS  
31 ENTERPRISE THAT HAS BEEN CERTIFIED BY THE MINORITY AND WOMEN=S BUSINESS  
32 OPPORTUNITY OFFICE AS MEETING THE CRITERIA FOR CERTIFICATION UNDER THIS  
33 SUBTITLE.

34  
35 (H) CHIEF.

36  
37 A CHIEF ≡ MEANS THE CHIEF OF THE MINORITY AND WOMEN=S BUSINESS  
38 OPPORTUNITY OFFICE.

1  
2 (I) CONSTRUCTION.  
3

4 (1) A CONSTRUCTION ≈ MEANS BUILDING, ALTERING, REPAIRING, IMPROVING, OR  
5 DEMOLISHING ANY STRUCTURE, BUILDING, OR OTHER IMPROVEMENT TO REAL  
6 PROPERTY.

7  
8 (2) A CONSTRUCTION ≈ INCLUDES:  
9

10 (I) BUILDING CONSTRUCTION;

11  
12 (II) HEAVY CONSTRUCTION (ROAD CONSTRUCTION AND BRIDGE  
13 CONSTRUCTION); AND

14  
15 (III) SPECIALTY TRADES CONSTRUCTION (E.G., CARPENTRY, ELECTRICAL, AND  
16 PLUMBING).

17  
18 (J) CONTRACTING AGENCY.  
19

20 A CONTRACTING AGENCY ≈ MEANS THE CITY AGENCY, DEPARTMENT, OR AUTHORIZED  
21 REPRESENTATIVE THAT ISSUES INVITATIONS TO BID OR REQUESTS FOR PROPOSALS.  
22

23 (K) CONTRACTOR.  
24

25 A CONTRACTOR ≈ MEANS THE PERSON, FIRM, OR LEGAL ENTITY WITH WHICH THE CITY HAS  
26 ENTERED INTO AN AGREEMENT.  
27

28 (L) CONTROL.  
29

30 (1) A CONTROL ≈, FOR PURPOSES OF DETERMINING WHETHER A BUSINESS IS A MINORITY  
31 BUSINESS ENTERPRISE OR WOMEN ≈S BUSINESS ENTERPRISE, MEANS THAT THE  
32 MINORITY GROUP MEMBER OWNERS OR WOMEN OWNERS:  
33

34 (I) POSSESS AND EXERCISE THE LEGAL AUTHORITY AND POWER TO MANAGE  
35 BUSINESS ASSETS, GOODWILL, AND DAILY OPERATIONS OF THE BUSINESS; AND  
36

37 (II) ACTIVELY AND CONTINUOUSLY EXERCISE THIS MANAGERIAL AUTHORITY AND  
38 POWER IN DETERMINING THE POLICIES AND DIRECTING THE OPERATIONS OF THE  
39 BUSINESS.  
40

41 (2) IF OWNERS WHO ARE NOT MINORITY GROUP MEMBERS OR WOMEN ARE RESPONSIBLE  
42 FOR THE OPERATION OF THE BUSINESS OUT OF PROPORTION TO THEIR OWNERSHIP  
43 INTEREST, THEN THE BUSINESS IS NOT CONTROLLED BY MINORITY GROUP MEMBERS OR  
44 WOMEN.  
45



1 ~~(M) HISPANIC AMERICAN.~~

2  
3 ~~A HISPANIC AMERICAN~~ MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT  
4 RESIDENT OF MEXICAN, PUERTO RICAN, CUBAN, CENTRAL AMERICAN, SOUTH  
5 AMERICAN, OR OTHER SPANISH OR PORTUGUESE CULTURE OR ORIGIN, REGARDLESS OF  
6 RACE.

7  
8 **' 28-2. DEFINITIONS C I TO Z.**

9  
10 ~~(A) INCLUDES; INCLUDING.~~

11  
12 ~~A INCLUDES~~ OR A INCLUDING MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF  
13 LIMITATION.

14  
15 ~~(B) JOINT VENTURE.~~

16  
17 ~~A JOINT VENTURE~~ MEANS AN ASSOCIATION BETWEEN BUSINESS ENTERPRISES THAT  
18 PROVIDES FOR THE SHARING OF ECONOMIC INTEREST.

19  
20 ~~(C) MANUFACTURER.~~

21  
22 ~~A MANUFACTURER~~ MEANS A BUSINESS ENTERPRISE THAT:

23  
24 (1) PRODUCES GOODS FROM RAW MATERIALS OR SUBSTANTIALLY ALTERS OR  
25 FABRICATES THEM BEFORE RESALE; AND

26  
27 (2) ASSUMES THE ACTUAL AND CONTRACTUAL RESPONSIBILITY FOR PROVIDING THE  
28 MATERIALS AND SUPPLIES.

29  
30 ~~(D) MINORITY BUSINESS ENTERPRISE (MBE).~~

31  
32 ~~A MINORITY BUSINESS ENTERPRISE~~ OR A MBE MEANS A BUSINESS ENTERPRISE:

33  
34 (1) THAT IS OWNED, OPERATED, AND CONTROLLED BY 1 OR MORE MINORITY GROUP  
35 MEMBERS WHO HAVE AT LEAST 51% OWNERSHIP;

36  
37 (2) IN WHICH THE MINORITY GROUP MEMBERS HAVE OPERATIONAL AND MANAGERIAL  
38 CONTROL, INTEREST IN CAPITAL, AND EARNINGS COMMENSURATE WITH THEIR  
39 PERCENTAGE OF OWNERSHIP; AND

40  
41 (3) THAT IS LOCATED IN THE BALTIMORE CITY MARKET AREA.

42  
43 ~~(E) MINORITY GROUP MEMBER.~~

44  
45 ~~A MINORITY GROUP MEMBER~~ MEANS A MEMBER OF A MINORITY GROUP, SUCH AS

1 AFRICAN AMERICAN, HISPANIC AMERICAN, ASIAN AMERICAN, OR NATIVE AMERICAN,  
2 FOR WHICH A UTILIZATION DISPARITY HAS BEEN IDENTIFIED.

3  
4 (F) NATIVE AMERICAN.

5  
6 A NATIVE AMERICAN MEANS A U.S. CITIZEN OR LAWFULLY ADMITTED PERMANENT  
7 RESIDENT WHO ORIGINATES FROM ANY OF THE ORIGINAL PEOPLES OF NORTH AMERICA AND  
8 WHO MAINTAINS CULTURAL IDENTIFICATION THROUGH TRIBAL AFFILIATION OR OTHER  
9 SUITABLE AUTHORITY IN THE COMMUNITY.

10  
11 (G) OFFICE.

12  
13 A OFFICE MEANS THE MINORITY AND WOMEN'S BUSINESS OPPORTUNITY OFFICE.

14  
15 (H) OWNED.

16  
17 A OWNED, FOR PURPOSES OF DETERMINING WHETHER A BUSINESS IS A MINORITY  
18 BUSINESS ENTERPRISE OR WOMEN'S BUSINESS ENTERPRISE, MEANS THAT:

- 19  
20 (1) THE MINORITY GROUP MEMBER OR FEMALE OWNER, AS THE CONTEXT REQUIRES,  
21 POSSESSES AN OWNERSHIP INTEREST OF AT LEAST 51% OF THE BUSINESS;  
22  
23 (2) THIS OWNERSHIP IS REAL AND CONTINUING AND GOES BEYOND THE MERE INDICIA  
24 OF OWNERSHIP REFLECTED IN THE OWNERSHIP DOCUMENTS; AND  
25  
26 (3) THE MINORITY GROUP MEMBER OR WOMAN OWNER ENJOYS THE CUSTOMARY  
27 INCIDENTS OF OWNERSHIP AND SHARES IN THE RISKS AND PROFITS COMMENSURATE  
28 WITH HIS OR HER OWNERSHIP INTERESTS, AS DEMONSTRATED BY AN EXAMINATION  
29 OF THE SUBSTANCE, RATHER THAN THE FORM OF OWNERSHIP ARRANGEMENTS.

30  
31 (I) PURCHASING.

32  
33 A PURCHASING MEANS THE BUYING, RENTING, LEASING, OR OTHERWISE OBTAINING OR  
34 ACQUIRING ANY SUPPLIES, MATERIALS, EQUIPMENT, OR SERVICES.

35  
36 (J) SOLE PROPRIETORSHIP.

37  
38 A SOLE PROPRIETORSHIP MEANS A BUSINESS ENTERPRISE THAT IS 100% OWNED,  
39 OPERATED, AND CONTROLLED BY 1 INDIVIDUAL.

40  
41 (K) SUBCONTRACTOR.

42  
43 A SUBCONTRACTOR MEANS A BUSINESS ENTERPRISE THAT HAS A DIRECT CONTRACT WITH  
44 A CONTRACTOR TO PERFORM PART OF THE WORK ON A CONTRACT.

1 (L) SUPPLIER.  
2

3 A SUPPLIER MEANS A BUSINESS ENTERPRISE THAT:  
4

5 (1) FURNISHES NEEDED ITEMS TO A CONTRACTOR; AND  
6

7 (2) EITHER:  
8

9 (i) IS INVOLVED IN THE MANUFACTURE OR DISTRIBUTION OF THE SUPPLIES OR  
10 MATERIALS; OR  
11

12 (ii) OTHERWISE WAREHOUSES AND SHIPS THE SUPPLIES.  
13

14 (M) WOMEN=S BUSINESS ENTERPRISE (WBE).  
15

16 A WOMEN=S BUSINESS ENTERPRISE OR A WBE MEANS A BUSINESS ENTERPRISE:  
17

18 (1) THAT IS OWNED, OPERATED, AND CONTROLLED BY 1 OR MORE WOMEN WHO HAVE  
19 51% OWNERSHIP;  
20

21 (2) IN WHICH THE WOMEN HAVE OPERATIONAL AND MANAGERIAL CONTROL, INTEREST  
22 IN CAPITAL, AND EARNINGS COMMENSURATE WITH THEIR PERCENTAGE OF  
23 OWNERSHIP; AND  
24

25 (3) THAT IS LOCATED IN THE BALTIMORE CITY MARKET AREA.  
26

27 28-3. LEGISLATIVE FINDINGS AND POLICY.  
28

29 (A) FINDINGS.  
30

31 (1) THE MAYOR AND CITY COUNCIL MAKES THE FINDINGS CONTAINED IN THIS  
32 SUBSECTION, ON FULL CONSIDERATION OF:  
33

34 (i) THE EXTENSIVE FINDINGS MADE BY AN INDEPENDENT TASK FORCE PRIOR TO THE  
35 ENACTMENT OF ORDINANCE 90-610;  
36

37 (ii) THE EVIDENCE OF SIGNIFICANT LEVELS OF UTILIZATION DISPARITY IDENTIFIED  
38 BY THE 2000 DISPARITY STUDY;  
39

40 (iii) HEARINGS HELD BY THE CITY COUNCIL; AND  
41

42 (iv) ALL OTHER RELEVANT FACTS.  
43

44 (2) PAST DISCRIMINATION IN THE CITY=S CONTRACTING PROCESS BY PRIME CONTRACTORS  
45 AGAINST MINORITY AND WOMEN=S BUSINESS ENTERPRISES HAS RESULTED IN

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1 SIGNIFICANT UNDERUTILIZATION OF MINORITY AND WOMEN=S BUSINESS ENTERPRISES  
2 IN CONTRACTS AWARDED BY THE CITY OF BALTIMORE. AS DETERMINED BY THE 2000  
3 DISPARITY STUDY, THIS DISPARITY HAS BEEN PERSISTENT, PERVASIVE, AND  
4 STATISTICALLY SIGNIFICANT BASED ON AVAILABLE VENDOR DATA.

5  
6 (3) THIS DISCRIMINATION HAS OCCURRED IN THE MAJOR CITY CONTRACTING MARKETS  
7 (CONSTRUCTION, COMMODITIES, ARCHITECTURAL AND ENGINEERING, AND SERVICES),  
8 WITH THE EFFECT OF SIGNIFICANT UNDERUTILIZATION OF MINORITY AND WOMEN=S  
9 BUSINESS ENTERPRISES.

10  
11 (4) THE PROVISIONS OF THIS SUBTITLE ARE NECESSARY TO OVERCOME THE EFFECTS OF  
12 PAST DISCRIMINATION AND TO PREVENT ONGOING DISCRIMINATION IN THE CITY=S  
13 CONTRACTING PROCESS, WHILE ASSURING THAT HIGH QUALITY GOODS AND SERVICES  
14 ARE OBTAINED THROUGH THE COMPETITIVE BIDDING PROCESS.

15  
16 (5) A GENERAL GOAL OF THIS SUBTITLE IS TO PROVIDE A NARROWLY TAILORED REMEDY TO  
17 PAST DISCRIMINATION, A GOAL THAT IS ADVANCED BY:

18  
19 (I) SETTING MINORITY AND WOMEN=S BUSINESS ENTERPRISE GOALS THAT ARE  
20 FLEXIBLE AND RATIONALLY RELATED TO THE DISPARITY IDENTIFIED IN THE  
21 CITY=S CONTRACTING MARKETS;

22  
23 (II) INSTITUTING RACE- AND GENDER-NEUTRAL REMEDIES IN CONIUNCTION WITH  
24 THE MBE/WBE PROGRAM;

25  
26 (III) SETTING SEPARATE ANNUAL GOALS FOR DIFFERENT CATEGORIES OF  
27 CONTRACTS;

28  
29 (IV) SETTING GOALS ON A CONTRACT-BY-CONTRACT BASIS;

30  
31 (V) PROVIDING CRIMINAL PENALTIES FOR FRAUDULENT MISUSE OF THIS SUBTITLE;

32  
33 (VI) REQUIRING REGULAR REVIEW OF THE NECESSITY FOR THIS SUBTITLE;

34  
35 (VII) LIMITING THOSE MINORITY AND WOMEN=S BUSINESSES THAT QUALIFY UNDER  
36 THIS SUBTITLE TO THOSE LOCATED IN THE BALTIMORE CITY MARKET AREA;

37  
38 (VIII) REQUIRING REGULAR REVIEW OF THE CATEGORIES INCLUDED IN THE  
39 DEFINITION OF MINORITY GROUP MEMBERS; AND

40  
41 (IX) PROVIDING FOR POST-BID SUBMISSION OF REQUIRED INFORMATION ABOUT  
42 MINORITY AND WOMEN=S BUSINESS ENTERPRISES AS WELL AS OTHER  
43 SUBCONTRACTORS.

44  
45 (B) POLICY.

1  
2 IT IS THE POLICY OF THE CITY OF BALTIMORE TO PROMOTE EQUAL BUSINESS OPPORTUNITY  
3 IN THE CITY=S CONTRACTING PROCESS BY ENCOURAGING FULL AND EQUITABLE  
4 PARTICIPATION BY MINORITY AND WOMEN=S BUSINESS ENTERPRISES IN THE PROVISION OF  
5 GOODS AND SERVICES TO THE CITY ON A CONTRACTUAL BASIS.  
6

7 ' 28-4. SCOPE OF SUBTITLE.

8  
9 (A) IN GENERAL.

10  
11 THIS SUBTITLE APPLIES TO ALL CONTRACTS AWARDED BY THE CITY.  
12

13 (B) THIRD-PARTY CONTRACTS.

14  
15 EVERY CONTRACT OR OTHER AGREEMENT BETWEEN THE CITY OF BALTIMORE AND ANY  
16 GOVERNMENTAL AGENCY, QUASI-GOVERNMENTAL AGENCY, CORPORATION, DEVELOPER,  
17 OR CONTRACTOR, UNDER WHICH THE AGENCY, CORPORATION, DEVELOPER, OR  
18 CONTRACTOR RECEIVES ANY FISCAL ASSISTANCE FROM OR THROUGH THE CITY FOR THE  
19 PURPOSE OF CONTRACTING WITH BUSINESSES TO PERFORM REAL ESTATE DEVELOPMENT,  
20 RENOVATION, MAINTENANCE, OR OTHER SERVICES MUST REQUIRE THE AGENCY,  
21 CORPORATION, DEVELOPER, OR CONTRACTOR TO COMPLY WITH THIS SUBTITLE IN  
22 AWARDING AND ADMINISTERING THAT CONTRACT OR AGREEMENT.  
23

24 ' 28-5. RULES OF CONSTRUCTION.

25  
26 (A) LIBERAL CONSTRUCTION.

27  
28 THE PROVISIONS OF THIS SUBTITLE ARE TO BE LIBERALLY CONSTRUED TO ACCOMPLISH ITS  
29 POLICIES AND PURPOSES.  
30

31 (B) MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.

32  
33 (1) MANDATORY TERMS.

34  
35 A MUST= AND A SHALL= ARE EACH MANDATORY TERMS USED TO EXPRESS A  
36 REQUIREMENT OR TO IMPOSE A DUTY.  
37

38 (2) PROHIBITORY TERMS.

39  
40 A MUST NOT=, A MAY NOT=, AND A NO ... MAY= ARE EACH MANDATORY NEGATIVE  
41 TERMS USED TO ESTABLISH A PROHIBITION.  
42

43 (3) PERMISSIVE TERMS.

44  
45 A MAY= IS PERMISSIVE.

1  
2 (C) NUMBER.

3  
4 THE SINGULAR INCLUDES THE PLURAL AND VICE VERSA.

5  
6 (D) SEVERABILITY.

7  
8 (1) ALL PROVISIONS OF THIS SUBTITLE ARE SEVERABLE.

9  
10 (2) IF A COURT DETERMINES THAT A WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH,  
11 SUBSECTION, SECTION, OR OTHER PROVISION IS INVALID OR THAT THE APPLICATION OF  
12 ANY PART OF THE PROVISION TO ANY PERSON OR CIRCUMSTANCES IS INVALID, THE  
13 REMAINING PROVISIONS AND THE APPLICATION OF THOSE PROVISIONS TO OTHER  
14 PERSONS OR CIRCUMSTANCES REMAIN IN FULL FORCE AND EFFECT TO THE MAXIMUM  
15 EXTENT PRACTICABLE.

16  
17 (E) TIME COMPUTATIONS.

18  
19 (1) COMPUTATION OF TIME AFTER AN ACT, EVENT, OR DEFAULT.

20  
21 (i) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS SUBTITLE, THE DAY OF  
22 THE ACT, EVENT, OR DEFAULT AFTER WHICH THE DESIGNATED PERIOD OF TIME  
23 BEGINS TO RUN IS NOT INCLUDED.

24  
25 (ii) IF THE PERIOD OF TIME ALLOWED IS MORE THAN 7 DAYS, INTERMEDIATE  
26 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE COUNTED.

27  
28 (iii) IF THE PERIOD OF TIME ALLOWED IS 7 DAYS OR LESS, INTERMEDIATE SATURDAYS,  
29 SUNDAYS, AND LEGAL HOLIDAYS ARE NOT COUNTED.

30  
31 (iv) THE LAST DAY OF THE PERIOD SO COMPUTED IS INCLUDED UNLESS IT IS A  
32 SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE PERIOD RUNS  
33 UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL  
34 HOLIDAY.

35  
36 (2) COMPUTATION OF TIME BEFORE A DAY, ACT, OR EVENT.

37  
38 (i) IN DETERMINING THE LATEST DAY FOR PERFORMING AN ACT THAT IS REQUIRED BY  
39 THIS SUBTITLE TO BE PERFORMED A PRESCRIBED NUMBER OF DAYS BEFORE A  
40 CERTAIN DAY, ACT, OR EVENT, ALL DAYS PRECEDING THAT DAY, INCLUDING  
41 INTERVENING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS, ARE COUNTED IN THE  
42 NUMBER OF DAYS SO PRESCRIBED.

43  
44 (ii) THE LATEST DAY IS INCLUDED IN THE DETERMINATION UNLESS IT IS A SATURDAY,  
45 SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE LATEST DAY IS THE FIRST

PRECEDING DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

**' 28-6. AUTOMATIC TERMINATION.**

THIS SUBTITLE AUTOMATICALLY EXPIRES ON JUNE 30, 2005, UNLESS THE CITY COUNCIL, AFTER CAUSING AN APPROPRIATE STUDY TO BE UNDERTAKEN, CONDUCTING PUBLIC HEARINGS, AND HEARING TESTIMONIAL EVIDENCE, FINDS THAT THE PURPOSES IDENTIFIED IN THIS SUBTITLE HAVE NOT YET BEEN ACHIEVED, IN WHICH CASE THIS SUBTITLE MAY BE EXTENDED FOR 5 MORE YEARS.

**' 28-7. SHORT TITLE.**

THIS SUBTITLE MAY BE CITED AS THE A MINORITY AND WOMEN=S BUSINESS PROGRAM=S.

**' ' 28-8 TO 28-10. {RESERVED}**

**PART II. ADMINISTRATION**

**' 28-11. BUSINESS OPPORTUNITY OFFICE ESTABLISHED.**

**(A) IN GENERAL.**

THERE IS A MINORITY AND WOMEN=S BUSINESS OPPORTUNITY OFFICE IN THE DEPARTMENT OF LAW.

**(B) CHIEF TO ADMINISTER.**

THE OFFICE IS ADMINISTERED AND CONTROLLED BY THE CHIEF OF THE MINORITY AND WOMEN=S BUSINESS OPPORTUNITY OFFICE, WHO REPORTS DIRECTLY TO THE CITY SOLICITOR.

**' 28-12. GENERAL FUNCTIONS AND DUTIES OF OFFICE.**

**(A) IN GENERAL.**

THE MINORITY AND WOMEN=S BUSINESS OPPORTUNITY OFFICE IS RESPONSIBLE FOR THE ADMINISTRATION OF THIS SUBTITLE.

**(B) SPECIFIC DUTIES.**

THE OFFICE=S DUTIES INCLUDE:

**(I) CERTIFICATION OF MBES, WBEs, AND SLBES;**

**(II) MAINTAINING A DIRECTORY OF CERTIFIED BUSINESS ENTERPRISES;**

1  
2 (III) PROVIDING INFORMATION AND NEEDED ASSISTANCE TO MBEs, WBEs, AND SLBEs  
3 TO INCREASE THEIR ABILITY TO COMPETE EFFECTIVELY FOR THE AWARD OF CITY  
4 CONTRACTS;

5  
6 (IV) INVESTIGATING ALLEGED VIOLATIONS OF THIS SUBTITLE AND, WHEN APPROPRIATE,  
7 MAKING WRITTEN RECOMMENDATIONS FOR REMEDIAL ACTION;

8  
9 (V) DEVELOPING AND DISTRIBUTING ALL NECESSARY FORMS, APPLICATIONS, AND  
10 DOCUMENTS NECESSARY TO COMPLY WITH THIS SUBTITLE;

11  
12 (VI) MAINTAINING STATISTICS ON AND REVIEWING REGULARLY THE PROGRESS OF  
13 AGENCIES TOWARDS ACHIEVING THE ANNUAL GOALS FOR THE UTILIZATION OF  
14 MINORITY AND WOMEN=S BUSINESS ENTERPRISES;

15  
16 (VII) RECOMMENDING TO APPROPRIATE CITY OFFICIALS METHODS TO FURTHER THE  
17 POLICIES AND GOALS OF THIS SUBTITLE;

18  
19 (VIII) MONITORING CONTRACTORS THROUGHOUT THE DURATION OF THEIR CONTRACTS  
20 TO ENSURE THAT ALL EFFORTS ARE MADE TO COMPLY WITH THIS SUBTITLE; AND

21  
22 (IX) CERTIFYING COMPLIANCE WITH THIS SUBTITLE BEFORE CONTRACTS ARE  
23 SUBMITTED TO THE BOARD OF ESTIMATES FOR AWARD.

24  
25 **' 28-13. RULES AND REGULATIONS.**

26  
27 (A) *IN GENERAL.*

28  
29 THE OFFICE MAY ADOPT RULES AND REGULATIONS TO CARRY OUT THIS SUBTITLE.

30  
31 (B) *FILING WITH LEGISLATIVE REFERENCE.*

32  
33 A COPY OF ALL RULES AND REGULATIONS MUST BE FILED WITH THE DEPARTMENT OF  
34 LEGISLATIVE REFERENCE BEFORE THEY TAKE EFFECT.

35  
36 **' 28-14. BOARD OF ESTIMATES= AUTHORITY.**

37  
38 (A) *AUTHORITY OF BOARD NOT ABROGATED.*

39  
40 NOTHING IN THIS SUBTITLE ABROGATES THE AUTHORITY OF THE BOARD OF ESTIMATES TO  
41 AWARD CONTRACTS UNDER ARTICLE VI, § 11 OF THE CITY CHARTER.

42  
43 (B) *BOARD MAY WAIVE MINOR DEFECTS.*

44  
45 AT ITS DISCRETION, THE BOARD OF ESTIMATES MAY WAIVE MINOR DEFECTS AND ERRORS



1 IN A BIDDER=S MBE OR WBE SUBMISSION.

2  
3 ' 28-15. {RESERVED}

4  
5 **PART III. ANNUAL PARTICIPATION GOALS**

6  
7 ' 28-16. ESTABLISHMENT.

8  
9 ON AN ANNUAL BASIS, THE BOARD OF ESTIMATES, WITH THE ADVICE OF THE MINORITY AND  
10 WOMEN=S BUSINESS OPPORTUNITY OFFICE, MUST ESTABLISH PARTICIPATION GOALS FOR  
11 MINORITY BUSINESS ENTERPRISES AND FOR WOMEN=S BUSINESS ENTERPRISES IN EACH AREA  
12 OF CONTRACTING AND PROCUREMENT.

13  
14 ' 28-17. CRITERIA.

15  
16 (A) IN GENERAL.

17  
18 THE ANNUAL PARTICIPATION GOALS MUST BE BASED ON, BUT NOT LIMITED TO:

- 19  
20 (1) THE PRESENT AVAILABILITY OF QUALIFIED MBES AND WBES;  
21  
22 (2) THE UTILIZATION OF QUALIFIED MBES AND WBES ON PAST CONTRACTS AWARDED  
23 BY THE CITY;  
24  
25 (3) A FORECAST OF ELIGIBLE CONTRACTS TO BE AWARDED WITHIN THE FISCAL YEAR;  
26 AND  
27  
28 (4) REVIEW AND ANALYSIS OF THE REPORTS GENERATED BY THE MINORITY AND  
29 WOMEN=S BUSINESS OPPORTUNITY OFFICE UNDER THIS SUBTITLE.

30  
31 (B) LIMITATIONS.

- 32  
33 (1) THE ANNUAL GOALS MUST BE DIRECTLY RELATED TO THE AVAILABILITY OF QUALIFIED  
34 MBES AND WBES AND THE IDENTIFIED DISPARITY IN THE UTILIZATION OF MBES AND  
35 WBES.  
36  
37 (1) THE ANNUAL GOAL FOR MBES OR WBES MAY BE NO HIGHER THAN THE PERCENTAGE  
38 OF AVAILABILITY OF MBES OR WBES.

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**' 28-18. PURPOSE.**

*(A) IN GENERAL.*

THE PURPOSE OF THE ANNUAL GOALS IS TO AID THE CITY IN ITS ANNUAL EVALUATION OF THE PROGRAM=S EFFECTIVENESS.

*(B) GOALS, NOT QUOTAS.*

ANNUAL PARTICIPATION GOALS ARE NOT AND MAY NOT BE QUOTAS.

**' 28-19. COUNCIL REVIEW.**

*(A) SUBMISSION TO COUNCIL.*

BEFORE THE ANNUAL PARTICIPATION GOALS TAKE EFFECT, THE BOARD OF ESTIMATES MUST PRESENT THEM TO THE CITY COUNCIL FOR ITS CONSIDERATION.

*(B) COUNCIL ACTION.*

THE CITY COUNCIL MAY:

(1) ACCEPT THE GOALS SET BY THE BOARD OF ESTIMATES; OR

(2) ADOPT DIFFERENT GOALS IN ACCORDANCE WITH THE CRITERIA REQUIRED BY THIS PART III.

*(C) COUNCIL INACTION.*

IF THE CITY COUNCIL DOES NOT ACT WITHIN 30 DAYS AFTER THE BOARD=S GOALS ARE PRESENTED TO IT, THE BOARD=S GOALS AUTOMATICALLY TAKE EFFECT.

**' 28-20. {RESERVED}**

**PART IV. CONTRACT PARTICIPATION GOALS**

**' 28-21. ESTABLISHMENT.**

THE MINORITY AND WOMEN=S BUSINESS OPPORTUNITY OFFICE MUST ESTABLISH APPROPRIATE MBE AND WBE PARTICIPATION GOALS ON EACH SPECIFIC CONTRACT, AS PROVIDED IN THIS PART IV.

**' 28-22. CONSIDERATIONS.**

1 (A) IN GENERAL.  
2

3 IN SETTING THE GOALS ON A CONTRACT, THE OFFICE MUST CONSIDER:  
4

- 5 (1) THE AVAILABILITY IN VARIOUS INDUSTRY CLASSIFICATIONS AND PROFESSIONS OF  
6 MBES AND WBES THAT ARE QUALIFIED AND WILLING TO PROVIDE GOODS,  
7 EXPERTISE, AND SERVICES ON THE PARTICULAR CONTRACT;  
8  
9 (2) THE LEVEL OF UTILIZATION OF THESE FIRMS IN PAST CONTRACTS AWARDED BY THE  
10 CITY;  
11  
12 (3) THE CONTRACT SPECIFICATIONS;  
13  
14 (4) THE ADVERSE IMPACT ON NON-MBES AND -WBES; AND  
15  
16 (5) ANY OTHER RELEVANT FACTORS.  
17

18 (B) MINIMUM AVAILABILITY.  
19

20 FOR A GOAL TO BE APPLICABLE TO A CONTRACT, AT LEAST 2 MBES OR WBES MUST BE  
21 AVAILABLE FOR THAT GOAL.  
22

23 (C) CONSULTATION.  
24

25 IN ESTABLISHING GOALS ON EACH CONTRACT, THE OFFICE MUST CONSULT WITH THE  
26 CONTRACTING AGENCY, THE CITY PURCHASING AGENT, OR BOTH.  
27

28 **28-23. PUBLICATION.**  
29

30 THE CONTRACT GOALS MUST BE CLEARLY PUBLISHED AS PART OF THE CONTRACT  
31 SPECIFICATIONS IN THE INVITATION TO BID OR REQUEST FOR PROPOSALS.  
32

33 **28-24. APPLICABILITY TO ALTERNATES, MODIFICATIONS, ETC.**  
34

35 THE CONTRACT GOALS APPLY TO THE INITIAL CONTRACT AMOUNTS, TO ANY ALTERNATES, AND  
36 TO ALL SUBSEQUENT AMENDMENTS, SUPPLEMENTS, EXTRA WORK ORDERS, CHANGE ORDERS,  
37 OR OTHER MODIFICATIONS THAT, WHETHER INDIVIDUALLY OR IN THE AGGREGATE, INCREASE  
38 THE DOLLAR VALUE OF THE CONTRACT BY MORE THAN 10%.  
39

40 **28-25. OFFICE REVIEW AND REPORT.**  
41

42 (A) OFFICE TO EVALUATE.  
43

44 ANNUALLY, THE OFFICE MUST REVIEW MBE AND WBE PARTICIPATION ON ALL  
45 CONTRACTS AND PROCUREMENT TO EVALUATE THE EFFECT OF THE PROGRAM.

1  
2 (B) REPORT TO BOARD OF ESTIMATES.

3  
4 THE OFFICE MUST REPORT ITS FINDINGS TO THE BOARD OF ESTIMATES.

5  
6 ' 28-26 TO 28-30. {RESERVED}

7  
8 **PART V. STANDARDS**

9  
10 ' 28-31. IN GENERAL.

11  
12 MBE AND WBE PARTICIPATION TOWARD MEETING CONTRACT GOALS MUST BE COUNTED IN  
13 ACCORDANCE WITH THIS PART V.

14  
15 ' 28-32. COMMERCIALY USEFUL FUNCTION.

16  
17 (A) A COMMERCIALY USEFUL FUNCTION @ DEFINED

18  
19 IN THIS SECTION, A COMMERCIALY USEFUL FUNCTION ≅ MEANS THE PERFORMANCE BY  
20 A BUSINESS ENTERPRISE OF REAL AND DISTINCT WORK FOR WHICH THE BUSINESS  
21 ENTERPRISE HAS THE SKILL, EXPERTISE, AND ACTUAL RESPONSIBILITY TO PERFORM,  
22 MANAGE, AND SUPERVISE.

23  
24 (B) REQUIREMENT.

25  
26 THE BIDDER MAY COUNT TOWARD THE CONTRACT GOALS ONLY EXPENDITURES TO  
27 CERTIFIED BUSINESS ENTERPRISES THAT PERFORM COMMERCIALY USEFUL FUNCTIONS IN  
28 THE EXECUTION OF THE CONTRACT.

29  
30 (C) DETERMINATION.

31  
32 TO DETERMINE WHETHER A CERTIFIED BUSINESS ENTERPRISE IS PERFORMING A  
33 COMMERCIALY USEFUL FUNCTION, THE CITY MUST EVALUATE THE AMOUNT OF WORK  
34 SUBCONTRACTED, INDUSTRY PRACTICES, AND OTHER RELEVANT FACTORS.

35  
36 ' 28-33. JOINT VENTURES.

37  
38 (A) PERCENTAGE OF PARTICIPATION.

39  
40 A BIDDER MAY COUNT TOWARD THE CONTRACT GOAL THE PORTION OF ITS EXPENDITURE  
41 TO A JOINT VENTURE THAT IS EQUAL TO THE PERCENTAGE OF A CERTIFIED BUSINESS  
42 ENTERPRISE'S PARTICIPATION IN THE JOINT VENTURE.

43  
44 (B) NATURE AND EXTENT OF INTEREST.

1        THE MBE OR WBE MEMBER OF THE JOINT VENTURE MUST HAVE AN INTEREST IN THE  
2        CONTROL, MANAGEMENT, AND OPERATION OF THE JOINT VENTURE COMMENSURATE WITH  
3        THE MEMBER=S PERCENTAGE OF OWNERSHIP.

4  
5        (C) SHARE OF WORK RESPONSIBILITY.

6  
7        THE CERTIFIED BUSINESS ENTERPRISE THAT IS A MEMBER OF THE JOINT VENTURE MUST BE  
8        RESPONSIBLE FOR A CLEARLY DEFINED PORTION OF THE WORK TO BE PERFORMED, EQUAL  
9        TO ITS SHARE IN THE OWNERSHIP, CONTROL, AND MANAGEMENT OF THE JOINT VENTURE.

10  
11        **' 28-34. SUBCONTRACTING BY MBE OR WBE.**

12  
13        (A) LIMITATION.

14  
15        A BIDDER MAY NOT COUNT TOWARD ITS CONTRACT GOAL ANY AGREEMENTS WITH  
16        CERTIFIED BUSINESS ENTERPRISE SUBCONTRACTORS WHO INTEND TO SUBCONTRACT MORE  
17        THAN 10% OF THE DOLLAR AMOUNT OF THE SERVICES TO BE PERFORMED UNDER THE  
18        AGREEMENT BETWEEN THE BIDDER AND THE CERTIFIED BUSINESS ENTERPRISE.

19  
20        (B) EXCEPTION FOR SUPPLIES, ETC.

21  
22        THIS SECTION DOES NOT APPLY TO A SUBCONTRACTOR=S CONTRACTS FOR THE PURCHASE  
23        OF MATERIALS, EQUIPMENT, OR SUPPLIES AS AN INCIDENT TO THE PERFORMANCE OF  
24        SERVICES UNDER ITS CONTRACT.

25  
26        **' 28-35. {RESERVED}**

27  
28        **' 28-36. MANUFACTURERS.**

29  
30        A BIDDER MAY COUNT TOWARDS THE CONTRACT GOAL ITS ENTIRE EXPENDITURE TO A  
31        CERTIFIED BUSINESS ENTERPRISE MANUFACTURER.

32  
33        **' 28-37. SUPPLIERS.**

34  
35        (A) IN GENERAL.

36  
37        IF A BIDDER USES 1 OR MORE SUPPLIERS TO SATISFY A CONTRACT GOAL, IN WHOLE OR IN  
38        PART, THE CERTIFIED BUSINESS ENTERPRISE SUPPLIER PARTICIPATION MAY BE CREDITED  
39        TOWARDS THE APPLICABLE GOAL, AS PROVIDED IN THIS SECTION.

40  
41        (B) SUPPLIER-MANUFACTURERS.

42  
43        A BIDDER MAY COUNT 100% OF ITS EXPENDITURE TO A CERTIFIED BUSINESS ENTERPRISE  
44        SUPPLIER WHO MANUFACTURES THE GOODS SUPPLIED.

1 (C) OTHERS.

2  
3 (1) A BIDDER MAY COUNT 100% OF ITS EXPENDITURE TO A CERTIFIED BUSINESS  
4 ENTERPRISE SUPPLIER WHO IS:

5  
6 (i) A WHOLESALER WAREHOUSING THE GOODS SUPPLIED; OR

7  
8 (ii) A MANUFACTURER'S REPRESENTATIVE,

9  
10 (2) HOWEVER, ONLY 25% OF THE APPLICABLE CONTRACT GOAL MAY BE ATTAINED BY  
11 EXPENDITURES TO CERTIFIED BUSINESS ENTERPRISES THAT ARE NON-MANUFACTURING  
12 SUPPLIERS.

13  
14 (D) ADJUSTMENT FOR EXTRAORDINARY PROPORTION.

15  
16 FOR CONTRACTS WHERE AN EXTRAORDINARILY LARGE PROPORTION OF THE CONTRACT  
17 PRICE IS FOR EQUIPMENT OR SUPPLIES:

18  
19 (1) A LOWER PROJECT GOAL MAY BE SET THAN OTHERWISE WOULD BE REQUIRED;

20  
21 (2) THE 25% LIMIT FOR SUPPLIERS MAY BE INCREASED; OR

22  
23 (3) A COMBINATION OF THESE TWO METHODS MAY BE USED.

24  
25 ' 28-38. INSURANCE COMPANIES; TRAVEL AGENTS.

26  
27 A BIDDER MAY COUNT TOWARDS THE CONTRACT GOALS ONLY 15% OF ITS EXPENDITURE TO A  
28 CERTIFIED BUSINESS ENTERPRISE INSURANCE COMPANY OR TRAVEL AGENT.

29  
30 ' 28-39. FINANCIAL INSTITUTIONS.

31  
32 A BIDDER MAY COUNT TOWARDS THE CONTRACT GOALS ONLY THE FEES CHARGED AND  
33 EARNED BY A CERTIFIED BUSINESS ENTERPRISE FINANCIAL INSTITUTION.

34  
35 ' 28-40. {RESERVED}

36  
37 ' 28-41. NON-AFFILIATION.

38  
39 (A) AFFILIATION DISALLOWED.

40  
41 A BIDDER IS PRECLUDED FROM USING A CERTIFIED BUSINESS ENTERPRISE TO MEET A  
42 CONTRACT GOAL IF THE BIDDER HAS A FINANCIAL INTEREST IN, HAS AN INTEREST IN THE  
43 OWNERSHIP OR CONTROL OF, OR IS SIGNIFICANTLY INVOLVED IN THE OPERATION OF THE  
44 CERTIFIED BUSINESS ENTERPRISE.

1 (B) OFFICE CRITERIA TO BE MET.

2  
3 IN ORDER FOR A BIDDER TO USE A CERTIFIED BUSINESS ENTERPRISE TO MEET A CONTRACT  
4 GOAL, THE NON-AFFILIATION CRITERIA ESTABLISHED BY THE MINORITY AND WOMEN-S  
5 BUSINESS OPPORTUNITY OFFICE MUST BE MET.

6  
7 ' 28-42 TO 28-45. {RESERVED}

8  
9 PART VI. UTILIZATION REQUIREMENTS

10  
11 ' 28-46. CONTRACTS BETWEEN \$1,000 - \$4,999.

12  
13 (A) IN GENERAL.

14  
15 THE FOLLOWING STANDARDS AND PROCEDURES APPLY TO EVERY CONTRACT FOR WHICH  
16 THE ESTIMATED COST IS \$1,000 OR MORE AND LESS THAN \$5,000.

17  
18 (B) OFFICE TO PROVIDE LIST OF CERTIFIED ENTERPRISES.

19  
20 THE OFFICE MUST PROVIDE THE CONTRACTING AGENCY WITH A LIST OF CERTIFIED  
21 BUSINESS ENTERPRISES QUALIFIED TO PROVIDE EACH OF THE MATERIALS, EQUIPMENT,  
22 SUPPLIES, OR SERVICES THAT THE CONTRACTING AGENCY INDICATES ARE REQUIRED BY THE  
23 CITY.

24  
25 (C) AGENCIES TO SOLICIT CERTIFIED ENTERPRISES.

26  
27 THE CONTRACTING AGENCY MUST SOLICIT BIDS FROM CERTIFIED BUSINESS ENTERPRISES  
28 THAT ARE CERTIFIED TO SUPPLY THE REQUIRED MATERIALS, EQUIPMENT, SUPPLIES, OR  
29 SERVICES.

30  
31 (D) WHEN CERTIFIED ENTERPRISES UNAVAILABLE.

32  
33 IF NO QUALIFIED CERTIFIED BUSINESS ENTERPRISE IS AVAILABLE:

34  
35 (1) THE CONTRACTING AGENCY MUST SO NOTIFY THE OFFICE BEFORE THE SOLICITATION  
36 OF BIDS; AND

37  
38 (2) THE OFFICE MUST ATTEMPT TO IDENTIFY QUALIFIED BUSINESSES AND, IF  
39 SUCCESSFUL, NOTIFY THE CONTRACTING AGENCY OF THEIR AVAILABILITY.

40  
41 (E) OPPORTUNITY TO BID.

42  
43 THE CONTRACTING AGENCY MUST PROVIDE CERTIFIED BUSINESS ENTERPRISES EVERY  
44 PRACTICAL OPPORTUNITY TO SUBMIT BIDS.

1 28-47. CONTRACTS BETWEEN \$5,000 - \$24,999.

2  
3 (A) IN GENERAL.

4  
5 THE FOLLOWING STANDARDS AND PROCEDURES APPLY TO EVERY CONTRACT FOR WHICH  
6 THE ESTIMATED COST IS \$5,000 OR MORE AND LESS THAN \$25,000.

7  
8 (B) AGENCY TO PROVIDE OFFICE WITH BID DOCUMENTS.

9  
10 BEFORE THE SOLICITATION OF BIDS, THE CONTRACTING AGENCY MUST FURNISH THE OFFICE  
11 WITH AN INFORMATIONAL COPY OF ALL BID CONDITIONS AND REQUESTS FOR PROPOSALS.

12  
13 (C) OFFICE MAY RECOMMEND CERTIFIED ENTERPRISES.

14  
15 THE OFFICE MAY RECOMMEND TO THE CONTRACTING AGENCY CERTIFIED BUSINESS  
16 ENTERPRISES THAT CAN BE SOLICITED DIRECTLY TO SUBMIT BIDS.

17  
18 28-48. CONTRACTS OF \$25,000 OR MORE.

19  
20 (A) IN GENERAL.

21  
22 THE FOLLOWING STANDARDS AND PROCEDURES APPLY TO EVERY CONTRACT FOR WHICH  
23 THE ESTIMATED COST IS \$25,000 OR MORE.

24  
25 (B) PARTICIPATION AFFIDAVIT REQUIRED.

26  
27 (1) IN ADDITION TO ANY OTHER APPLICABLE REQUIREMENTS, THE BID CONDITIONS AND  
28 REQUESTS FOR PROPOSALS MUST REQUIRE EACH BIDDER TO INCLUDE IN ITS BID A  
29 CERTIFIED BUSINESS ENTERPRISE PARTICIPATION AFFIDAVIT IN WHICH THE BIDDER  
30 COMMITTS TO UTILIZE CERTIFIED BUSINESS ENTERPRISES IN A PERCENTAGE THAT EQUALS  
31 OR EXCEEDS THE APPLICABLE CONTRACT GOAL.

32  
33 (2) ANY BID THAT DOES NOT INCLUDE THE CERTIFIED BUSINESS PARTICIPATION AFFIDAVIT  
34 IS NONRESPONSIVE.

35  
36 (C) PARTICIPATION AFFIDAVIT REQUIREMENTS.

37  
38 (1) PRIOR TO BID OPENING, BIDDERS MUST SUBMIT TO THE CITY THE CERTIFIED BUSINESS  
39 ENTERPRISE PARTICIPATION STATEMENT, INCLUDING EXECUTED STATEMENTS OF  
40 INTENT, THAT SPECIFY:

41  
42 (I) THE NAME OF EACH CERTIFIED BUSINESS ENTERPRISE TO WHOM THE BIDDER  
43 INTENDS TO AWARD A SUBCONTRACT;

44  
45 (II) WHETHER THAT SUBCONTRACTOR IS:



1  
2                   (A) A MINORITY BUSINESS ENTERPRISE; OR

3  
4                   (B) A WOMEN=S BUSINESS ENTERPRISE.

5  
6                   (III) THE DOLLAR VALUE OF EACH SUBCONTRACT;

7  
8                   (IV) THE SCOPE OF THE WORK TO BE PERFORMED UNDER THAT SUBCONTRACT; AND

9  
10                  (V) ANY OTHER INFORMATION THE OFFICE REQUIRES TO DETERMINE WHETHER THE  
11                   CONTRACT GOALS HAVE BEEN SATISFIED.

12  
13 (D) VERIFYING CERTIFICATION.

14  
15                  EACH BIDDER IS RESPONSIBLE FOR VERIFYING THAT ALL MBEs AND WBEs TO BE USED  
16                  HAVE BEEN CERTIFIED BY THE OFFICE BEFORE BID OPENING.

17  
18 (E) MAINTAINING LEVELS DURING CONTRACT TERM.

19  
20                  DURING THE TERM OF THE CONTRACT, ANY UNJUSTIFIED FAILURE TO COMPLY WITH THE  
21                  LEVELS OF CERTIFIED BUSINESS ENTERPRISE PARTICIPATION IDENTIFIED IN THE BID IS A  
22                  MATERIAL BREACH OF CONTRACT.

23  
24 (F) REPORT FOR FINAL PAYMENT.

25  
26                  (1) BEFORE FINAL PAYMENT MAY BE MADE UNDER THE CONTRACT, THE CONTRACTOR  
27                  MUST SUBMIT A LIST OF ALL SUBCONTRACTORS UTILIZED ON THE CONTRACT, BOTH  
28                  MBE/WBE AND NON-MBE/WBE.

29  
30                  (2) THE LIST MUST INCLUDE, AS TO EACH SUBCONTRACTOR:

31  
32                    (i) ITS NAME;

33  
34                    (ii) THE TOTAL AMOUNT PAID TO IT; AND

35  
36                    (iii) ITS OWNER=S RACE/ETHNICITY AND SEX.

37  
38 **' 28-49. LEASES AND CONCESSIONS.**

39  
40 (A) IN GENERAL.

41  
42                  THE FOLLOWING STANDARDS AND PROCEDURES APPLY TO:

43  
44                  (1) EVERY LEASE IN WHICH THE CITY IS THE LESSEE; AND  
45

1           (2) EVERY CONTRACT FOR A CONCESSION.

2  
3       (B) AGENCY TO SOLICIT CERTIFIED ENTERPRISES.

4  
5           CITY AGENCIES MUST SOLICIT BIDS FROM CERTIFIED BUSINESS ENTERPRISES THAT ARE  
6           CERTIFIED TO ENTER INTO LEASES OR CONCESSION CONTRACTS.

7  
8       (C) WHEN QUALIFIED ENTERPRISES UNAVAILABLE.

9  
10           IF, AFTER INVESTIGATION, A CONTRACTING AGENCY DETERMINES THAT NO QUALIFIED  
11           CERTIFIED BUSINESS ENTERPRISE IS AVAILABLE:

12  
13           (1) THE CONTRACTING AGENCY MUST SO NOTIFY THE OFFICE BEFORE SIGNING A LEASE  
14           OR AWARDING A CONCESSION CONTRACT, UNLESS THE OFFICE HAS WAIVED  
15           NOTIFICATION BASED ON THE KNOWN UNAVAILABILITY OF QUALIFIED CERTIFIED  
16           BUSINESSES TO PERFORM A PARTICULAR CONTRACT; AND

17  
18           (2) THE OFFICE MAY ATTEMPT TO IDENTIFY QUALIFIED CERTIFIED BUSINESS  
19           ENTERPRISES AND, IF SUCCESSFUL, MUST NOTIFY THE CONTRACTING AGENCY OF  
20           THEIR AVAILABILITY.

21  
22       (D) OPPORTUNITY TO BID.

23  
24           THE CONTRACTING AGENCY MUST PROVIDE THE MINORITY AND WOMEN=S BUSINESS  
25           ENTERPRISES EVERY PRACTICAL OPPORTUNITY TO SUBMIT BIDS.

26  
27       (E) CONCESSION SUBCONTRACTORS AND SUPPLIERS.

28  
29           (1) ALL REQUESTS FOR CONCESSION BIDS MUST REQUIRE CONCESSIONAIRES TO MAKE  
30           EVERY GOOD FAITH EFFORT TO UTILIZE MINORITY AND WOMEN=S BUSINESS  
31           ENTERPRISES AS SUBCONTRACTORS AND SUPPLIERS, WHENEVER POSSIBLE, IF  
32           SUBCONTRACTORS ARE USED.

33  
34           (2) CONCESSION BIDDERS MUST BE REQUIRED TO SUBMIT THEIR PROJECTED UTILIZATION OF  
35           MINORITY AND WOMEN=S BUSINESS ENTERPRISES ALONG WITH A DESCRIPTION OF THE  
36           EFFORTS MADE TO UTILIZE THOSE BUSINESSES.

37  
38    28-50. OTHER SERVICES.

39  
40       (A) EFFORTS REQUIRED.

41  
42           ALL CITY AGENCIES, COMMISSIONS, AND BOARDS, IN THE DEPOSIT OF FUNDS AND  
43           PERFORMANCE OF THEIR OTHER OFFICIAL DUTIES, MUST MAKE EVERY GOOD FAITH EFFORT  
44           TO EQUITABLY UTILIZE THE SERVICES OF MINORITY AND WOMEN=S BUSINESS ENTERPRISES.  
45

1 (B) SCOPE.  
2

3 THE SERVICES TO WHICH THIS SECTION APPLIES INCLUDE, BUT ARE NOT LIMITED TO:  
4

5 (1) THE FINANCIAL SERVICES OF BANKS, SAVINGS AND LOAN COMPANIES, INSURANCE  
6 COMPANIES, AND OTHER COMMERCIAL FINANCIAL INSTITUTIONS;  
7

8 (2) ARRANGEMENTS FOR TRAVEL AND ACCOMMODATIONS WHEN TRAVELING ON  
9 OFFICIAL CITY BUSINESS; AND  
10

11 (3) LEGAL SERVICES.  
12

13 (C) ANNUAL REPORTS.  
14

15 (1) ALL CITY AGENCIES MUST SUBMIT TO THE OFFICE, ON AN ANNUAL BASIS, A WRITTEN  
16 REPORT ON THE EFFORTS MADE UNDER THIS SUBSECTION.  
17

18 (2) THE CITY FINANCE DEPARTMENT, CITY COMPTROLLER, AND RETIREMENT BOARDS  
19 MUST REPORT ANNUALLY TO THE MAYOR AND CITY COUNCIL ON THEIR UTILIZATION  
20 OF FINANCIAL INSTITUTIONS THAT ARE MINORITY OR WOMEN-S BUSINESS ENTERPRISES.  
21

22 ' 28-51. {RESERVED}  
23

24 ' 28-52. ALL CONTRACTS C IN GENERAL.  
25

26 IN ADDITION TO ANY OTHER APPLICABLE REQUIREMENTS, THE FOLLOWING REQUIREMENTS  
27 APPLY TO ALL CONTRACTS AWARDED BY THE CITY.  
28

29 ' 28-53. ALL CONTRACTS C BID SPECIFICATIONS.  
30

31 BID CONDITIONS, REQUESTS FOR PROPOSALS, AND ALL OTHER SPECIFICATIONS FOR CONTRACTS  
32 AWARDED BY THE CITY MUST REQUIRE THAT, WHERE A CONTRACT GOAL IS APPLICABLE, THE  
33 BIDDER MUST:  
34

35 (1) MAKE EVERY EFFORT BEFORE THE OPENING OF BIDS TO MEET THE CONTRACT GOAL;  
36 AND  
37

38 (2) KEEP RECORDS OF ITS EFFORTS, ADEQUATE TO PERMIT A DETERMINATION OF  
39 COMPLIANCE WITH THIS SUBTITLE.

1  
2 28-54. ALL CONTRACTS C CONTRACT SPECIFICATIONS.

3  
4 EACH CONTRACT MUST:

- 5  
6 (1) INCORPORATE THIS SUBTITLE BY REFERENCE;  
7  
8 (2) PROVIDE THAT THE FAILURE OF ANY BIDDER, CONTRACTOR, OR SUBCONTRACTOR TO  
9 COMPLY WITH THIS SUBTITLE IS A MATERIAL BREACH OF CONTRACT; AND  
10  
11 (3) REQUIRE THAT, DURING ITS TERM, THE CONTRACTOR WILL:  
12  
13 (i) FULFILL PROGRAM COMMITMENTS SUBMITTED WITH THE BIDS;  
14  
15 (ii) CONTINUE TO MAKE EVERY EFFORT TO UTILIZE MINORITY AND WOMEN=S  
16 BUSINESS ENTERPRISES; AND  
17  
18 (iii) MAINTAIN RECORDS REASONABLY NECESSARY FOR MONITORING  
19 COMPLIANCE WITH THIS SUBTITLE.  
20

21 28-55. ALL CONTRACTS C PAYMENTS TO SUBCONTRACTORS.

22  
23 (A) IN GENERAL.

24  
25 A CONTRACTOR MUST PAY ITS SUBCONTRACTORS IN A TIMELY FASHION FOR SATISFACTORY  
26 WORK.  
27

28 (B) WHEN PAYMENT CONSIDERED TIMELY.

29  
30 A PAYMENT IS TIMELY IF IT IS MAILED, DELIVERED, OR TRANSFERRED TO A  
31 SUBCONTRACTOR NO LATER THAN 7 DAYS AFTER THE CONTRACTOR RECEIVES PAYMENT  
32 FROM THE CITY.  
33

34 (C) EVIDENCE OF COMPLIANCE.

35  
36 BEGINNING WITH THE SECOND PAY REQUEST FROM A CONTRACTOR TO THE CITY, THE  
37 CONTRACTOR MUST PROVIDE THE CITY WITH EVIDENCE THAT ALL SUBCONTRACTORS HAVE  
38 BEEN PAID OUT OF THE PROCEEDS OF THE PRIOR PAYMENT, UNLESS A BONA FIDE DISPUTE,  
39 DOCUMENTED IN WRITING, EXISTS BETWEEN THE CONTRACTOR AND THE UNPAID  
40 SUBCONTRACTOR.  
41

42 28-56. ALL CONTRACTS C REPORTS AND DOCUMENTATION.

43  
44 AS A CONDITION OF EACH CONTRACT, THE AWARDEE OF THE CONTRACT MUST SUBMIT THE  
45 FOLLOWING WHEN REQUESTED BY THE OFFICE:

1  
2 (1) COPIES OF SIGNED AGREEMENTS WITH THE BUSINESS ENTERPRISES BEING UTILIZED TO  
3 ACHIEVE THE CONTRACT GOALS;

4  
5 (2) REPORTS AND DOCUMENTATION VERIFYING PAYMENTS TO THE BUSINESS ENTERPRISES  
6 BEING USED TO ACHIEVE THE CONTRACT GOALS; AND

7  
8 (3) REPORTS AND DOCUMENTATION ON THE EXTENT TO WHICH THE CONTRACTOR HAS  
9 AWARDED SUBCONTRACTS TO MINORITY AND WOMEN=S BUSINESS ENTERPRISES UNDER  
10 CONTRACTS NOT AFFECTED BY THIS SUBTITLE.

11  
12 ~~§ 28-57 TO 28-60. {RESERVED}~~

13  
14 **PART VII. WAIVERS**

15  
16 **§ 28-61. AGENCY=S PRE-SOLICITATION REQUEST.**

17  
18 (A) IN GENERAL.

19  
20 A CONTRACTING AGENCY MAY REQUEST THAT THE OFFICE WAIVE OR REDUCE THE  
21 CONTRACT GOALS BY SUBMITTING THE REASONS FOR THE REQUEST IN WRITING BEFORE  
22 BIDS ARE SOLICITED.

23  
24 (B) CRITERIA FOR GRANTING.

25  
26 THE OFFICE MAY GRANT THE WAIVER OR REDUCTION IF THE OFFICE DETERMINES THAT:

27  
28 (1) THE REASONABLE AND NECESSARY REQUIREMENTS OF THE CONTRACT RENDER  
29 SUBCONTRACTING OR OTHER PARTICIPATION OF BUSINESSES OTHER THAN THE  
30 BIDDER INFEASIBLE; OR

31  
32 (2) AT LEAST 2 QUALIFIED CERTIFIED BUSINESS ENTERPRISES CAPABLE OF  
33 PROVIDING THE GOODS OR SERVICES REQUIRED BY THE CONTRACT ARE  
34 UNAVAILABLE IN THE BALTIMORE CITY MARKET AREA DESPITE EVERY FEASIBLE  
35 ATTEMPT TO LOCATE THEM.

36  
37 (C) AMOUNT TO BE SPECIFIED.

38  
39 ANY REDUCTION GRANTED BY THE OFFICE MUST SPECIFY THE AMOUNT TO WHICH THE  
40 GOAL HAS BEEN REDUCED.

41  
42 (D) APPEAL OF DENIAL.

43  
44 (1) WHENEVER THE OFFICE DENIES A REQUEST TO WAIVE OR REDUCE A GOAL, THE  
45 CONTRACTING AGENCY MAY APPEAL THAT DENIAL TO THE BOARD OF ESTIMATES.

1  
2 (2) THE BOARD=S DECISION ON THE REQUEST IS FINAL.

3  
4 ' 28-62. BIDDER=S PRE-AWARD REQUEST.

5  
6 (A) IN GENERAL.

7  
8 IF A BIDDER IS UNABLE TO COMPLY WITH THE CONTRACT GOAL, THE BIDDER MAY SUBMIT A  
9 REQUEST FOR A WAIVER AT THE TIME OF BID OPENING.

10  
11 (B) DOCUMENTATION OF EFFORTS.

12  
13 THE REQUEST FOR A WAIVER MUST INCLUDE DOCUMENTATION THAT DEMONSTRATES A  
14 GOOD FAITH EFFORT TO COMPLY WITH THE GOAL REQUIREMENTS.

15  
16 ' 28-63. CONTRACTOR=S POST-AWARD REQUEST.

17  
18 (A) EFFORT TO SUBSTITUTE REQUIRED.

19  
20 (1) IF, AFTER AWARD OF A CONTRACT, THE CONTRACTOR IS UNABLE TO MEET ANY  
21 CONTRACT GOAL BY UTILIZING THE CERTIFIED BUSINESS ENTERPRISES SPECIFIED AT BID  
22 OPENING, THE CONTRACTOR MUST SEEK A SUBSTITUTE CERTIFIED BUSINESS ENTERPRISE  
23 TO FULFILL ITS COMMITMENT.

24  
25 (2) THE SUBSTITUTION MUST BE APPROVED BY THE OFFICE.

26  
27 (B) REQUEST FOR WAIVER.

28  
29 IF, AFTER REASONABLE GOOD FAITH EFFORTS, THE CONTRACTOR IS UNABLE TO FIND A  
30 SUBSTITUTE, THE CONTRACTOR MAY REQUEST A POST-AWARD WAIVER.

31  
32 (C) DOCUMENTATION OF REASONS.

33  
34 THE REQUEST MUST DOCUMENT THE REASONS FOR THE CONTRACTOR=S INABILITY TO MEET  
35 THE CONTRACT GOAL.

36  
37 ' 28-64. WAIVER BY AGENCY.

38  
39 (A) IN GENERAL.

40  
41 A CONTRACTING AGENCY MAY WAIVE THE UTILIZATION REQUIREMENTS FOR A SPECIFIC  
42 CONTRACT AS PROVIDED IN THIS SECTION.

43  
44 (B) SOLE SOURCE.

1 THE AGENCY MAY WAIVE THE UTILIZATION REQUIREMENTS IF, WITH THE ADVICE OF THE  
2 OFFICE, IT FINDS THAT:

3  
4 (1) NEEDED GOODS OR SERVICES ARE AVAILABLE ONLY FROM A SOLE SOURCE; AND

5  
6 (2) THE PROSPECTIVE CONTRACTOR IS NOT CURRENTLY DISQUALIFIED FROM DOING  
7 BUSINESS WITH THE CITY.

8  
9 (C) EMERGENCY.

10  
11 THE AGENCY MAY WAIVE THE UTILIZATION REQUIREMENTS IF IT CERTIFIES IN WRITING TO  
12 THE OFFICE THAT:

13  
14 (1) AN EMERGENCY EXISTS THAT REQUIRES GOODS OR SERVICES TO BE PROVIDED WITH  
15 SUCH AN IMMEDIACY THAT THE AGENCY IS UNABLE TO COMPLY WITH THIS  
16 SUBTITLE; AND

17  
18 (2) THE PROSPECTIVE CONTRACTOR WILL MAKE EVERY GOOD FAITH EFFORT TO  
19 SUBCONTRACT TO MINORITY AND WOMEN=S BUSINESS ENTERPRISES IF  
20 SUBCONTRACTING IS UTILIZED.

21  
22 ' 28-65. {RESERVED}

23  
24 **PART VIII. AGENCY=S DUTIES**

25  
26 ' 28-66. IN GENERAL.

27  
28 EACH CONTRACTING AGENCY MUST TAKE THE FOLLOWING ACTIONS TO ENSURE THAT MBEs  
29 AND WBEs HAVE MAXIMUM OPPORTUNITY TO PARTICIPATE ON CITY CONTRACTS.

30  
31 ' 28-67. ADHERENCE TO BID PROCEDURES, ETC.

32  
33 EVERY CONTRACTING AGENCY MUST ENSURE THAT INVITATIONS TO BID OR REQUESTS FOR  
34 PROPOSALS EMANATING FROM THE AGENCY COMPLY WITH THIS SUBTITLE.

35  
36 ' 28-68. RESPONSIBILITY FOR ACHIEVING GOALS.

37  
38 EACH AGENCY HEAD OR DESIGNEE MUST:

39  
40 (1) ASSUME PRIMARY RESPONSIBILITY FOR ACHIEVING THE GOALS OF THE PROGRAM; AND

41  
42 (2) ON A CONTINUING BASIS, REVIEW ALL ASPECTS OF THE PROGRAM=S OPERATIONS TO  
43 ASSURE THAT THE PURPOSE IS BEING ATTAINED.

44  
45 ' 28-69. ADVERTISEMENTS, NOTICES, ETC.

1  
2 (A) MEDIA ADVERTISEMENTS.

3  
4 ADVERTISEMENTS FOR BIDS MUST APPEAR IN MINORITY-OWNED MEDIA NO LESS THAN 10  
5 DAYS BEFORE BIDS ARE DUE FOR SPECIFIC CONTRACTING OPPORTUNITIES.

6  
7 (B) NOTICES TO TRADE ASSOCIATIONS.

8  
9 A WRITTEN NOTIFICATION OF CONTRACTING OPPORTUNITIES MUST BE SENT TO MINORITY  
10 AND WOMEN=S BUSINESS TRADE ASSOCIATIONS AND CONTRACTOR=S ASSOCIATIONS NO  
11 LESS THAN 10 DAYS BEFORE BIDS ARE DUE.

12  
13 (C) SOLICITATION MATERIALS.

14  
15 ALL CONTRACT SOLICITATIONS MUST INCLUDE THE MBE/WBE POLICY AND ANY RELATED  
16 MATERIALS REQUIRED BY THE BID DOCUMENTS.

17  
18 ' 28-70. CONTRACT DIVISION.

19  
20 ALL CONTRACTING OPPORTUNITIES MUST BE EVALUATED IN AN EFFORT TO DIVIDE THE TOTAL  
21 REQUIREMENTS OF A CONTRACT TO PROVIDE REASONABLE OPPORTUNITIES FOR PARTICIPATION  
22 BY MINORITY AND WOMEN=S BUSINESS ENTERPRISES.

23  
24 ' 28-71. PAYMENT PROCEDURES.

25  
26 EACH CONTRACTING AGENCY MUST ESTABLISH PROCEDURES TO ENSURE THAT:

- 27  
28 (1) ALL CONTRACTORS WHO SUBMIT CORRECT INVOICES ARE PAID WITHIN 30 DAYS; AND  
29  
30 (2) ALL SUBCONTRACTORS ARE PAID WITHIN 7 DAYS AFTER THE CITY PAYS THE GENERAL  
31 CONTRACTOR.

32  
33 ' 28-72. CONDITIONING NOTICE TO PROCEED.

34  
35 EACH CONTRACTING AGENCY MUST ESTABLISH GUIDELINES TO ENSURE THAT A NOTICE TO  
36 PROCEED IS NOT ISSUED UNTIL THE CONTRACTING AGENCY HAS RECEIVED COPIES OF ALL  
37 DOCUMENTS NEEDED TO EVIDENCE THE CONTRACTOR=S FULFILLMENT OF ITS COMMITMENTS  
38 UNDER THIS SUBTITLE.

39  
40 ' 28-73. DOCUMENTATION.

41  
42 EACH CONTRACTING AGENCY MUST SUBMIT TO THE OFFICE ALL STATISTICS AND  
43 DOCUMENTATION THAT THE OFFICE REQUESTS.

44  
45 ' ' 28-74 TO 28-75. {RESERVED}



PART IX. CERTIFICATION

' 28-76. REQUIRED BEFORE BID OPENING.

(A) IN GENERAL.

FOR THE PURPOSES OF DETERMINING COMPLIANCE WITH CONTRACT GOALS, A BUSINESS ENTERPRISE MAY BE COUNTED AS AN MBE OR WBE ONLY IF IT HAS BEEN SO CERTIFIED BY THE OFFICE BEFORE BID OPENING.

(B) EFFECT ON PARTICIPATION AMOUNT.

IF A BUSINESS LISTED IN A BIDDER'S INFORMATION AND UTILIZATION COMMITMENT FORM HAS NOT BEEN CERTIFIED, THE AMOUNT OF PARTICIPATION WILL BE DEDUCTED FROM THE TOTAL MBE OR WBE UTILIZATION IN DETERMINING WHETHER THE BIDDER IS RESPONSIVE.

' 28-77. MBES C. MINORITY GROUP ELIGIBILITY.

(A) IN GENERAL.

FOR A BUSINESS ENTERPRISE TO BE ELIGIBLE FOR CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE, THE MINORITY GROUP MEMBERS WHO OWN AND CONTROL THE BUSINESS ENTERPRISE MUST BE FROM 1 OR MORE MINORITY GROUPS FOR WHICH A UTILIZATION DISPARITY HAS BEEN IDENTIFIED.

(B) ANNUAL REVIEW.

ANNUALLY, THE OFFICE MUST REVIEW THE RELEVANT DATA AND DETERMINE WHICH MINORITY GROUPS ARE ELIGIBLE.

' 28-78. MBES AND WBES C. GENERAL CRITERIA.

(A) GENERAL ELIGIBILITY REQUIREMENTS.

TO BE ELIGIBLE FOR CERTIFICATION AS A MINORITY BUSINESS ENTERPRISE OR WOMEN'S BUSINESS ENTERPRISE, THE BUSINESS ENTERPRISE MUST:

- (1) BE AN INDEPENDENT, OPERATING BUSINESS;
- (2) HAVE BEEN IN OPERATION FOR AT LEAST 12 MONTHS BEFORE APPLYING FOR CERTIFICATION;
- (3) HAVE BEEN MINORITY- OR WOMEN-OWNED FOR AT LEAST 12 MONTHS BEFORE APPLYING FOR CERTIFICATION; AND

1  
2 (4) HAVE AN OPERATING OFFICE IN THE BALTIMORE CITY MARKET AREA.

3  
4 (B) OPERATING OFFICE.

5  
6 TO DETERMINE WHETHER THE BUSINESS ENTERPRISE HAS THE REQUIRED OPERATING  
7 OFFICE, THE OFFICE WILL CONSIDER THE OFFICE ARRANGEMENTS, INDUSTRY PRACTICES,  
8 AND OTHER RELEVANT FACTORS.

9  
10 ' 28-79. MBES AND WBES C CONTROL.

11  
12 (A) IN GENERAL.

13  
14 (1) THE OWNERSHIP AND CONTROL BY MINORITIES OR WOMEN MUST BE:

15  
16 (I) REAL AND SUBSTANTIAL; AND

17  
18 (II) INDICATED BY THE CUSTOMARY INCIDENTS OF OWNERSHIP, AS DEMONSTRATED  
19 BY AN EXAMINATION OF THE SUBSTANCE RATHER THAN THE FORM OF  
20 OWNERSHIP AND OPERATING ARRANGEMENTS.

21  
22 (2) THE MINORITY OR WOMEN OWNERS MUST POSSESS THE POWER:

23  
24 (I) TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF  
25 THE BUSINESS ENTERPRISE; AND

26  
27 (II) TO MAKE DAY-TO-DAY DECISIONS, AS WELL AS DECISIONS ON MATTERS OF  
28 MANAGEMENT, POLICY, AND OPERATIONS.

29  
30 (B) RESTRICTIONS PRECLUDED.

31  
32 (1) THE BUSINESS ENTERPRISE MAY NOT BE SUBJECT TO ANY FORMAL OR INFORMAL  
33 RESTRICTIONS THAT LIMIT THE CUSTOMARY DISCRETION OF THE MINORITY OR WOMEN  
34 OWNERS.

35  
36 (2) THERE MAY NOT BE ANY RESTRICTION, WHETHER BY PARTNERSHIP AGREEMENT,  
37 CHARTER REQUIREMENTS, OR OTHER ARRANGEMENT, THAT PREVENTS THE MINORITY  
38 OR WOMEN OWNERS FROM MAKING BUSINESS DECISIONS WITHOUT THE COOPERATION  
39 OR VOTE OF ANY OWNER WHO IS NOT A MINORITY OR A WOMAN.

40  
41 (C) 12-MONTH PREREQUISITE.

42  
43 THE OPERATING ARRANGEMENTS AND THE OWNERSHIP AND CONTROL BY THE MINORITY  
44 GROUP MEMBERS MUST HAVE BEEN IN OPERATION FOR AT LEAST 12 MONTHS BEFORE  
45 APPLYING FOR CERTIFICATION.

1  
2 ' 28-80. MBEs AND WBEs B- SIZE STANDARDS; AGRADUATION@.

3  
4 (A) BOARD TO SET STANDARDS.

5  
6 (1) WITH THE ADVICE OF THE OFFICE, THE BOARD OF ESTIMATES MUST ESTABLISH A  
7 MAXIMUM SIZE STANDARD FOR MINORITY AND WOMEN=S BUSINESS ENTERPRISES.

8  
9 (2) THERE MUST BE SEPARATE SIZE STANDARDS FOR SEPARATE BUSINESS CATEGORIES.

10  
11 (3) THE BOARD OF ESTIMATES MUST REVIEW THE SIZE STANDARDS ANNUALLY

12  
13 (B) CERTIFICATION CONTINGENT.

14  
15 A BUSINESS ENTERPRISE MAY NOT BE CERTIFIED AS AN MBE OR WBE OR, ONCE  
16 CERTIFIED, HAVE ITS CERTIFICATION RENEWED IF, ON THE EFFECTIVE DATE OF THE  
17 APPLICATION OR RENEWAL, THE MBE OR WBE EXCEEDS THE SIZE STANDARD  
18 ESTABLISHED BY THE BOARD OF ESTIMATES UNDER THIS SUBSECTION.

19  
20 ' 28-81. CERTIFICATION INVESTIGATIONS.

21  
22 (A) IN GENERAL.

23  
24 THE OFFICE MAY INVESTIGATE A BUSINESS ENTERPRISE=S OWNERSHIP, MANAGEMENT,  
25 QUALIFICATIONS, AND OTHER RELEVANT MATTERS BEYOND FORMAL DOCUMENTATION:

26  
27 (1) AT THE INITIAL CERTIFICATION; AND

28  
29 (2) DURING CERTIFICATION OR RECERTIFICATION.

30  
31 (B) SCOPE.

32  
33 TO THE EXTENT REASONABLY NECESSARY TO ENSURE COMPLIANCE, THESE  
34 INVESTIGATIONS MAY INCLUDE, BUT ARE NOT LIMITED TO:

35  
36 (1) PERSONAL INTERVIEWS WITH PERSONS HAVING KNOWLEDGE OR RELEVANT  
37 INFORMATION RELATING TO A BUSINESS ENTERPRISE=S ELIGIBILITY,  
38 CERTIFICATION, OR DECERTIFICATION;

39  
40 (2) PERSONAL INTERVIEWS WITH BIDDERS, CONTRACTORS, VENDORS, OR SUPPLIERS  
41 INVOLVED IN A JOINT VENTURE OR CONTRACTUAL RELATIONSHIP WITH THE  
42 BUSINESS ENTERPRISE;

43  
44 (3) REVIEWING RECORDS PERTAINING TO CERTIFICATION; AND

1           (4) CONDUCTING RANDOM, ON-SITE VISITS, AUDITS, OR RELEVANT INQUIRIES.

2  
3    '**28-82. DECERTIFICATION.**

4  
5           THE OFFICE MAY DECERTIFY A BUSINESS THAT IT DETERMINES NO LONGER MEETS THE  
6           CERTIFICATION CRITERIA.

7  
8    '**28-83. CERTIFICATION APPEALS.**

9  
10    (A) OFFICE DETERMINATIONS.

11  
12           ALL ADVERSE CERTIFICATION DETERMINATIONS BY THE OFFICE MUST:

13  
14           (1) BE IN WRITING;

15  
16           (2) INCLUDE THE REASONS FOR THE DETERMINATION; AND

17  
18           (3) BE SENT TO THE AFFECTED BUSINESS ENTERPRISE.

19  
20    (B) APPEAL.

21  
22           (1) AN AGGRIEVED PARTY HAS A RIGHT TO PROTEST AN ADVERSE CERTIFICATION  
23           DETERMINATION AND SEEK ADMINISTRATIVE REVIEW.

24  
25           (2) TO OBTAIN ADMINISTRATIVE REVIEW, THE AGGRIEVED PARTY MUST SUBMIT A WRITTEN  
26           PROTEST TO THE CHIEF WITHIN 7 DAYS OF RECEIPT OF THE ADVERSE DETERMINATION.

27  
28           (3) THE PROTEST MUST SPECIFY THE REASONS AND FACTUAL GROUNDS OF THE PROTEST  
29           AND BE ACCOMPANIED BY ANY SUPPORTING DOCUMENTS.

30  
31    (C) ACTION BY CHIEF.

32  
33           WITHIN 15 DAYS OF RECEIPT OF THE PROTEST, THE CHIEF MUST:

34  
35           (1) REVIEW THE PROTEST AND ALL RELEVANT SUPPORTING DOCUMENTS; AND

36  
37           (2) RENDER A WRITTEN DECISION THAT INCLUDES THE REASONS FOR THE DECISION.

38  
39    (D) HEARING.

40  
41           (1) AFTER ALL DEPARTMENTAL REMEDIES HAVE BEEN EXHAUSTED, THE AGGRIEVED  
42           APPLICANT MAY REQUEST A HEARING BEFORE A PANEL OF INDEPENDENT HEARING  
43           OFFICERS, WITH 1 MEMBER OF THE PANEL BEING APPOINTED BY THE PRESIDENT OF THE  
44           CITY COUNCIL AND THE OTHER MEMBERS OF THE PANEL BEING APPOINTED BY THE CITY  
45           SOLICITOR.



1                    CONCILIATION.

2  
3            (B) REFERRAL TO BOARD OF ESTIMATES.

4  
5                    (1) IF THE NONCOMPLIANCE CANNOT BE RESOLVED, THE OFFICE MUST SUBMIT ITS WRITTEN  
6                    FINDINGS AND RECOMMENDATIONS TO THE BOARD OF ESTIMATES.

7  
8                    (2) THE BOARD OF ESTIMATES MAY TAKE APPROPRIATE ACTION TO SECURE COMPLIANCE.

9  
10   ' 28-89. OFFICE MAY REQUIRE REPORTS, ETC.

11  
12            THE OFFICE MAY REQUIRE CONTRACTORS, BIDDERS, CONTRACTING AGENCIES, AND THE HEAD  
13            OF ANY CITY AGENCY TO SUBMIT ANY REPORTS, DOCUMENTS, OR OTHER INFORMATION  
14            REASONABLY NECESSARY TO DETERMINE COMPLIANCE WITH THIS SUBTITLE.

15  
16   ' 28-90. AGENCIES TO KEEP RECORDS.

17  
18            (A) RECORDS REQUIRED.

19  
20                    A CONTRACTING AGENCY MUST KEEP ACCURATE RECORDS FOR EACH CONTRACT IT  
21                    AWARDS.

22  
23            (B) CONTENTS.

24  
25                    THESE RECORDS MUST INCLUDE:

26  
27                    (1) DOLLAR VALUE OF CONTRACT;

28  
29                    (2) NATURE OF GOODS OR SERVICES TO BE PROVIDED;

30  
31                    (3) NAME OF CONTRACTOR;

32  
33                    (4) EFFORTS EMPLOYED TO SOLICIT BIDS FROM CERTIFIED MINORITY AND WOMEN=S  
34                    BUSINESS ENTERPRISES; AND

35  
36                    (5) ALL SUBCONTRACTS AWARDED BY THE CONTRACTOR, IDENTIFYING FOR EACH:

37  
38                    (I) DOLLAR VALUE;

39  
40                    (II) NATURE OF GOODS OR SERVICES PROVIDED;

1  
2 (III) NAME OF SUBCONTRACTOR; AND

3  
4 (IV) RACE/ETHNICITY AND SEX OF SUBCONTRACTOR=OWNER.

5  
6 **' 28-91. ANNUAL REPORT.**

7  
8 (A) REPORT REQUIRED.

9  
10 THE OFFICE MUST SUBMIT AN ANNUAL REPORT TO THE MAYOR AND THE CITY COUNCIL ON  
11 THE CITY=S PROGRESS TOWARD THE UTILIZATION GOALS ESTABLISHED UNDER THIS  
12 SUBTITLE.

13  
14 (B) CONTENTS.

15  
16 THE REPORT MUST INCLUDE:

17  
18 (1) ANY PROBLEMS; AND

19  
20 (2) SPECIFIC RECOMMENDATIONS FOR IMPROVING THE CITY=S PERFORMANCE.

21  
22 **' ' 28-92 TO 28-95. {RESERVED}**

23  
24 **PART XL. PENALTIES**

25  
26 **' 28-96. ADMINISTRATIVE PENALTIES.**

27  
28 A CONTRACTOR WHO FAILS TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE IS SUBJECT TO  
29 ANY OR ALL OF THE FOLLOWING PENALTIES:

30  
31 (1) SUSPENSION OF CONTRACT;

32  
33 (2) WITHHOLDING OF FUNDS;

34  
35 (3) RESCISSION OF CONTRACT BASED ON MATERIAL BREACH;

36  
37 (4) REFUSAL TO ACCEPT A BID;

38  
39 (5) DISQUALIFICATION OF A BIDDER, CONTRACTOR, OR OTHER BUSINESS FROM ELIGIBILITY  
40 FOR PROVIDING GOODS OR SERVICES TO THE CITY FOR A PERIOD NOT TO EXCEED 2  
41 YEARS; AND

42  
43 (6) PAYMENT OF LIQUIDATED DAMAGES.

44  
45 **' 28-97. {RESERVED}**

1  
2 ' 28-98. CRIMINAL PENALTIES.

3  
4 (A) PROHIBITED CONDUCT.

5  
6 NO PERSON MAY:

7  
8 (1) FRAUDULENTLY OBTAIN, RETAIN, ATTEMPT TO OBTAIN OR RETAIN, OR AID  
9 ANOTHER IN FRAUDULENTLY OBTAINING, RETAINING, OR ATTEMPTING TO OBTAIN  
10 OR RETAIN CERTIFICATION UNDER THIS SUBTITLE;

11  
12 (2) IN ANY MATTER ADMINISTERED UNDER THIS SUBTITLE, WILLEFULLY FALSIFY,  
13 CONCEAL, OR COVER UP BY A TRICK, SCHEME, OR DEVICE A MATERIAL FACT OR  
14 MAKE ANY FALSE WRITING OR DOCUMENT KNOWING THAT IT CONTAINS ANY FALSE,  
15 FICTITIOUS, OR FRAUDULENT STATEMENT OR ENTRY;

16  
17 (3) WILLEFULLY OBSTRUCT, IMPEDE, OR ATTEMPT TO OBSTRUCT OR IMPEDE AN  
18 AUTHORIZED OFFICIAL OR EMPLOYEE WHO IS INVESTIGATING THE QUALIFICATIONS  
19 OF A BUSINESS ENTERPRISE THAT HAS REQUESTED CERTIFICATION UNDER THIS  
20 SUBTITLE;

21  
22 (4) FRAUDULENTLY OBTAIN, ATTEMPT TO OBTAIN, OR AID ANOTHER IN FRAUDULENTLY  
23 OBTAINING OR ATTEMPTING TO OBTAIN PUBLIC MONEY TO WHICH THE PERSON IS  
24 NOT ENTITLED UNDER THIS SUBTITLE; OR

25  
26 (5) MAKE A FALSE STATEMENT TO ANY PERSON OR ENTITY THAT ANOTHER PERSON  
27 OR ENTITY IS OR IS NOT CERTIFIED UNDER THIS SUBTITLE.

28  
29 (B) PENALTIES.

30  
31 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A  
32 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN  
33 1 YEAR, TO A FINE OF NOT MORE THAN \$1,000, OR TO BOTH IMPRISONMENT AND FINE.

34  
35 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance  
36 are not law and may not be considered to have been enacted as a part of this or any prior  
37 Ordinance.

38  
39 **SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th  
40 day after the date it is enacted.



Council Bill 00-0211

Certified as duly passed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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President, Baltimore City Council

Certified as duly delivered to His Honor, the Mayor,

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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Chief Clerk

Approved this 28th day of November, 2001

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Mayor, Baltimore City