

# County Council Of Howard County, Maryland

2017 Legislative Session

Legislative Day No. **12**

## Resolution No. 121 -2017

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION pursuant to Section 4.122 of the Howard County Code, approving a revised Equal Business Opportunity Program Manual that governs the internal operating procedures of the County's Equal Business Opportunity Program; providing that Veterans are a group that may be counted towards Equal Business Opportunity goals; amending certain goal percentages; and generally relating to the Equal Business Opportunity Program.

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Introduced and read first time \_\_\_\_\_, 2017.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

Read for a second time at a public hearing on \_\_\_\_\_, 2017.

By order \_\_\_\_\_  
Jessica Feldmark, Administrator

This Resolution was read the third time and was Adopted\_\_\_, Adopted with amendments\_\_\_, Failed\_\_\_, Withdrawn\_\_\_, by the County Council on \_\_\_\_\_, 2017.

Certified By \_\_\_\_\_  
Jessica Feldmark, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1           **WHEREAS**, Section 4.122 of the Howard County Code requires the County Purchasing  
2 Agent to and implement an Equal Business Opportunity Program (the “Program”), subject to the  
3 approval of the County Executive and of the County Council, by resolution; and  
4

5           **WHEREAS**, the Program has not been updated since 2001 and, in order to update the  
6 Program, the County Purchasing Agent has revised the Equal Business Opportunity Program  
7 Manual (the “Manual”), substantially in the form attached to this Resolution; and  
8

9           **WHEREAS**, pertinent changes to the Program include updating definitions, providing  
10 that Veterans are a new group that can be counted towards EBO goals, clarifying certain  
11 certification requirements, establishing an overall Program goal of 20% and a subcontracting  
12 goal of 15%, allowing for certain electronic notification, allowing for certain information to be  
13 obtained from prime contractors, and making certain technical corrections; and  
14

15           **WHEREAS**, on December 5, 2016, the County Council passed Council Resolution No.  
16 181-2016 that tasked the Equal Business Opportunity Commission (“EBOC”) with making  
17 certain studies regarding the Program; and  
18

19           **WHEREAS**, the EBOC issued its report on August 3, 2017 and the EBOC’s  
20 recommendations are included in the proposed revised Manual; and  
21

22           **WHEREAS**, the EBOC has provided input on the proposed revised Manual; and  
23

24           **WHEREAS**, the County Executive has requested County Council approval of the revised  
25 Manual.  
26

27           **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Howard County,  
28 Maryland this \_\_\_ day of \_\_\_\_\_, 2017, that it hereby approves the revised Equal Business  
29 Opportunity Program Manual, substantially in the form attached to this Resolution.  
30

31           **AND BE IT FURTHER RESOLVED**, that the County Purchasing Agent may correct  
32 obvious errors, capitalization, spelling, grammar, headings and similar matters and may publish

- 1 the Equal Business Opportunity Program Manual by adding or amending covers, title pages,
- 2 table of contents, and graphics to improve readability.

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**HOWARD COUNTY MARYLAND**

**EQUAL BUSINESS OPPORTUNITY PROGRAM**

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1 POLICY STATEMENT

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3  
4 As a part of our commitment to Equal Business Opportunity (EBO), it is the policy of the  
5 Howard County Government to encourage increased participation by Minority/Women and  
6 Disabled Business Enterprises in the procurement of all goods and services through all solicitations  
7 by the County.

8  
9 THE EQUAL BUSINESS OPPORTUNITY (EBO) PROGRAM TAKES POSITIVE STEPS TO IDENTIFY,  
10 CERTIFY, AND ENCOURAGE MBE/WBE/DBE FIRMS TO PARTICIPATE IN EVERY ASPECT OF THE  
11 COUNTY'S PROCUREMENT OF GOODS AND SERVICES.

12  
13  
14 I. APPLICABILITY:

15 This policy and procedure is applicable to the following:

- 16 a. All goods and services obtained with County funds.  
17 b. All other procurements obtained through grants funded by Federal Agencies (i.e.,  
18 EPA, DOT/UMTA, HUD, etc.) and the State of Maryland.

19  
20 II. DEFINITIONS:

21 Definitions applicable to the terms and policy guidelines contained in this program are as  
22 follows:

- 23 a. Control:
- 24 1. This term means both managerial and operational control and requires that  
25 the minority, woman or disabled person(s) direct the management of the  
26 business and guide its operation. Operational control and managerial  
27 control are interpreted separately.
  - 28 2. Operational Control - The minority, woman or disabled person(s) have  
29 some experience and technical competence in the industry to which  
30 certification is sought, and show that basic decisions pertaining to the daily  
31 operations of the business can be independently made.
  - 32 3. Managerial Control - The minority, woman or disabled person(s) has the

1 demonstrable ability to make independent and unilateral business decisions  
2 needed to guide the future and destiny of the business.

3  
4 b. MBE/WBE/DBE Corporation - Legal and equitable ownership of at least 51  
5 percent of all classes of stock, bonds, or other securities issued by the corporation  
6 must be owned by a minority, women or disabled person(s).

7  
8 c. MBE/WBE/DBE Partnership - At least 51 percent of the partnership's assets or  
9 interests must be owned by a minority, women or disabled person(s).

10  
11 d. MBE/WBE/DBE Sole Proprietorship - The sole proprietor must be a minority,  
12 women or disabled person(s).

13  
14 e. Disabled Business Enterprise (DBE) - A business enterprise:

15 1. Which is:

16 (a) At least 51% owned by [[1]]ONE or more individuals with  
17 disabilities; or

18 (b) In the case of any publicly-owned corporation, at least 51% of the  
19 stock of which is owned by [[1]]ONE or more individuals with  
20 disabilities; and

21 2. WHOSE OWNERSHIP INTEREST IS REAL AND CONTINUOUS, AND NOT CREATED  
22 SOLELY TO MEET THE DISABLED OWNED BUSINESS PROVISIONS OF THIS  
23 POLICY; AND

24 [[2]]3. Whose general management and daily business affairs and essential  
25 productive operations are controlled by [[1]] ONE or more individuals with  
26 disabilities; and

27 [[3]]4. Which has been certified by the Equal Business Opportunity Commission  
28 as a disability business enterprise.

29  
30 f. Disabled Individual: An individual who has a physical or mental impairment that  
31 substantially limits [[1]]ONE or more major life activities or has a record of such



1           impairment.

2  
3           g.    MBE/WBE and DBE Directory - A compilation of MBE/WBE and DBE firms  
4           provided to the contractor for use in identifying subcontractors, materials suppliers,  
5           consultants, etc.

6  
7           h.    Joint Venture - An association of [[2]] TWO or more individuals, partnerships,  
8           corporations, or combinations thereof, founded to carry on a simple business  
9           activity.

10  
11          i.    Minority Business Enterprise (MBE) - A business enterprise:

12           1.    Which is:

13                   (a)    At least 51% owned by [[1]] ONE or more minority individuals; or

14                   (b)    In the case of any publicly-owned corporation, at least 51% of the  
15                   stock of which is owned by [[1]]ONE or more minority individuals;  
16                   and

17           2.    WHOSE OWNERSHIP INTEREST IS REAL AND CONTINUOUS, AND NOT CREATED  
18           SOLELY TO MEET THE MINORITY OWNED BUSINESS PROVISIONS OF THIS  
19           POLICY; AND

20           [[2]]3. Whose general management and daily business affairs and essential  
21           productive operations are controlled by [[1]] ONE or more minority  
22           individuals; and

23           [[3]]4. Which has been certified by the Equal Business Opportunity Commission  
24           as a minority business enterprise.

25  
26          j.    Minority Individual: An individual who is a member of [[1]] ONE of the following  
27           groups:

28           [[1.    African Americans

29           2.    American Indians

30           3.    Asian Americans

31           4.    Hispanic Americans]]

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1. AFRICAN AMERICANS: WHO INCLUDES PERSONS HAVING ORIGINS IN ANY OF THE BLACK RACIAL GROUPS OF AFRICA;
2. NATIVE AMERICANS: WHO INCLUDES PERSONS WHO ARE AMERICAN INDIAN, ESKIMOS, ALEUTS OR NATIVE HAWAIIANS;
3. ASIAN AMERICANS: WHO INCLUDES PERSONS WHO ARE ASIAN PACIFIC AMERICANS WHOSE ORIGINS ARE FROM JAPAN, CHINA, TAIWAN, KOREA, VIETNAM, LAOS, CAMBODIA, THE PHILIPPINES, SAMOA, GUAM, THE U.S. TRUST TERRITORIES OF THE PACIFIC, THE NORTHERN MARIANAS; AND ASIAN INDIAN AMERICANS WHOSE ORIGINS ARE FROM INDIA, PAKISTAN, AND BANGLADESH.
4. HISPANIC AMERICANS: WHO INCLUDES PERSONS OF MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICAN, OR OTHER SPANISH CULTURE OR ORIGIN.
5. VETERANS: VETERANS SHALL MEAN:

(A) A PERSON WHO SERVED ON FULL TIME ACTIVE DUTY IN THE UNITED STATES ARMED FORCES, OTHER THAN ACTIVE DUTY FOR TRAINING, AND WAS DISCHARGED OR RELEASED UNDER CONDITIONS OTHER THAN DISHONORABLE; OR

(B) A PERSON WHO WAS DISABLED FROM A DISEASE OR INJURY INCURRED OR AGGRAVATED IN THE LINE OF DUTY WHILE PERFORMING ACTIVE DUTY FOR TRAINING OR INACTIVE DUTY TRAINING; OR

(C) A PERSON WHO SERVED FULL TIME AS A COMMISSIONED CORPS MEMBER OF THE PUBLIC HEALTH SERVICE OR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

k. Operation - Managerial and official staff comprised of minority, women, or disabled persons in sufficient ratio and gross earnings to demonstrate that these individuals ownership and involvement in fact demonstrates day-to-day management.

l. Women Business Enterprise (WBE) - A business enterprise:

1. Which is:

(a) At least 51% owned by  ONE or more women; or

1 (b) In the case of publicly-owned corporation, at least 51% of the stock  
2 of which is owned by [[1]]ONE or more women; and

3 2. WHOSE OWNERSHIP INTEREST IS REAL AND CONTINUOUS, AND NOT CREATED  
4 SOLELY TO MEET THE WOMEN OWNED BUSINESS PROVISIONS OF THIS POLICY;  
5 AND

6 [[2]]3. Whose general management and daily business affairs and essential  
7 productive operations are controlled by ~~4~~ one or more women; and

8 [[3]]4. Which has been certified by the Equal Business Opportunity Commission  
9 as a women business enterprise.

10  
11 III. CERTIFICATION:

12 HOWARD COUNTY CONDUCTS A VENDOR CERTIFICATION PROGRAM TO VERIFY THAT SELF-  
13 IDENTIFIED MBE/WBE/DBE FIRMS MEET THE DEFINITION OF SUCH ENTERPRISES AS SET  
14 FORTH IN THIS POLICY.

15 THE COUNTY DESIRES THAT MBE/WBE/DBE FIRMS HAVE AN EQUAL OPPORTUNITY TO  
16 PARTICIPATE IN ITS PROCUREMENT PROCESS AND PROVIDE THEIR GOODS AND SERVICES TO  
17 THE COUNTY, INCLUDING AS SUBCONTRACTORS WHO DO NOT THEMSELVES BID DIRECTLY ON  
18 COUNTY SOLICITATIONS.

19  
20 IT IS THEREFORE NECESSARY THAT THE COUNTY HAVE CREDIBLE AND RELIABLE MEANS OF  
21 IDENTIFYING ‘BONAFIDE’ MBE/WBE/DBE FIRMS. TO THIS END, THE COUNTY IN  
22 CONJUNCTION WITH THE EQUAL BUSINESS OPPORTUNITY COMMISSION (EBOC) WILL  
23 MANAGE AND MAINTAIN A FORMAL CERTIFICATION PROCESS TO SUBSTANTIATE THE  
24 LEGITIMACY OF THE FIRM’S OWNERSHIP AND CONTROL AS AN MBE/WBE/DBE FIRM. THE  
25 CERTIFICATION WILL BE VALID FOR A PERIOD OF TWO YEARS PER APPLICATION CYCLE WITH  
26 AN OPPORTUNITY TO RENEW AND REMAIN CERTIFIED.

27  
28 ELIGIBILITY STANDARDS, CRITERIA AND THE PROCEDURES FOR CERTIFICATION AS A  
29 MBE/WBE/DBE FIRM WILL INCLUDE THE FOLLOWING:

30 (A) ONLY FIRMS THAT MEET THE CRITERIA AND DEFINITION OF MBE/WBE/DBES AS  
31 DEFINED IN THIS POLICY MAY BE CERTIFIED.

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(B) THE FIRM'S OWNERSHIP BY A MINORITY, WOMAN OR DISABLED INDIVIDUAL MUST BE REAL, SUBSTANTIAL AND CONTINUING, GOING BEYOND PROFORMA OWNERSHIP OF THE FIRM AS REFLECTED IN THE OWNERSHIP DOCUMENTS, AND MUST NOT HAVE BEEN CREATED SOLELY TO MEET THE MBE/WBE/DBE PROVISIONS OF THIS POLICY.

(C) IT IS EXPECTED THAT THE MINORITY, WOMAN OR DISABLED INDIVIDUAL OWNER(S) WILL HAVE AN OVERALL UNDERSTANDING OF THE FIRM'S OPERATIONS AND MANAGERIAL AND TECHNICAL COMPETENCE, EXPERIENCE AND EXPERTISE DIRECTLY RELATED TO THE FIRM'S OPERATIONS AND WORK. IF ANY LAW REQUIRES THE OWNERS TO HAVE A PARTICULAR LICENSE OR OTHER CREDENTIAL TO OPERATE, OWN AND/OR CONTROL A CERTAIN TYPE OF BUSINESS, THEN THE LICENSE OR CREDENTIAL SHOULD BE HELD IN THE NAME OF THE MINORITY, WOMAN OR DISABLED OWNER(S) OF THE FIRM.

(D) IN ORDER TO BE CERTIFIED, A MBE/WBE/DBE FIRM MUST BE IN GOOD STANDING WITH THE MARYLAND STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

(E) THE FIRM FOR CERTIFICATION AS A MBE/WBE/DBE HAS THE BURDEN OF DEMONSTRATING BY A PREPONDERANCE OF EVIDENCE THAT IT MEETS THE ELIGIBILITY STANDARDS AND CRITERIA.

(F) THE EQUAL BUSINESS OPPORTUNITY COMMISSION WILL MAKE ALL ELIGIBILITY DETERMINATIONS AND ALL DETERMINATIONS ARE FINAL.

(G) ALL APPLICATIONS FOR CERTIFICATION MUST BE ACCOMPANIED BY A SWORN AFFIDAVIT ATTESTING TO THE ACCURACY AND TRUTHFULNESS OF THE INFORMATION PROVIDED.

1 (H) THE MBE/WBE/DBE FIRM MUST COOPERATE FULLY WITH THE COUNTY DURING THE  
2 CERTIFICATION PROCESS; FAILURE TO DO SO COULD RESULT IN THE DENIAL OF  
3 CERTIFICATION.

4 (I) THE EQUAL BUSINESS OPPORTUNITY COMMISSION MAY DIRECTLY CONTACT AND  
5 INTERVIEW PROSPECTIVE APPLICANTS, IF NEED BE, AND/OR REQUEST ADDITIONAL  
6 INFORMATION AND/OR SUPPORTING DOCUMENTATION FOR DETERMINING  
7 ELIGIBILITY.

8 (J) IN THE SPIRIT OF THE EBO CERTIFICATION PROCESS; ALA CARTE COMBINATIONS TO  
9 REACH THE 51% THRESHOLD RUN COUNTER TO THE EBO PROGRAM. THE 51%  
10 OWNERSHIP REQUIREMENT SHALL BE IN ONLY ANY ONE PARTICULAR EBO GROUP.

11  
12 THE COUNTY WILL MAINTAIN A CURRENT DIRECTORY OF CERTIFIED MBE/WBE/DBES AND THE  
13 COMMODITIES AND/OR SERVICES THEY OFFER. THE DIRECTORY WILL BE MADE AVAILABLE ON THE  
14 OFFICE OF PURCHASING WEBSITE.

15  
16 IN ADDITION TO ITS CERTIFICATION PROGRAM, Howard County recognizes businesses certified by  
17 the following regulatory bodies:

- 18  
19 a. All counties within the State of Maryland whose certification requirements are  
20 similar to Howard County.
- 21 b. State of Maryland agencies whose certification requirements are similar to Howard  
22 County.
- 23 c. Certain federal agencies when that agency is the grantor for a County project.
- 24 d. Certain other states and municipalities when it would be impractical or  
25 unreasonable not to use a certified MBE/WBE/DBE from that immediate region  
26 (i.e. transporting goods from out of state to Howard County).

27  
28 **IV. EQUAL BUSINESS OPPORTUNITY PROGRAM GOALS:**

29 Howard County will obtain its MBE/WBE/DBE participation [[goals]]GOAL primarily  
30 through [[2]]TWO mechanisms; by requiring prime contractors to utilize MBE/WBE/DBE  
31 firms as subcontractors/suppliers, and by encouraging MBE/WBE/DBE firms to respond

1 directly to County requests for goods and services.

2  
3 Accordingly, Howard County's MBE/WBE/DBE participation percentage goals are as  
4 follows:

- 5 a. When the contract value is \$50,000 or more, the prime contractors will subcontract  
6 ~~[[10%]]~~15% of each contract to MBE/WBE/DBE firms. ~~[[This requirement is~~  
7 ~~applicable to bidders who are themselves MBE/WBE and DBE owned firms.]]~~ The  
8 percentage requirement may vary if the contract is funded by a federal or state  
9 agency.
- 10 b. Each fiscal year, award ~~[[15%]]~~20% of the County's total dollar amount of all  
11 contracts directly to MBE/WBE/DBE firms. This includes consulting services,  
12 construction, professional services, and other procurements for goods and services.
- 13 ~~[[c. Ensure that the MBE/WBE/DBE goal specified for each federal and state-funded~~  
14 ~~contract is met as specified by the funding agency. Participation requirements for~~  
15 ~~the various Federal and State agencies vary by organization and may be obtained~~  
16 ~~from the Capital Project Administrator for the project of concern in conjunction~~  
17 ~~with the EBO Coordinator.]]~~

18  
19 V. RESPONSIBILITIES:

20 The effectiveness of the EBO Program is based on the efforts of many who have a role in  
21 assuring its success. Their responsibilities are as follows:

22  
23 a. Chief Administrative Officer (Purchasing Agent)

24 The Chief Administrative Officer or the Officer's designee shall be responsible for  
25 the development and implementation of the Equal Business Opportunity Program,  
26 which is designed to assure the participation of minority, woman and disabled  
27 business enterprises in the purchasing activities of the County. ~~[[The Chief~~  
28 ~~Administrative Officer shall designate the Equal Business Opportunity Officer who~~  
29 ~~shall report directly to the Officer or designee.]]~~ THE CHIEF ADMINISTRATIVE  
30 OFFICER SHALL EITHER DESIGNATE THE DEPUTY CHIEF ADMINISTRATIVE OFFICER  
31 OR THE PURCHASING ADMINISTRATOR AS THE EQUAL BUSINESS OPPORTUNITY

1 OFFICER.

2  
3 b. Equal Business Opportunity Officer:

4 The EBO Officer will be responsible for policy and oversight of the EBO program  
5 to include decertification authority and the investigation of sworn, written  
6 allegations of wrongdoing by a certified business. The EBO Officer will also serve  
7 as the Executive Secretary to the EBO Commission.

8  
9 c. Office of Purchasing:

10 1. The Office of Purchasing will be the centralized point for managing,  
11 coordinating and executing EBO program requirements/provisions and  
12 will supplement the Equal Business Opportunity Officer's actions as  
13 follows.

14 2. The Office of Purchasing will:

15 (a) Provide maximum opportunity for MBE/WBE/DBE firms  
16 participation in the County's procurement process through  
17 dissemination of bid information and solicitations.

18 (b) Encourage MBE/WBE/DBE participation in every solicitation by:

19 (1) [[Soliciting at least three MBE/WBE/DBEs on the bidders  
20 list for all transactions of \$5,000.00 or less.]] ENCOURAGING  
21 USER AGENCIES TO SOLICIT CERTIFIED MBE/WBE/DBES FOR  
22 ALL SMALL PURCHASES.

23  
24 (2) [[Soliciting at least six MBE/WBE/DBE firms on the bidders  
25 list for all transactions from \$5,000.00 to less than  
26 \$30,000.00.]] SOLICITING CERTIFIED MBE/WBE/DBES FOR  
27 INFORMAL AND FORMAL SOLICITATIONS

28  
29 [[(3) Soliciting all MBE/WBE/DBE firms on the bidders list for  
30 all transactions of \$30,000.00 or more.

1 (4) If there are no MBE/WBE/DBE firms on the bidders list, the  
2 Office of Purchasing will seek qualified MBE/ WBE/ DBE  
3 firms through neighboring jurisdictions.]]

4 (c) Encourage MBE/WBE/DBE firms to respond to solicitations as  
5 prime contractors.

6 (d) Encourage the use of MBE/WBE/DBE subcontractors by  
7 contractors who are awarded County construction projects.

8 (e) Include equal business opportunity clauses in [[all solicitation/  
9 contracts]] SOLICITATIONS AND CONTRACTS, as appropriate.

10 (f) Assure that MBE/WBE/DBE firms on the bidders list are given the  
11 same opportunity as others.

12 (g) Identify specific commodities and services for which  
13 MBE/WBE/DBE firms are not currently being used and encourage  
14 their participation in the solicitation process.

15 (h) Identify qualified MBE/WBE/DBE firms through participation in  
16 business opportunity fairs, meetings, trade shows; communications  
17 with other procurement personnel; and through directories that  
18 identify MBE/WBE/DBE firms.

19 (i) Meet with MBE/WBE/DBE firms to discuss recurring procurement  
20 opportunities and acquaint the vendors with Howard County  
21 procedures, needs, and the procurement approach.

22 (j) Review the [{"equal business opportunity" clause}] EQUAL BUSINESS  
23 OPPORTUNITY PROGRAM; and explain the County's policy  
24 encouraging the use of MBE/WBE/DBE firms during pre-bid  
25 conferences.

26 (k) Explain the requirements for federal and state-funded projects as  
27 appropriate.

28 (l) Provide technical assistance to potential MBE/WBE/DBE suppliers,  
29 as necessary, to ensure that they are given sufficient information  
30 regarding bid requirements and procedures. ASSIST  
31 MBE/WBE/DBE FIRMS IN BECOMING CERTIFIED.



1  
2 (m) ~~INSURE~~ ENSURE that MBE/WBE/DBE participation is sought for  
3 subsequent contract years on ~~REQUIREMENT~~ REQUIREMENTS  
4 contracts.

5 ~~ADVERTISE~~ Advertise County procurement needs in minority publications as  
6 appropriate.]

7 ~~COORDINATE~~ ~~WITH~~ ~~OFFICIALS~~ ~~OF~~ ~~FEDERAL~~ ~~AND~~ ~~STATE~~ ~~AGENCIES~~, ~~LOCAL~~ ~~MINORITY~~  
8 ~~BUSINESS~~ ~~DEVELOPMENT~~ ~~ORGANIZATIONS~~, ~~AND~~ ~~OTHER~~ ~~MINORITY~~  
9 ~~CONTRACTOR~~ ~~ASSOCIATIONS~~ ~~IN~~ ~~THE~~ ~~FURTHERANCE~~ ~~OF~~ ~~EFFORTS~~ ~~TO~~  
10 ~~ENCOURAGE~~ ~~MBE~~/~~WBE~~/~~DBE~~ ~~PARTICIPATION~~.  
11  
12

13  
14 ~~ELECTRONICALLY~~ notify the MBE/WBE/DBE community of  
15 contract opportunities.

16 ~~PROVIDE~~ to prime contractors a resource for locating and contacting  
17 MBE/WBE/DBE firms.

18 ~~MAINTAIN~~ records showing participation.

19 ~~ENSURE~~ that EBO policy requirements have been met in awarding all  
20 contracts ~~AND~~ ~~SUB-AGREEMENTS~~].

21 ~~CONDUCT~~ a contract compliance process required in Section VI g. to  
22 monitor subcontractor participation during contract performance.

23 ~~EXECUTE~~ In accord with Section VI g. execute procedures for reporting and  
24 correcting non-compliance and for administrative action where  
25 prime contractors fail to comply with EBO policy requirements.

26 ~~MEET~~ specific guidelines for projects involving federal and state  
27 funds by accomplishing the following:

- 28 (1) Execute the administrative functions as required by the  
29 grantor agency who is providing the funding. It should be  
30 noted that many federal and state agencies have varying  
31 percentage participation amounts for the various EBO  
32 groups ~~FOR~~ ~~EXAMPLE~~, for 10% EBO participation, the federal

1 government may recommend that a MBE firm receive 7%, a  
2 WBE firm receive 3%, but no percent recommendation for a  
3 DBE firm)]].

4 (2) Coordinate with the grantor agency contact personnel to  
5 resolve problems and/or make recommendations to improve  
6 EBO program operation.

7 (v) Provide a referral service to those MBE/WBE/DBE firms who  
8 require technical assistance when responding to the County's  
9 solicitations.

10 (w) Provide information to interested MBE/WBE/DBE firms in  
11 obtaining bonding, insurance etc.

12 (x) MAINTAIN THE HOWARD COUNTY ONLINE CERTIFIED VENDOR  
13 DIRECTORY TO IDENTIFY READY, WILLING AND ABLE  
14 MBE/WBE/DBE FIRMS THAT CAN BE NOTIFIED OR UTILIZED TO  
15 MEET THE REQUIREMENTS OF THIS POLICY.

16  
17 d. Equal Business Opportunity Coordinator:

18 The EBO Coordinator performs various tasks in carrying out the provisions of the  
19 EBO program and is responsible for many of the functions listed under V. c. titled  
20 Office of Purchasing. The EBO Coordinator is a part of the Office of Purchasing  
21 professional staff.

22  
23 e. Equal Business Opportunity Commission (EBOC):

24 1. As provided for in Section 4.600 of the Howard County Code the EBOC  
25 will:

26 (a) Assist the efforts of the County in procuring goods and services  
27 from MBE/WBE/DBE firms.

28 (b) Conduct surveys and studies on County policies and procedures in  
29 procurement and contracting and, if needed, recommend changes to  
30 the Administration and the County Council.

31 (c) Make recommendations to the County Purchasing Agent on the

1 criteria for certification and the procedures for certification (the  
2 EBOC may issue County certification and reciprocal local  
3 government and State of Maryland certification).

4 (d) Recommend to the County Purchasing Agent changes in existing  
5 laws, policies and programs and practices designed to ensure equal  
6 business opportunity for MBE/WBE/DBE firms.

7 (e) Hear and decide appeals regarding the decertification of  
8 MBE/WBE/DBE firms.

9  
10 f. Consulting Firms:

11 1. All Consultants bidding on County contracts estimated at \$50,000 or more  
12 (amounts for federal and state funded procurements will be guided by the  
13 funding agencies requirements) will be required to subcontract to  
14 MBE/WBE/DBE firms a share of the work awarded consistent with the  
15 County's goal oriented system. The consultant will be required to adhere to  
16 the County's EBO policy even though they may have the capability to  
17 complete the project with its own workforce. Where the consultant fails to  
18 achieve the MBE/WBE/DBE goal, they must request a waiver and provide  
19 documentation of its good faith attempts to obtain MBE/WBE/DBE  
20 participation. [[Documentation required by Exhibit II will be submitted.]]

21  
22 2. Consulting firms who habitually subcontract certain requirements (i.e.,  
23 engineering, design and surveying) are expected to take positive steps to  
24 use MBE/WBE/DBE firms for such subcontracting consistent with the  
25 County's goal oriented system. In addition, in their role as consultants for  
26 the County, these positive efforts should consist of at least the following:

27 (a) Assist the County in ensuring that opportunities are extended to  
28 MBE/WBE/DBE firms by the prime construction contractors for  
29 subcontracting or joint agreements.

30 (b) Divide the total design and construction requirements into smaller  
31 tasks, where economically feasible, to permit maximum

1 MBE/WBE/DBE participation.

2 (c) Assist the County in operating its goal oriented system.

3 (d) Require that each subcontractor under the contract comply with the  
4 EBO policy as appropriate if further subcontracting is contemplated.

5 (e) Keep the County informed of any MBE/WBE/DBE contracts or  
6 subcontracts as well as changes in plans to award previously  
7 proposed subcontracts to MBE/WBE/DBE firms.

8  
9 g. Contractors:

10 1. All prime contractors bidding on contracts estimated at \$50,000 or more  
11 (amounts for federal and state funded procurements will be guided by the  
12 funding agencies requirements) will be required to subcontract to  
13 MBE/WBE/DBE firms a share of the work awarded consistent with the  
14 County's goal oriented system. The contractor will be required to adhere to  
15 the County's EBO policy even though they may have the capability to  
16 complete the project with its own workforce. Where the contractor fails to  
17 achieve the MBE/WBE/DBE goal, they must request a waiver and provide  
18 documentation of its good faith attempts to obtain MBE/WBE/DBE  
19 participation. [[Documentation required by Exhibit II will be submitted.]]

20 The contractor's positive efforts should consist of the following:

21 (a) Extending opportunities for subcontracting, joint arrangements, and  
22 material supplying to MBE/WBE/DBE firms.

23 (b) Complying with and implementing the County's goal oriented  
24 system.

25 (c) Identifying to the County, MBE/WBE/DBE firms [[to be used by  
26 submitting Exhibit I as required by the bid document]] THAT WILL  
27 BE USED ON THE PROJECT, THEIR ADDRESS, CERTIFYING AGENCY,  
28 CERTIFICATION NUMBER, TYPE OF WORK TO BE PERFORMED, TOTAL  
29 ANTICIPATED MBE/WBE/DBE PARTICIPATION PERCENTAGE AND  
30 THE DOLLAR AMOUNT OF THE SUBCONTRACT WORK FOR EACH  
31 IDENTIFIED MBE/WBE/DBE SUBCONTRACTOR/SUPPLIER. Where

1 MBE/WBE/DBE firms are not used or are not available, provide the  
2 documentation [[required by Exhibit II]] to demonstrate good faith  
3 efforts.

4 (d) Maintaining records of MBE/WBE/DBE firms contacted, including  
5 negotiation efforts to reach competitive price levels, and awards to  
6 MBE/WBE/DBE firms.

7 (e) Requiring subcontractors under the contract to comply with the  
8 EBO policy.

9 (f) Keeping the County informed of all MBE/WBE/DBE  
10 [[subagreements]]SUBCONTRACTOR AGREEMENTS or changes in  
11 plans to award subcontracts previously reported as proposed for  
12 MBE/WBE/DBE firms.

13  
14 h. Minority Business, Women Business and Disabled Business Enterprises:

15 1. All MBE/WBE/DBE firms are expected to at least take the following  
16 actions:

17 (a) Become informed of planned County projects and the bid process.

18 (b) Contact and maintain liaison with prime contractors bidding on  
19 County projects to make them aware of their capabilities and to  
20 obtain subcontracting opportunities.

21 (C) ATTEND PRE-BID CONFERENCES TO ESTABLISH CONTACTS AND  
22 RELATIONSHIPS WITH PRIME CONTRACTORS FOR POTENTIAL FUTURE  
23 BUSINESS OPPORTUNITIES.

24 ([[c]]D) Provide capability statements to State and the County  
25 MBE/WBE/DBE Persons.

26 [[(d) Maintain liaison with the Regional Office of Civil Rights and Urban  
27 Affairs.]]

28 (e) Contact and maintain liaison with [[the State Office of  
29 MBE/WBE/DBE Affairs and other federal or state funded]]  
30 FEDERAL, STATE AND LOCAL MBE/WBE/DBE assistance  
31 organizations and associations.

- 1 (f) When required, seek assistance from MBE/WBE/DBE funded  
2 organizations in financing, estimating, bid packaging, bonding and  
3 technical assistance services.  
4  
5

6 VI. PROGRAM IMPLEMENTATION:  
7

8 a. Bid/Proposal Solicitations:

- 9 1. Notice [[of Lettings]] for County solicitations shall include A CLAUSE  
10 ENCOURAGING EBO PARTICIPATION AND OUTLINING GOALS, WHEN  
11 APPLICABLE. [[the following information. Sub-paragraph (a) will always be  
12 used in conjunction with (b) or (c) as appropriate to the type of contract (i.e.,  
13 county or federally funded).

14 (a) All: "Howard County hereby notifies all bidders that  
15 MBE/WBE/DBE firms will be afforded full opportunity to submit  
16 bids in response to this notice and will not be subjected to  
17 discrimination on the basis of race, color, sex, national origin, or  
18 impairment in consideration of an award."

19 (b) County Funded Contracts: "It is required that contractors procure  
20 from MBE/WBE/DBE firms by subcontract or otherwise, supplies  
21 and services, the combined value of which equals 10% of the total  
22 value of the contract if the contract amount exceeds \$50,000.00.  
23 Failure to do so may lead to rejection of bids. Bidders shall submit  
24 with such bids the County's Equal Business Opportunity  
25 Certificate." (Appendix I.)

26 (c) Federally Funded Contracts: "It is the goal of Howard County that  
27 MBE/WBE/DBE firms participate in \_\_\_% (enter amount specified  
28 by federal guidelines) of the total value of this contract. Bidders  
29 shall submit with such bids the County's Equal Business  
30 Opportunity Certificate." (Appendix 1).]]  
31

1  
2 [[2. Notices will be placed in newspapers with high minority, women and  
3 disabled business readership and may also be sent but not limited to the  
4 following organizations:

- 5 (a) The Baltimore American Indian Center, Inc.
- 6 (b) The Baltimore Council for Equal Business Opportunity (CEB0).
- 7 (c) The Columbia Business Resource Center.
- 8 (d) The Howard County Libraries.
- 9 (e) The MD/DC Minority Supplier Development Council.
- 10 (f) The Maryland Minority Contractor's Association (MMCA).
- 11 (g) The State Office of Minority Affairs (OMF).
- 12 (h) The various Local & State of Maryland EBO Officers.]]

13  
14 2. THE OFFICE OF PURCHASING SHALL PROVIDE AND MAKE AVAILABLE ONLINE  
15 ON ITS WEBSITE AND/OR ELECTRONICALLY DISSEMINATE TO  
16 MBE/WBE/DBE FIRMS LISTED IN THE COUNTY'S ONLINE DIRECTORY OF  
17 CERTIFIED MBE/WBE/DBE FIRMS' INFORMATION REGARDING CONTRACT  
18 AND/OR PROCUREMENT OPPORTUNITIES WITH THE COUNTY.

19  
20 3. NOTICES MAY ALSO BE DISSEMINATED ELECTRONICALLY TO OFFICIALS OF  
21 FEDERAL AND STATE AGENCIES, LOCAL MINORITY BUSINESS DEVELOPMENT  
22 ORGANIZATIONS, AND OTHER MINORITY CONTRACTOR ASSOCIATIONS IN THE  
23 FURTHERANCE OF EFFORTS TO ENCOURAGE MBE/WBE/DBE  
24 PARTICIPATION.

25  
26 [[3]]4. Prime contractors who bid on County solicitations will be provided  
27 assistance if needed in locating MBE/WBE/DBE firms for subcontract  
28 opportunities.

29  
30 b. Pre-Bid Conference: At each pre-bid conference the County's EBO program and  
31 the County's percentage goals of MBE/WBE/DBE participation will be explained.

1 The detailed steps to assure compliance for federally funded projects will also be  
2 reviewed.

3  
4 c. Equal Business Opportunity Clause For Bids/RFPs: All solicitations estimated to  
5 be \$50,000 or more shall contain [[the following]] A CLAUSE ADVISING SUCCESSFUL  
6 BIDDERS THEY ARE EXPECTED TO COMPLY WITH THE EBO PROGRAM REQUIREMENTS  
7 unless deemed to be inappropriate due to certain conditions (i.e. hazardous waste  
8 hauling where subcontracting is not permitted, some banking services and other  
9 unique procurements that do not lend themselves to subcontracting).

10  
11 [[“If the total of the contract awarded is \$50,000 or more, the successful bidder  
12 shall be expected to comply with the provisions of the County’s Equal Business  
13 Opportunity Program (10% MBE/WBE/DBE participation)”].]

14  
15 D. PROGRAM SCOPE:

16  
17 1. THIS POLICY APPLIES TO ALL ELIGIBLE PROCUREMENTS PERFORMED BY AND FOR  
18 HOWARD COUNTY, EXCEPT THOSE THAT OFFER NO POTENTIAL FOR  
19 MBE/WBE/DBE PARTICIPATION. THE EBO OFFICER HAS THE AUTHORITY TO  
20 WAIVE MBE/WBE/DBE SUBCONTRACTING PARTICIPATION PERCENTAGE  
21 GOALS, PRIOR TO NOTICE OF LETTINGS OF COUNTY SOLICITATIONS, ON CERTAIN  
22 PROCUREMENTS THAT ARE NON-SEGMENTABLE OR THAT DO NOT LEND  
23 THEMSELVES TO MBE/WBE/DBE PARTICIPATION. A FEW EXAMPLES OF THESE  
24 TYPES OF CONTRACTS INCLUDE, BUT ARE NOT LIMITED TO: SOLE SOURCE  
25 CONTRACTS, EXPEDITED PURCHASES, PURCHASES FROM LARGE UTILITIES,  
26 PURCHASES OF SPECIALIZED EQUIPMENT, MEDICAL AND LEGAL SERVICES.

27  
28 2. IF THE EBO OFFICER APPROVES A WAIVER OF THIS PROGRAM’S APPLICATION FOR  
29 A GIVEN CONTRACT OR PURCHASE ORDER, A JUSTIFICATION MEMORANDUM THAT  
30 EXPLAINS THE BASIS AND FACTUAL FINDINGS SUPPORTING THAT WAIVER  
31 DECISION SHALL BE CLEARLY STATED IN THE CONTRACT DOCUMENTS.



1  
2 3. PURCHASES THAT SHALL BE EXEMPTED FROM MBE/WBE/DBE PARTICIPATION  
3 INCLUDE PURCHASES FROM COLLEGES AND UNIVERSITIES, GOVERNMENT  
4 AGENCIES, CHARITABLE ORGANIZATIONS, FOUNDATIONS AND NONPROFIT  
5 SOCIAL SERVICE PROVIDERS.  
6

7 [[d]]E. Contract Awards:

- 8 1. After bid opening but prior to contract award the apparent low bidder will  
9 be required to submit documentation showing MBE/WBE/DBE  
10 participation.  
11 2. The appropriate documents will be submitted to the Office of Purchasing  
12 before the contract is executed.  
13

14 F. ACCOMPLISHMENT OF MBE/WBE/DBE PARTICIPATION GOALS:

15  
16 HOWARD COUNTY ENCOURAGES PRIME CONTRACTORS TO PROVIDE  
17 MBE/WBE/DBE FIRMS THE OPPORTUNITY TO PARTICIPATE AS SUBCONTRACTORS  
18 AND SUPPLIERS IN WHICH THE MBE/WBE/DBE FIRMS ARE MEANINGFUL AND  
19 CONTRIBUTING PARTICIPANTS.  
20

- 21 1. IN ORDER TO COUNT BONAFIDE MBE/WBE/DBE PARTICIPATION TOWARDS  
22 MEETING THE PARTICIPATION GOALS ON A PROCUREMENT, A  
23 MBE/WBE/DBE MUST PERFORM A 'COMMERCIALY USEFUL FUNCTION'.  
24 AN MBE/WBE/DBE PERFORMS A COMMERCIALY USEFUL FUNCTION WHEN  
25 IT IS RESPONSIBLE FOR EXECUTION OF THE WORK OF THE CONTRACT AND IS  
26 CARRYING OUT ITS RESPONSIBILITIES BY ACTUALLY PERFORMING,  
27 MANAGING, AND SUPERVISING THE WORK INVOLVED. TO PERFORM A  
28 COMMERCIALY USEFUL FUNCTION, THE MBE/WBE/DBE MUST ALSO BE  
29 RESPONSIBLE, WITH RESPECT TO MATERIALS AND SUPPLIES USED ON THE  
30 CONTRACT, FOR NEGOTIATING PRICE, DETERMINING QUANTITY AND  
31 QUALITY, ORDERING THE MATERIAL, AND INSTALLING (WHERE APPLICABLE)

1 AND PAYING FOR THE MATERIAL ITSELF. TO DETERMINE WHETHER AN  
2 MBE/WBE/DBE IS PERFORMING A COMMERCIALY USEFUL FUNCTION, AN  
3 EVALUATION MUST BE PERFORMED OF THE AMOUNT OF WORK  
4 SUBCONTRACTED, NORMAL INDUSTRY PRACTICES, WHETHER THE AMOUNT  
5 THE MBE/WBE/DBE FIRM IS TO BE PAID UNDER THE CONTRACT IS  
6 COMMENSURATE WITH THE WORK IT IS ACTUALLY PERFORMING AND THE  
7 MBE/WBE/DBE CREDIT CLAIMED FOR ITS PERFORMANCE OF THE WORK,  
8 AND OTHER RELEVANT FACTORS.  
9

10 2. SPECIFICALLY, AN MBE/WBE/DBE DOES NOT PERFORM A COMMERCIALY  
11 USEFUL FUNCTION IF ITS ROLE IS LIMITED TO THAT OF AN EXTRA PARTICIPANT  
12 IN A TRANSACTION, CONTRACT, OR PROJECT THROUGH WHICH FUNDS ARE  
13 PASSED IN ORDER TO OBTAIN THE APPEARANCE OF QUALIFIED  
14 MBE/WBE/DBE PARTICIPATION.

15  
16 3. IN ORDER FOR A FIRM TO BE COUNTED TOWARDS A BIDDER'S  
17 MBE/WBE/DBE PARTICIPATION, THE FIRM MUST BE APPROPRIATELY  
18 CERTIFIED BY A REGULATORY BODY AS SPECIFIED IN SECTION III, PRIOR TO  
19 CONTRACT EXECUTION. NON-CERTIFIED MBE/WBE/DBE FIRMS MAY BE  
20 USED BY BIDDERS FOR THEIR PROCUREMENT NEEDS. HOWEVER, THOSE FIRMS  
21 CANNOT BE COUNTED TOWARD MEETING THE MBE/WBE/DBE GOAL.

22  
23 4. A PRIME CONTRACTOR MAY COUNT TOWARDS THE PARTICIPATION GOAL ANY  
24 TIER OF CERTIFIED MBE/WBE/DBE SUBCONTRACTORS AND/OR SUPPLIERS  
25 THAT WILL BE UTILIZED IN EXECUTION OF THE WORK ON A CONTRACT.

26  
27 5. CERTIFIED MBE/WBE/DBE PRIME CONTRACTORS CAN COUNT 100% OF THE  
28 WORK THEY SELF-PERFORM ON CONTRACTS WITH EBO SUBCONTRACTING  
29 GOALS.

30  
31  
32 [[e]]G. Waiver: In the event a prime contractor is unable to reach the ~~[[required]]~~ DESIRED  
33 goal, a waiver may be requested from the Office of Purchasing. A waiver will only

1 be considered after a determination that the contractor has made a genuine good  
2 faith effort [[and documented the efforts on Exhibit II]].

3  
4 [[f]]H. 1. Good Faith Effort Criteria: In making a determination that the contractor has  
5 made good faith efforts to meet the EBO goals, the County will consider, though  
6 not be limited to the following:

7 ([[1]]A) Whether the contractor attended pre-bid or pre proposal meetings to  
8 discuss MBE/WBE/DBE participation matters.

9 ([[2]]B) Whether the contractor advertised in general circulation, trade  
10 association, and/or MBE/WBE/DBE focused media concerning  
11 subcontracting opportunities.

12 ([[3]]C) Whether the contractor solicited a reasonable number of  
13 MBE/WBE/DBE firms with written notice, in sufficient time to allow the  
14 firms an opportunity to participate effectively.

15 ([[4]]D) Whether the contractor followed-up initial solicitations of interest to  
16 MBE/WBE/DBE firms to determine with certainty whether the firms were  
17 interested.

18 ([[5]]E) Whether the contractor selected portions of the work to be performed by  
19 MBE/WBE/DBE firms in order to increase the likelihood of meeting the  
20 EBO goals including and where appropriate, breaking the contract into  
21 economically feasible subcontracts to allow for MBE/WBE/DBE  
22 participation.

23 ([[6]]F) Whether the contractor provided interested MBE/WBE/DBE firms with  
24 adequate information about the plans, specifications, scope of work, and  
25 requirements of the contract.

26 ([[7]]G) Whether the contractor negotiated in good faith with interested  
27 MBE/WBE/DBE firms; not rejecting them as unqualified without sound  
28 reasons based on a thorough investigation of their capabilities;

29 ([[8]]H) Whether the contractor made efforts to assist interested  
30 MBE/WBE/DBE firms in obtaining bonding, lines of credit, insurance, etc.,  
31 as required by the County or the contractor.

1 (([9])i)Whether the contractor effectively used the services of available  
2 community organization contractor groups, local, Howard County, State,  
3 and Federal business assistance programs; and other organizations which  
4 provide assistance in the identification of MBE/WBE/DBE firms; and

5 (([10])j)Whether the contractor obtained and used the County's  
6 MBE/WBE/DBE directory to obtain certified firms.

7  
8 In determining whether a contractor has demonstrated good faith the County  
9 will not only look at the different kinds of efforts the contractor has made  
10 but also the quantity and intensity of those efforts. Efforts that are merely  
11 pro forma in nature would not be sufficient to be considered good faith  
12 efforts to meet the County's MBE/WBE/DBE goals (even if such efforts are  
13 sincerely motivated).

14  
15 [[11.]]2. After evaluation of the apparent low bidder's compliance with the  
16 County's MBE/WBE/DBE Program, the Office of Purchasing will  
17 notify the bidder of the following:

18  
19 (a) Final award of the contract with or without waiver of the  
20 MBE/WBE/DBE goal.

21 [[(b)] Non-award based on apparent non-attempt to attain the  
22 MBE/WBE/DBE goal. Apparent low bidders who fail to achieve  
23 the desired MBE/WBE/DBE participation can be declared "non-  
24 responsive" bidders in which case the next low bidder becomes the  
25 apparent low bidder. This process may be repeated until an apparent  
26 low bidder meeting the MBE/WBE/DBE requirement is obtained or  
27 the County may elect to re-bid the project to obtain both an equitable  
28 price and EBO compliance.

29  
30 12. Unless an objection of non-award is filed by an apparent low bidder,  
31 in writing, within 7 days of such notification, the determination is final.

1 In the event an objection is filed, the Office of Purchasing will arrange  
2 a meeting with the bidder. At that time the Office of Purchasing may  
3 request additional information from the bidder. Other interested parties  
4 including the EBO Officer may offer information relevant to the issues  
5 on which a review of the determination will be made.]]  
6  
7

8 g. Contract Compliance Process:

- 9 1. The Office of Purchasing will conduct periodic compliance reviews with all  
10 prime contractors [[required to comply with the EBO goal]].  
11

12 THE COMPLIANCE MONITORING PROCESS COULD INCLUDE, EITHER  
13 CONDUCTING AN ADMINISTRATIVE CONTRACT COMPLIANCE REVIEW, OR AN  
14 ON-SITE INVESTIGATION TO CONFIRM COMPLIANCE WITH THE EBO  
15 PROGRAM.  
16

17 AS PART OF ITS ADMINISTRATIVE REVIEW, THE OFFICE OF PURCHASING MAY  
18 REQUEST FROM PRIMES MBE/WBE/DBE PARTICIPATION REPORTS, WHOSE  
19 CONTENTS MAY INCLUDE, BUT NOT BE LIMITED TO, A LISTING OF  
20 MBE/WBE/DBE SUBCONTRACTORS, SUPPLIERS, SUB-CONSULTANTS  
21 APPLICATIONS FOR PAYMENT AND/OR INVOICES, AS APPROPRIATE, AND  
22 PROOF OF PAYMENTS. THE REVIEW MAY BE CONDUCTED DURING THE COURSE  
23 OF A CONTRACT OR AT THE CONCLUSION OF A CONTRACT TO DETERMINE  
24 MBE/WBE/DBE PARTICIPATION. THE OFFICE OF PURCHASING MAY  
25 REQUIRE ADDITIONAL DOCUMENTATION TO ASSIST IN ITS ANALYSIS OF  
26 COMPLIANCE WITH THIS POLICY.  
27

- 28 2. Contractors will be given at least a 14 day prior notification of a pending  
29 on-site verification and review for contract compliance. During such on-  
30 site review the contractor will have the following available for inspection:  
31 (a) Copies of Purchase Orders and contracts containing

1 MBE/WBE/DBE work effort.

2 (b) Records to indicate the number, names, dollar value of the  
3 MBE/WBE/DBE subcontracts, the amount and dates, and the  
4 scheduled times for each MBE/WBE/DBE to be on the job site.

5 (c) Any other appropriate documents requested prior to the on-site visit.

6 3. The on-site verification and interviews at a minimum will consist of the  
7 following:

8 (a) An initial meeting with the contractor or his representative to  
9 explain visit objectives.

10 (b) Tour of the job site.

11 (c) Interviews of subcontractors, suppliers, etc.

12 4. At the conclusion of the on-site visit an exit conference will be conducted.  
13 This conference will consist of a discussion of the compliance process and  
14 determination time frame, and suggestions for corrective action to be taken  
15 if necessary.

16 5. A report indicating compliance status will be prepared and forwarded to the  
17 EBO Officer.

18 (a) If a determination of compliance is made the Office of Purchasing  
19 will so notify the contractor in writing.

20 (b) If a determination of non-compliance is made the Office of  
21 Purchasing may conduct further investigation. The contractor will  
22 be notified and an attempt made to remedy any problems of  
23 compliance. In the event conciliation fails, the Office of Purchasing  
24 will inform the EBO Officer that the contractor is in non-  
25 compliance.

26 [(c) If the County concurs in the determination of non-compliance a  
27 "Show Cause Notice" will be issued. This notice will contain the  
28 deficiencies noted in the findings, establish a compliance conference  
29 date, outline the administrative actions to be taken, and provide a  
30 forum for the contractor to show that he is in compliance.

31 (1) If the contractor corrects his deficiencies, the "Show Cause

1 Notice" will be rescinded and the contractor notified of his  
2 compliance in writing.

- 3 (2) If the contractor refuses to take steps necessary to rescind the  
4 "Show Cause Notice", the County will begin administrative  
5 action against the contractor.]]  
6

7 [[h. Enforcement: If a contractor fails or refuses to take corrective action the County  
8 will determine in accordance with Section 4.103 of the Howard County Code which  
9 of the following should be imposed to promote the purpose of the Howard County  
10 EBO Program.

- 11 1. Termination of the contract.  
12 2. Withholding a percentage of progress payment.  
13 3. Referral to the County Solicitor for follow-up action.  
14 4. Deny the contractor any future contract awards.  
15 5. Other action deemed appropriate by the County.]]  
16

17 VII. STATE AND FEDERAL FUNDING:

- 18 a. The County receives funding from state and federal agencies.  
19 b. The special bid conditions, equal business opportunity requirements, and the  
20 utilization of MBE/WBE/DBE firms for those agencies will vary based on the  
21 program.  
22 c. While not limited to these, Environmental Protection Agency and Department of  
23 Transportation/Urban Mass Transportation Administration funded contracts are  
24 most often used by the County.  
25 d. As a result, current applicability, EBO goals, definitions, County's action, EBO  
26 policy and obligation, determination of MBE/WBE/DBE participation percentage,  
27 contractor's action, and records and reports can be obtained from the Capital  
28 Projects Administrator for the project of concern in conjunction with the Office of  
29 Purchasing.  
30 e. When required, County forms[[, Appendix I and Exhibits I, and II]] may be used  
31 for state and federally funded contracts.