

# WEB-MEETING INSTRUCTIONS

- **IMPORTANT:** Please type your name and agency in the Chat Room. We need this information to track participation and to ensure that only State employees are able to attend this meeting.
- **AUDIO:** There is no separate audio/conference line for this web-based meeting. Audio is provided via VoIP.
- During the presentation, outside lines will be muted.
- **QUESTIONS:** Feel free to ask question in the Chat Room. We may answer these questions throughout the presentation.
- **Q&A SESSION:** We will have a Q&A Session at the end of the meeting. Because of the number of attendees, we will allow attendees on a one-on-one basis. Please state your question in the Chat Room.

# MBE LIAISON TRAINING

Presented by Governor's Office of Minority Affairs Staff



DECEMBER 4, 2015 via WEBINAR

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# AGENDA

1. **Welcome**
2. **Governor's Office of Minority Affairs Staff Changes**
3. **"THE WEEDS"**
  - a) **DEPT. GENERAL SERVICES Statewide Contracts**
  - b) **Preferred Provider Program**
  - c) **ANSWERS 721**
  - d) **GAD List**
  - e) **Upcoming Attractions**
  - f) **HB 48 Reminders**
4. **"YOU ASKED FOR IT"**
  - a) **Broker vs Supplier**
  - b) **Postage vs Courier**
  - c) **BOARD PUBLIC WORKS Advisories**
  - d) **Title 21 – Compliance**
  - e) **Advocacy Reminder**
5. **"MATH"**
  - a) **Form1 Calculation**
  - b) **SBR Reporting**
6. **NEW LINK to DEPT. of COMMERCE**



# WELCOME



Adobe<sup>®</sup> Connect<sup>™</sup>

**Moderators:**

**Janice Montague, Director MBE Compliance**

**Lisa Sanford, MBE Compliance Manager**

# GOMA STAFF

- Special Secretary, Jimmy Rhee
- Assistant Special Secretary, Herb Jordan **\*NEW\***
- Janice Montague, Director MBE Compliance
- Lisa Sanford, Manager MBE Compliance
- Gerald Stinett, Manager VLT Compliance
- Vacant, Director Policy & Legislative Affairs
- Chantal Kai-Lewis, Manager MBE Compliance & BPW
- Alison Tavik, Director Communications
- Vacant, Outreach Manager
- Pamela Gregory, Special Assistant



A field of green grass with the text "IN THE WEEDS" overlaid in the center.

**IN  
THE  
WEEDS**

# DGS STATEWIDE CONTRACTS

<http://dgs.maryland.gov/Pages/Procurement/BidsAwards.aspx>

ALL DGS statewide contracts are excluded from MBE Awards Reporting Denominator but most are included in SBR payment reports

## \*\*\*NEW\*\*\* Statewide Trash Contracts:

- Arnold Brothers Equipment Corp
- Burgmeier Hauling
- Waste Management of Maryland
- Browning Ferris



# PREFERRED PROVIDER PROGRAM

<http://dgs.maryland.gov/Documents/PerferredProviderProgram.pdf>

The Preferred Provider Program consists of three (3) selling entities. Pursuant to Code of Maryland Regulations (COMAR) 21.11.05 a selling entity means Maryland Correctional Enterprises, Blind Industries and Services of Maryland or Community Service *Providers* (see complete list on DGS website listed above). State Finance and Procurement Article §14-103 of the Annotated Code of Maryland provides a **State or State aided or controlled entity shall buy supplies and services from a selling entity in the following order of priority: 1) Maryland Correctional Enterprises 2) Blind Industries and Services of Maryland and, 3) Community Service Providers**

# PREFERRED PROVIDER CON'T

As stated in COMAR 21.11.05, each procurement agency **shall procure available supplies and services from a selling entity that are included on the Master List**. This requirement is mandatory regardless of the quantity needed. However, the **selling entity must meet the procurement agency's reasonable specifications**, as approved by the appropriate control authority, at a fair market price, as approved by the appropriate pricing authority. COMAR 21.11.05.02 D states, "Nothing in this chapter shall require a procurement agency to lessen or otherwise alter its reasonable performance, quality, design, delivery, or quantity specifications in order to meet a selling entity's ability to provide a supply or service." A procurement agency is not required to obtain a supply or service from a selling entity if its cost exceeds the budgetary allowance for the procurement. When a selling entity's price for needed supplies or services exceeds the funds available for the procurement, the procurement agency shall attempt to negotiate an acceptable price with the selling entity."

# PREFERRED PROVIDER CON'T

COMAR 21.11.05.06 C also states, “Within 5 working days of receipt of an inquiry from a procurement agency, (the selling entity shall) notify the procurement agency and the Secretary of General Services or designee if the requested service or supply can or cannot be provided in accordance with the procurement agency's specifications within the time specified in the solicitation.

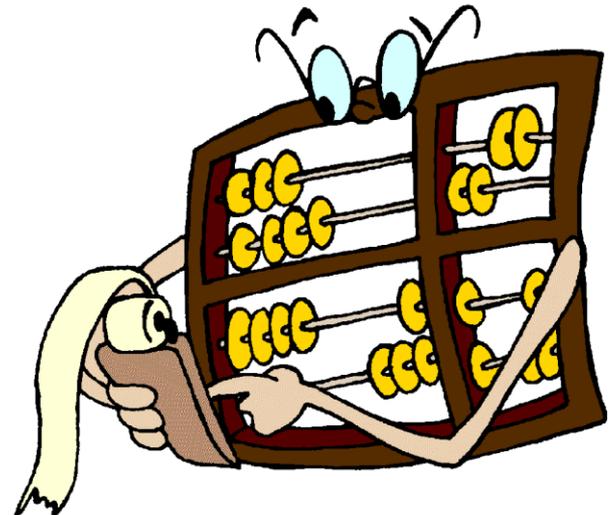
# ANSWERS 721

## CREDIT CARD REPORT

- REFER TO THE SCREENSHOTS IN THE July 2015 MBE Liaison Training handout on the GOMA website or page 3 of Quarterly Instructions on GOMA website.
- 721 does not give you the total number of detailed of transactions, but does give you the payment data in excel with MBE, SBR, PPR and VSBE noted.
- Manual MBE Adjustments: **AJ Stationers, Blue Chip, Signs by Tomorrow, Applied Technology are MDOT certified**, but are not showing up as such on 721 report. Please report to GOMA any other known MBE vendors.

# GAD LIST/EXCLUSION LIST

- FORMAL TITLE: “COMPTROLLER OBJECTS COMMODITIES EXCLUSION LIST”
- DEFINITIONS ARE NOW INCLUDED (SEE DOCUMENT ON WEBSITE)
- CONSULT WITH YOUR AG FOR ANY CLARIFICATIONS OR CONTACT COMPTROLLER’S OFFICE (GERARD MEULLER)



# UPCOMING

- Updates to BPW Advisories
- Liquidated Damages Guidance
- Web portal for FY16 Form3 Database
- New Annual Report Due Date – September 30, 2016 instead of mid-August
- MBE Prime Self-Performance Scenarios Forthcoming
- Scorecards for MBE/SBR Best Practices and Achievements over next six months
- Video Training Archive

# **HB 48 REMINDER**

## **Non Profit/Preferred Provider**

**FMIS USERS MAY STILL SEE THE NON PROFIT AND COMMUNITY SERVICE PROVIDERS THAT WERE REMOVED FROM THE MBE PROGRAM ON THEIR REPORTS. REASON BEING, ENTRIES MAY HAVE BEEN POSTED PRIOR TO THEIR REMOVAL ON JULY 1, 2015.**

**PLEASE REFER TO THE GUIDELINES IN THIS PRESENTATION**

# Non Profit/Preferred Provider Guideline FY 2016

FY	Vendor Classification	MBE Award & Payments	SBR Payments	DGS Preferred Provider Award & Payment Report
FY 16	BISM or a community service provider, or an individual-with-disability-owned business pursuant to SFP § 14-103	Do not report <sup>3</sup>	Do not report	Report
FY 16	MCE (see below)	Do not report <sup>3</sup>	Do not report	Report
FY 16	NFPE procurement contract awarded in accordance with requirements mandated by State or federal law SFP § 14-302(a)(1)(i)(2)(B)	Do not report <sup>3</sup>	Do not report	Do not Report
FY 16	DDA (DHMH) for certain specified services under SFP § 14-302(a)(1)(i)(2)(C)	Do not report <sup>3</sup>	Do not report	Report
FY 16	Participation of a formerly MBE-certified NFPE or other nonprofit on contracts that are not awarded pursuant to SFP §§ 14-302(a)(1)(i)(2)(B) or (C)	Do not report <sup>2</sup>	Do not report	Do not report

<sup>1</sup> Count in numerator and denominator.

<sup>2</sup> Count in denominator only.

<sup>3</sup> Do not count in numerator or denominator.

# Non Profit/Preferred Provider Cheat Sheet

## Definitions and Notes

**“Preferred Providers”** include BISM, community service providers, and individual-with-a-disability owned businesses that are given a preference pursuant to the Preference Program in SFP, Title 14, Subtitle 1. See SFP § 14-103. Prior to July 1, 2015, agencies could include the annual dollar value of its contracts with these entities in its MBE procurements. See COMAR 21.11.05.08.

**Maryland Correctional Enterprises (“MCE”)** is a Preferred Provider but as a State agency, it is not counted for MBE reporting purposes. See COMAR 21.11.05.08.

**“Not for profit entity” (“NFPE”)** means a corporation that: (i) is incorporated in the State or otherwise qualified to do business in the State; (ii) has been determined by the Internal Revenue Service to be exempt from taxation under § 501(c)(3), (4), or (6) of the Internal Revenue Code; AND (iii) is organized to promote the interests of physically or mentally disabled individuals. SFP §14-301(h).

Nonprofits are excluded from the SBR program. See COMAR 21.11.01.01(B)(1).

DGS awards and payments are reported pursuant to SFP §14-110(c).

The Preference Program established in Division II, Title 14, Subtitle 1 remains in place; however the participation of MBE-certified NFPEs and Preferred Providers no longer counts as participation in the MBE Program effective July 1, 2015.

Firms certified as MBEs that are not NFPEs, including those certified by MDOT pursuant to SFP §14-301(k)(1)(i)(5), remain in the MBE program and are not impacted by the HB 48 changes.



**Board of Public Works**

# **Veteran-Owned Small Business Enterprises (VSBE): Procurement Process**

PRESENTATION TO SPAG NOVEMBER 2015

# Code of Maryland Regulations (COMAR) 21.11.13: Veteran-Owned Small Business Enterprises (VSBE)

- Regulations provide that maximum contracting opportunities are to be extended to VSBEs, as both prime contractors and subcontractors.
- Each agency shall structure its procurement procedures to try to achieve an overall minimum of 1% of the unit's total dollar value of all procurement contracts made directly or indirectly with VSBEs.
- **Statewide VSBE goal increased from .5% to 1%, effective October 1, 2015. (HB0243 / SB0350)**
- Information available on the Maryland Department of Veterans Affairs' (MDVA) website: <http://veterans.maryland.gov/veteran-owned-small-business/> OR contact [Devan.Perry@maryland.gov](mailto:Devan.Perry@maryland.gov)

## 21.11.13.05: VSBE Goal Setting

- Agencies shall set, where appropriate, an overall VSBE goal expressed as a percentage of the dollar value of the contract.
- Goal-setting process is similar to Minority Business Enterprise (MBE) goal-setting process.
- Agencies shall assess the potential for VSBE prime contractor and subcontractor participation in each contract, and estimate the amount of participation for the goal prior to initiating the procurement. Typically utilize a Procurement Review Group (PRG), similar to the MBE program.
- Agencies shall utilize the veteran small business directory for verified VSBEs maintained by the Center for Veterans Enterprise (CVE) of the United States Department of Veterans Affairs (VA) when researching potential VSBE opportunities: <http://www.vetbiz.gov>

## 21.11.13.05: VSBE Notification and Participation

- Agencies shall solicit known VSBEs and explain the VSBE subcontracting goal, VSBE provisions in the solicitation, and VSBE documentation required during any pre-bid or pre-proposal conference. May also send copy of solicitation or notice of solicitation to MDVA for distribution assistance (21.11.13.05.E).
- VSBE affidavits and forms (similar to MBE forms):  
<http://bpw.maryland.gov/Pages/adv-2012-1.aspx>
  - Require completion of VSBE Utilization Affidavit and Participation Schedule, including naming of proposed VSBEs, percentage committed to for each VSBE, and identification of specific work categories to be performed (or may request a full or partial waiver of the VSBE goal);
  - Failure to accurately complete and submit the Affidavit and Schedule may result in determination of non-responsiveness (CSB Bid) or not reasonably susceptible of being selected for award (CSP Proposal). (Note: “may” vs. “shall” in comparison to MBE regulations).
- Agencies may count the distinct, clearly defined portion of the work of the contract that a VSBE Prime contractor performs, up to 100% of the VSBE goal (different from MBE program). **Further discussions regarding MBE/VSBE dual-certification counting.**
- VSBE Participation Schedule may be amended (21.11.13.08) if a proposed VSBE subcontractor has or will become “unavailable;” must notify and obtain approval from Procurement Officer. (less restrictive than MBE “72 hour rule” for amending MBE Participation Schedule).

## 21.11.13.07: Waiver of VSBE Goal

- Bidder/Offeror may request a full or partial waiver of the VSBE goal in writing at the time of Bid/Proposal submission.
- If recommended for award, that Bidder/Offeror must detail their efforts made to select portions of the work proposed to be performed by VSBEs, efforts made to contact and negotiate with VSBEs, reasoning behind determining a VSBE to be “unacceptable,” and provide a list of VSBEs found to be “unavailable” including any signed verification(s) from those VSBEs. (similar to “good faith efforts” evaluation for the MBE program).
- If the recommended awardee’s efforts and determinations are determined to be reasonable by the Agency, and if the Agency head or designee determines that the public interest is served by a waiver, the Agency may grant the waiver.
- The Agency head or designee may consider engineering estimates, catalogue prices, general market availability, availability of VSBEs in the area in which work is to be performed, other bids or offers and subcontract bids or offers substantiating significant variances between VSBE and non-VSBE cost of participation, and their impact on the overall cost of the contract to the State and any other relevant factor.

## 21.11.13.06: VSBE Contract Award Documentation, Reporting, and Compliance (21.11.13.09)

- Recommended Contract Awardee shall provide a completed and signed VSBE Subcontractor Project Participation Statement for each proposed VSBE within 10 days of recommendation for award (otherwise may be rejected as nonresponsible).
- Contractor is required to submit a monthly report to the Agency detailing payments made to VSBEs, in addition to any unpaid invoice(s) and the reason payment has not been made.
- VSBE Subcontractors are required to submit monthly reports to the Agency detailing payments received from the Contractor, in addition to any unpaid invoice(s) and the amounts of the unpaid invoice(s).
- Contractor is required to maintain records as necessary to confirm compliance with their VSBE participation obligations.
- Agency shall ensure Contractor VSBE compliance, verifying that listed VSBEs are actually performing work and receiving compensation as set forth in the participation schedule.

**YOU  
ASKED  
FOR  
IT!**

# BROKER VS SUPPLIER

- FOLLOW DBE GUIDELINES

<http://www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/Resources%20Information/MD%20DBE%20Program%20Manual%20April%202013.PDF> page 70

- COUNT ONLY THE BROKER'S FEE
- MBE MUST HAVE "BROKER NAICS"
- OTHERWISE 72 HOUR RULE APPLIES

# POSTAGE VS COURIER

- CURRENTLY UNDER REVIEW

# DESKTOP FILES

- <http://bpw.maryland.gov/Pages/advisories.aspx>
- **BPW Advisory 2001-1 MBE Participation (revisions pending)**
- **BPW Advisory 2001-2 MBE Procurement Review Group (revisions pending)**
- **BPW Advisory 2009-3 Small Business Preference**
- **BPW Advisory 2012-1 Veteran-Owned Small Business Documentation Veteran-Owned Small Business Enterprise – Subcontracting**
- **TITLE 21.11.03 State Procurement Regulation about 22 pages**  
[http://www.dsd.state.md.us/COMAR/title\\_search/Title\\_List.aspx](http://www.dsd.state.md.us/COMAR/title_search/Title_List.aspx)



# MBE LIAISON OFFICER

*21.11.03.05*

## **.05 MBE Liaison Officer**

The head of each procurement agency shall designate an employee to be an MBE liaison officer in the administration of that agency's minority business enterprise program. The MBE liaison officer shall be a high level employee reporting directly to a Secretary, Deputy Secretary, or head of a procurement agency. The MBE liaison officer is responsible for coordinating agency outreach efforts to the minority business community, reviewing agency contracting procedures to ensure compliance with this chapter, assisting in the resolution of contracting issues, and for submitting required MBE program reports or information.

# COMPLIANCE Agency Role

## 21.11.03.13 Compliance.

A. To ensure compliance with certified MBE participation goals, the **procurement agency shall**:

(1) Verify that the certified MBEs listed in the MBE participation schedule are actually performing work and receiving compensation as set forth in the participation schedule; and

(2) Monitor and collect data on contractor compliance with contract MBE participation goals.

# COMPLIANCE Contractor's Role

## 21.11.03.13 Compliance.

### B. **The contractor shall:**

(1) Permit the procurement agency to inspect any relevant matter, including records and the jobsite and to interview subcontractors and workers;

(2) If performing a State construction contract, ensure that all subcontractors are paid any undisputed amount to which the subcontractor is entitled within 10 calendar days of receiving a progress or final payment from the State and otherwise comply with COMAR 21.10.08 which sets forth the obligations of the prime contractor, contractors, and subcontractors and the remedies for delinquency or nonpayment of undisputed amounts, in State construction contracts.

# COMPLIANCE Contractor con't

## 21.11.03.13 Compliance.

(3) Submit monthly to the procurement agency a report listing payments made to each MBE subcontractor in the preceding 30 days and any unpaid invoices over 30 days old received from a certified MBE subcontractor, and the reason payment has not been made; and

(4) Include in its agreements with its certified MBE subcontractors a requirement that the **certified MBE subcontractors submit monthly to the procurement agency** a report identifying the prime contract, and listing:

- (a) Payments received from the contractor in the preceding 30 days, and
- (b) Invoices for which the subcontractor has not been paid.

# COMPLIANCE Agency Role

## **21.11.03.13 Compliance.**

C. Upon determining that a contractor did not make good faith efforts to comply with contract MBE participation goals, the procurement agency shall notify the contractor in writing of its findings and shall specify what corrective actions are required. The contractor is required to initiate the corrective actions within 10 days and complete them within the time specified by the procurement agency.

# COMPLIANCE Agency Role

## **21.11.03.13 Compliance.**

D. If a procurement agency determines that material noncompliance with MBE contract provisions exists and that the prime contractor refuses or fails to take the corrective action required by the procurement agency, then the following sanctions may be invoked:

- (1) Termination of the contract;
- (2) Referral to the Office of the Attorney General for appropriate action; or
- (3) Initiation of any other specific remedy identified by contract.

# COMPLIANCE Agency Role

## 21.11.03.13 Compliance.

E. **Upon completion of the project**, the procurement agency shall:

- (1) Prepare a report that compares the dollar value of the payments actually received by MBEs with the dollar value of the amount that MBEs were intended to have received under the contract's MBE participation goal; and
- (2) Include in the report an explanation of any discrepancy.

F. A procurement agency may use any other compliance mechanism authorized by contract or this title.

G. A procurement agency may, upon completion of a contract, and before final payment or release of retainage or both, require that a prime contractor on any contract having an MBE subcontract goal, submit a final report, in affidavit form and under penalty of perjury, of all payments made to, or withheld from, MBE subcontractors. The solicitation shall contain notice of this provision.

# COMPLIANCE TOOLS

- ANSWERS 722 compliance report forthcoming
- FORM 3 Access Database
- Compliance Manual of Best Practices
- Talk Amongst Yourselves

# ADVOCACY REMINDERS

- **Payment Issues**
  - Liaison/PO must act promptly on payment complaints
  - Collect facts/documentation from all parties
  - Use the available contract provisions when necessary
    - Prompt Payment Directive  
<http://goma.maryland.gov/Legislation%20Docs/PromptPaymentDirectiveFINAL08-01-08.pdf>
    - Liquidated Damages
- **Other issues**
  - Prime failure to make proper MBE notifications
  - Underutilization of MBEs
  - No response to information requests from agency
  - Waiver determinations; AAG involvement is necessary
  - Proper use of the “72 hour rule”

I ♥ Math



# FORM 1 & 2 AWARDS

1											Reporting Form #1	
2	Minority Business Enterprise Annual Procurement Report											
3	Reporting Department/Agency:											
4	Fiscal Year 2015											
5												
6												
7	Total Contract Awards by Procurement Categories											
8												
9	Procurement Category	Total # All Prime Contracts (Including MBE)	Total All Prime Contracts Dollar Value Awarded (Including MBE)	Total # of Prime Contract Waivers	Total Dollar Value of Prime Contract Waivers	Total # MBE Prime Contracts Awarded	Total MBE Prime Contract Dollar Value Awarded	Total # MBE Subcontracts Awarded	Total MBE Subcontract Dollar Value Awarded	Total # of MBE Contracts Awarded-Prime & Sub	Total \$ of MBE Contracts Awarded-Prime & Sub	Total MBE Participation Percentage
10	Architectural					0	\$0	0	\$0	0	\$0	0.00%
11	Engineering					0	\$0	0	\$0	0	\$0	0.00%
12	Construction					0	\$0	0	\$0	0	\$0	0.00%
13	Construction Related Services					0	\$0	0	\$0	0	\$0	0.00%
14	Maintenance					0	\$0	0	\$0	0	\$0	0.00%
15	Services					0	\$0	0	\$0	0	\$0	0.00%
16	Supplies & Equipment					0	\$0	0	\$0	0	\$0	0.00%
17	IT Services					0	\$0	0	\$0	0	\$0	0.00%
18	IT Supplies & Equipment					0	\$0	0	\$0	0	\$0	0.00%
19	Human, Cultural, Social & Educational Services					0	\$0	0	\$0	0	\$0	0.00%
20	Corporate Credit Card					0	\$0			0	\$0	0.00%
21	Direct Voucher					0	\$0			0	\$0	0.00%
22	Totals	0	\$0	0	\$0	0	\$0	0	\$0	0	\$0	0.00%
23	Note(s):											
24		DENOMINATOR					NUMERATOR					MBE%
25												

Perform Quality Control: % should never be greater than 100%

# FORM 1 SOURCES

## NUMERATOR

(MBE AWARDS detailed on FORM 2)

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## DENOMINATOR

(Agency's Total Reportable Awards FORM 1  
which includes MBE Prime and Sub Awards)

= MBE %

- New Awards and Option Renewals
- Change Orders
- Direct Vouchers and
- Credit Card Purchases

# SBR

- UNDERSTAND DIFFERENCE BETWEEN STATEWIDE CONTRACTS VS EXEMPTIONS

<b>Example</b>	<b>MBE Report Awards</b>	<b>SBR Report Payments</b>
Rudolph Office (statewide contract)	No	Yes
Mansfield Oil (statewide contract)	No (GAD List)	No (GAD List)

# SBR REPORTING CHANGES

- Quarterly Reports are no longer cumulative but a “snapshot”, current quarter data only
- Quarterly Report format identical to Annual Report format

Governor's Office of Minority Affairs			
FY 2015 Small Business Reserve Cumulative Quarterly Report			
Agency Name:			
Cumulative Reporting Period:			
<i>(Enter Data In Yellow Boxes Only. Tan Boxes Are Calculated Totals)</i>			
Category	Number of Payments	SBR Procurement Payments (\$)	SBR %
Corporate Purchasing Card			--
Direct Voucher			--
All Other Procurement			--
<b>Total</b>		\$0	--
Notes:			

<i>(Enter Data In Yellow Boxes Only. Tan Boxes Are Calculated Totals)</i>	
<b>Small Business Reserve Payments - FY 15</b>	
1. Total P-Card Payments	
2. Total P-Card Payments to SBR Contractors	
3. Total Procurement Payments (not including P-Card Payments)	
4. Total Dollars Paid to SBR Contractors Under a Designated SBR Procurement	\$0
5. Total Dollars Paid to SBR Contractors Under a Non-Designated Procurement	
6. Total Number of Payments Made to SBR Contractors	
7. Total SBR Procurement Payments	\$0
8. Total Procurement Payments	\$0
9. Percentage SBR Payments to All Payments	0.00%

# GOOD TO KNOW

- Familiarize yourself with “Programs for Businesses” Link on Department of Commerce website

<http://commerce.maryland.gov/fund/programs-for-businesses>



Thank you word cloud in multiple languages including: danke, teşekkür ederim, gracias, thank you, obrigado, merci, and many others.